

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/47

- Applicants** : CHAN Lin-fat, CHAN Lin-on, CHAN Lin-kwai and CHAN Lin-choi
- Site** : Lots 1499, 1505 and 1509 in D.D. 78, Kaw Liu Village, Ta Kwu Ling North, New Territories
- Site Area** : 3,100 m² (about)
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan No. S/NE-TKLN/2
- Zoning** : “Recreation” (“REC”)
- Application** : Temporary Open Storage of Construction Equipment and Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission for a temporary open storage of construction equipment and materials for a period of 3 years at the application site (the Site), which falls within an area zoned “REC” on the OZP (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently used for the applied use without planning permission.
- 1.2 According to the applicants, the temporary development includes a single-storey container-converted structure (not exceeding 6.1 m in height) with a total floor area of about 6.96 m² for storage of construction equipment. Two parking spaces for medium goods vehicles will be provided within the Site (**Drawing A-1**). The operation hours of the Site are between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is accessible via a local track leading to Lin Ma Hang Road (**Plan A-2**). The proposed layout plan and vehicular access plan are shown on **Drawings A-1** and **A-2** respectively.
- 1.3 In support of the application, the applicants have submitted the following documents:
- | | |
|---|------------------------|
| (a) Application Form with Attachments received on 20.7.2022 | (Appendix I) |
| (b) Supplementary Information (SI) received on 26.7.2022 | (Appendix Ia) |

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Justifications Section of the Application Form at **Appendix I**, as summarized below:

- (a) the development is temporary in nature, which would not jeopardize the long-term planning intention of the “REC” zone; and the development is not incompatible with the surrounding environment;
- (b) no significant adverse traffic impacts are anticipated;
- (c) no excavation nor filling of land, nor river channel modification would be carried out, and hence no significant environmental impacts are anticipated;
- (d) the applicant undertakes to submit and implement a landscape proposal to mitigate landscape impacts on the surrounding areas; and
- (e) in view of the surge of COVID-19 cases leading to temporary closure of recreational facilities in recent years, application for the applied use can better utilize land resources.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are the “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is the subject of an active planning enforcement action against unauthorized development (UD) involving storage use (including deposit of containers). An Enforcement Notice (EN) (No. E/NE-TKLN/70) was issued on 3.8.2022 requiring discontinuation of the UD by 3.11.2022.

5. Town Planning Board Guidelines

Town Planning Board Guidelines No. 13F for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13F) promulgated by the Board on 27.3.2022 are relevant to the application. The Site falls within Category 3 area under the Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Application

Part of the Site is the subject of a previous application (No. A/NE-TKLN/13) submitted by one of the current applicants for a different use (i.e., proposed temporary eating place and convenience store) for a period of 3 years was rejected by the Rural and New Town Planning Committee (the Committee) in 2018, which is not relevant to the subject application.

Details of the previous application are summarized at **Appendix III** and the location is shown on **Plan A-1**.

7. Similar Application

There is no similar application within the same “REC” zone in the vicinity of the Site over the past 5 years.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

8.1 The Site is:

- (a) flat and hard-paved;
- (b) currently used for open storage without valid planning permission; and
- (c) accessible from Lin Ma Hang Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north are a watercourse and vegetated land; and to the further north is the Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP) (**Plan A-1**);
- (b) to the south are a local track and fallow agricultural land; and
- (c) to the southwest across Lin Ma Hang Road is Kaw Liu Village (**Plan A-1**).

9. Planning Intention

The planning intention of the “REC” zone is primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices IV** and **V** respectively.

10.2 The following government departments have the following comments on the application.

10.2.1 Comments of the Commissioner for Transport (C for T):

- (a) he has reservation on the application from traffic engineering perspective as the applicants fail to (i) substantiate the traffic generation and attraction from and to the Site and the traffic impact to the nearby road links and junctions; (ii) to justify the adequacy of the parking spaces and loading/unloading spaces so provided by relating the number of vehicles visiting the Site; (iii) to demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site, manoeuvring within the Site and into/out of the parking and

loading/unloading spaces, preferably using the swept path analysis; (iv) to advise the management/control measures to be implemented to ensure no queueing of vehicles outside the Site; and (v) to advise the provision and management of pedestrian facilities to ensure pedestrian safety;

- (b) there is insufficient information to demonstrate that there is no adverse traffic impact on the surrounding areas; and
- (c) the vehicular access between Lin Ma Hang Road and the Site is not managed by the Transport Department. The applicants should seek comment from the responsible party.

