

***RNTPC agreed deferral of the application, as requested by PlanD,
to the meeting on 20.9.2024***

RNTPC Paper No. A/NE-TKLN/86
For Consideration by the
Rural and New Town Planning
Committee on 6.9.2024

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/NE-TKLN/86

- Applicant** : Luck Great Global Engineering Limited represented by Tai Wah Development Consultants Limited
- Site** : Various Lots in D.D. 78 and Adjoining Government Land (GL), Lin Ma Hang Road, Ta Kwu Ling North, New Territories
- Site Area** : About 24,446 m² (including GL of about 4,156 m² or about 17% of the Site)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Warehouse (Excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years at the application site (the Site). The Site falls within an area zoned “REC” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “REC” zone requires planning permission from the Town Planning Board (the Board). The Site is largely vacant, partly paved and partly covered with grass and trees.
- 1.2 According to the applicant, the current application is to facilitate the relocation of their business operation in Ngau Tam Mei which will be affected by the development of the Northern Link (NOL) Main Line. The affected operation involves a total site area and floor area of about 13,651 m² and about 15,412 m² respectively, and is currently used for warehouse with ancillary facilities.
- 1.3 The site is accessible via Lin Ma Hang Road (**Plan A-2**). According to the applicant, the proposed use comprises two two-storey structures (building height of about 15 m) with a total floor area of about 23,758 m² for warehouses (excluding dangerous goods godown) storing miscellaneous goods (e.g. packaged food, package beverage, apparel, footwear, electronic goods, etc.), site offices and washrooms. The remaining area of the Site will be used for parking and circulation area. A total of 16 parking spaces (12 for private cars

and four for container vehicles) and 11 loading/unloading (L/UL) bays (four for medium goods vehicles and seven for container vehicles) are proposed within the Site. A solid metal wall of 2.5 m high will be provided along the site boundary. The proposed operation hours are between 7:00 a.m. and 8:00 p.m. from Mondays to Saturdays, with no operations on Sundays and public holidays. The proposed layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.4 The Site will be served by two ingress/egress points. The one on the east will be connected to Lin Ma Hang Road. Another one on the north will be connected to a proposed access road leading to Lin Ma Hang Road, which will be designed, constructed and maintained by the applicant and open for public use (**Drawing A-2**). Staff will be deployed to conduct traffic management/control measures at the accesses of the Site to ensure smooth manoeuvring of vehicles entering/exiting the Site, no queueing of vehicles outside the Site, and pedestrian safety. Relevant signs, flashing light and alarm system will also be installed to enhance pedestrian safety. A Drainage Impact Assessment is submitted by the applicant to support the application. New drainage channels, including those to divert the existing channel passing through the Site, will be provided. The proposed drainage plan is shown in **Drawing A-3**.

- 1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachment received on 11.7.2024 **(Appendix I)**
 - (b) Supplementary information received on 15.7.2024 **(Appendix Ia)**
 - (c) Further Information received on 29.8.2024* **(Appendix Ib)**
- * accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ib**, as summarised below:

- (a) the proposed use involves the operation of warehouse (excluding dangerous goods godown) with ancillary facilities, which is the same as the applicant's affected business operation in Ngau Tam Mei. As the concerned land parcels of the affected business operation will be resumed and reverted to the Government in future for the development of NOL Main Line, the applicant desperately needs to identify a suitable site for relocation to continue the business operation;
- (b) while the site area and the total floor area of the proposed use (about 24,446 m² and 23,758 m² respectively) are larger than those of the affected business operation (site area of 13,651 m² and total floor area of 15,412 m²), a significant portion of the Site (about 51%) is uncovered and is designated for manoeuvring and parking of vehicles in support of the proposed use. Compared to the original business operation, the sufficient space at the Site can increase the overall efficiency of the proposed use by providing additional space for storage, bulk breaking and packaging of goods and minimise potential adverse traffic impact on the surrounding road network;
- (c) while the applicant has spent effort in identifying a number of alternative sites in various areas, including Man Kam To, Ma Tso Lung, Ping Shan, Lau Fau Shan and Lam Tei for relocation, those sites were considered not suitable due to various issues such as land use incompatibility, insufficient site area, environmental consideration and land ownership issue. The Site is considered suitable for the relocation mainly due to its relatively flat

topography and accessibility to Heung Yuen Wai Highway;