10.2.2 Comments of the Chief Town Planner/Urban Design and Landscape (CTP/UD&L):

- (a) she has some reservations on the application from landscape planning perspective;
- (b) the Site is currently occupied by some containers, construction plants and materials. Some self-seeded vegetation, common and invasive species of trees are observed within the Site; and
- (c) the Site is located in an area of rural inland plain landscape character comprising vegetated areas, clusters of tree groups, active farmland and village houses within the “V” zone. No similar application was approved by the Board in the vicinity of the Site within the same “REC” zone. Approval of the application may further alter the landscape character and degrade the landscape quality of the surrounding area.

10.2.3 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- he has consulted the locals regarding the application. The incumbent North District Councillor of N16 Constituency objects to the application. The Indigenous Inhabitant Representative (IIR) of Chuk Yuen and the IIR of Tong Fong object to the application mainly on the grounds that the development would deteriorate the surrounding natural environment and landscape; and lack of impact assessments and strong justifications on environmental, sewage, drainage and traffic aspects. The IIR of Kan Tau Wai, Resident Representative (RR) of Chuk Yuen and RR of Tong Fong have no comment on the application.

11. Public Comments Received During Statutory Publication Period (Appendix VI)

On 29.7.2022, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The remaining two comments submitted by two individuals object to the application mainly on the grounds that the approval of the application would cause adverse traffic and environmental impacts to the surrounding areas and increase fire risks, thus affecting the quality of life and safety of residents living nearby; the applied use is not in line with the planning intention of the “REC” zone; and approval of the application might set an undesirable precedent for similar applications in the vicinity.

12. Planning Considerations and Assessments

- 12.1 The application is for a temporary open storage of construction equipment and materials for a period of 3 years at the Site zoned “REC” on the OZP. The applied use is considered not in line with the planning intention of the “REC” zone, which is primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission. No strong planning justifications has been given in the submission to justify a departure from the planning intention of “REC” zone, even on a temporary basis.
- 12.2 The Site falls within Category 3 area under the TPB PG-No. 13F on ‘Application for Open Storage and Port Back-up Uses’ promulgated by the Board on 27.3.2020. The following considerations in the Guidelines are relevant:
- Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous applications and included in the fresh applications relevant technical assessments/proposals, if required, to demonstrate that the applied uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions, planning permission could be granted on a temporary basis up to a maximum period of 3 years.
- 12.3 The Site is situated in an area of rural inland plain landscape character comprising vegetated areas, clusters of tree groups, active farmland and village houses. CTP/UD&L, PlanD has some reservations on the application from landscape planning perspective, as approval of the application may further alter the landscape character and degrade the landscape quality of the “REC” zone.
- 12.4 C for T has reservation on the application from traffic engineering perspective as the applicant fails to provide information in terms of traffic generation, provision of parking spaces, manoeuvring of vehicles, and traffic management, etc., and to demonstrate that the applied use will not generate adverse traffic impacts to the surrounding areas. Other relevant departments consulted, including CE/C, WSD, D of FS, CE/MN of DSD and HKPF have no adverse comment on/objection to the application.

- 12.5 The application does not comply with the TPB PG-No. 13F in that the Site falls within Category 3 area where applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. The Site is not the subject of any previous planning approval, and there are adverse departmental comments and local objections, and the applicants have failed to demonstrate that the development would not have adverse traffic and landscape impacts on the surrounding areas.
- 12.6 Regarding the local and public comments on the application as detailed in paragraphs 10.2.3 and 11 above, government departments' comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local and public comments as detailed in paragraphs 10.2.3 and 11 above, the Planning Department does not support the application for the following reasons:
- (a) the development is not in line with the planning intention of the "REC" zone which is primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission. There is no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis; and
 - (b) the applicants fail to demonstrate that the proposed use would not generate adverse traffic and landscape impacts on the surrounding areas.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 9.9.2025. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation from 7:00 p.m. to 9:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (c) no queuing of vehicles outside the Site is allowed at any time during the planning approval period;
- (d) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.3.2023;
- (e) in relation to (d) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.6.2023;

- (f) in relation to (e) above, the implemented drainage facilities at the Site should be maintained at all times during the planning approval period;
- (g) the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 21.10.2022;
- (h) the submission of proposals for water supplies for fire-fighting and fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.3.2023;
- (i) in relation to (h) above, the implementation of proposals for water supplies for fire-fighting and fire service installations within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.6.2023;
- (j) if any of the above planning conditions (a), (b), (c) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if any of the above planning conditions (d), (e), (g), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are at **Appendix V**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application Form received on 20.7.2022
Appendix Ia	SI received on 26.7.2022
Appendix II	Relevant Extracts of TPB-PG No. 13F
Appendix III	Previous Application
Appendix IV	Government's Department's General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**