- (d) the convenient access of the Site to Heung Yuen Wai Highway would facilitate efficient movement of goods between Mainland China and Hong Kong. The proposed use would attract investment from different industries seeking to leverage on Hong Kong's strong business environment and proximity to Mainland China. This will contribute to greater economic growth and foster better integration between Mainland China and Hong Kong;
- (e) there is no known long-term recreational development at the Site within the applied planning period. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the "REC" zone and would better utilize deserted land in the New Territories;
- (f) the proposed use will not create significant nuisance to the surrounding areas and there will be minimal traffic, environmental, landscape, drainage and fire safety impacts. The applicant will strictly follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (COP) and comply with relevant environmental protection/pollution control ordinances. While all 17 existing trees at the Site will not be retained, no old and valuable tree or protected species are identified, and the same number of new trees is proposed to be planted along the western boundary of the Site; and
- (g) the applicant will submit Short Term Waiver (STW) and Short Term Tenancy (STT) applications to the Lands Department (LandsD) upon approval of the planning application.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by sending notice to the Ta Kwu Ling District Rural Committee by registered post and publishing newspaper notice. For the GL portion, TPB PG-No. 31B is not applicable. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is not subject to any planning enforcement action.

5. Previous Application

There is no previous application covering the Site.

6. Similar Applications

- 6.1 There was a similar application (No. A/NE-TKLN/77) for proposed temporary logistic centre, warehouse (excluding dangerous goods godown) and container vehicle park with ancillary facilities for a period of three years falling within the same "REC" zone in the vicinity of the Site in the past five years. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on

15.3.2024 mainly on considerations that the proposed use was to facilitate the relocation of business operations affected by government projects (including Hung Shui Kiu/Ha Tsuen New Development Area (NDA), Kwu Tung North NDA and public housing development at Sha Po) with the policy support of the Secretary for Development (SDEV); the proposed use was not entirely incompatible with the surrounding areas; it generally complied with the relevant TPB Guidelines; and there was no adverse departmental comment or their concerns could be addressed by relevant approval conditions.

- 6.2 Details of the similar application are summarised at **Appendix II** and its location is shown on **Plan A-1**.
- 6.3 There is another similar application for proposed temporary warehouse (storage of building materials and metal) for a period of three years (No. A/NE-TKLN/85) within the same “REC” zone located to the north of the Site, which will be considered by the Committee at this meeting. Its location is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4d)

- 7.1 The Site is:
- (a) fenced-off, largely vacant, partly paved and partly covered with grass and trees. A drainage channel passes through the southern part of the Site; and
 - (b) accessible via Lin Ma Hang Road.
- 7.2 The surrounding areas are of rural character mainly comprising domestic structures in Kaw Liu Village on the immediate southwest, temporary structures, vacant land and tree clusters. Heung Yuen Wai Boundary Control Point (HYW BCP) is located to the further north of the Site (**Plan A-1**).

8. 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.

9. Comments from Relevant Government Bureaux/Departments

- 9.1 Apart from the government bureaux/departments as set out in paragraphs 9.2 and 9.3 below, other 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 III** and **IV** respectively.
- 9.2 The following government bureaux support/ express views on the application:

Policy Support

- 9.2.1 Comments of the SDEV:

- (a) the application is to facilitate relocation of an existing warehouse and its ancillary facilities at a site in Ngau Tam Mei, Yuen Long which falls within the study area of the ongoing Land Use Review Study for Ngau Tam Mei Area jointly commissioned by the Civil Engineering and Development Department and Planning Department;
- (b) according to the applicant, whilst they have spent effort to relocate their affected business operation to a number of alternative sites in the New Territories, those sites were considered not suitable or impracticable due to various issues, such as land use incompatibility, environmental concerns, land ownership, accessibility or site area being too small;
- (c) although the site area and the total floor area in the current application are larger than those of the existing site at Ngau Tam Mei, the applicant explains that a significant portion of the Site (about 51%) would be uncovered and designated for manoeuvring and parking of vehicles while the increase in total floor area offers an opportunity to enhance operational efficiency by providing additional space for storage, bulk breaking and packaging of goods; and
- (d) in view of the above and subject to concerned departments' comments on land use compatibility and technical aspects, she supports the application from the policy perspective.

NOL Project Aspect

9.2.2 Comments of the Secretary for Transport and Logistics (STL):

- (a) it is noted that the affected business operation in Ngau Tam Mei as shown in the applicant's planning statement is within the land resumption boundary under the railway scheme of the NOL Main Line project;
- (b) noting that the Site under the current application located in Ta Kwu Ling falls outside the scheme boundary of the NOL Main Line project, he has no objection to the application from the perspective of NOL Main Line project; and
- (c) noting that the current application is arising from the relocation of the applicant's business operation due to the resumption of land for implementation of NOL, he sees merit for the application to be considered favourably.

9.3 The following government departments object to/have comments on the application:

Land Administration

9.3.1 Comments of District Lands Officer (North), LandsD (DLO/N, LandsD):

- (a) she objects to the application;

- (b) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via Government Land (GL) is granted to the Site;
- (c) no consent is given for inclusion of GL (about 4,150 m² mentioned in the application form) in the Site. The applicant should be reminded that any occupation of GL without Government's prior approval is an offence. For direct grant of STT of the adjoining GL to the applicant for temporary uses, prior policy support from the relevant bureau has to be obtained. The application does not provide any details on the policy support. The applicant should seek comments from relevant bureau(x), especially as the application highlights that the existing business operation is affected by the development of the NOL Main Line;
- (d) the following irregularities have been detected by her office:

Unauthorised structures within the said private lots covered by the planning application

there are unauthorised structures on the private lots. The lot owners should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

Unlawful occupation of GL covered by the planning application

the GL within the Site (about 4,150 m² as mentioned in the application form) has been fenced off without any permission. Any occupation of GL without Government's prior approval is an offence under Cap.28. LandsD objects to the planning application since there is illegal occupation of GL which regularisation would not be considered according to the prevailing land policy. The lot owners should immediately cease the illegal occupation of GL and remove the unauthorised structures as demanded by LandsD. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (e) the lot owners/applicant shall cease the illegal occupation of GL. The approach of first erection of unauthorised structures and illegal occupation of the GL then regularisation should not be encouraged. If the planning application is approved and subject to the availability of policy support as mentioned in paragraph 9.3.1 (c) above, the lot owners should apply to her office for STW and STT to permit the structures erected and occupation of GL. The applications for STW and STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. Application for STWs have to be submitted by all lot owners (approximately 31 lots). The STW will be considered on a whole lot basis and unauthorised structures have to be demolished. The STW and STT, if approved, will be subject to such terms and conditions including the payment of waiver fee/rent and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action

against the lot owners/applicant for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL. Besides, given the proposed use is temporary in nature, only erection of temporary structures will be considered;

- (f) unless and until the unlawful occupation of GL is duly rectified by the lot owners/applicant, it should be taken as her office's objection to the application which must be brought to the attention of the Board when they consider the application; and
- (g) Lot No. 1480 S.B RP in D.D. 78 is covered by Letter of Approval (LoA) Nos. 6145 and 6155 for purpose of erection of temporary structures. Her office reserves the rights to take enforcement action for irregularities and cancel the LoA as appropriate.

Landscape

9.3.2 Comments of Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) with reference to the aerial photo of 2023, the Site is located in an area of rural inland plains landscape character comprising farmlands, small houses, tree clusters and vegetated areas. Noticeable change of landscape character arising from the proposed use within the "REC" zone is anticipated;
- (b) having reviewed information submitted by the applicant, 17 trees including 1 dead tree are identified within the Site and all the trees are proposed to be removed due to conflict with proposed structures and vehicle manoeuvring path. 17 new trees (i.e. *Senna surattensis*) with spacing not less than 4 m are proposed to be planted along the western periphery within the Site;
- (c) the applicant is advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling. The applicant is reminded to seek approval for any proposed tree works from relevant authority prior to commencement of the works; and
- (d) detailed comments on the tree survey report are at **Appendix IV**.

Environmental

9.3.3 Comments of the Director of Environmental Protection (DEP):

- (a) according to the COP, the application should not be supported as there are residential structures (Kaw Liu Village) within the vicinity of the Site (the nearest to the immediate southwest) (**Plan A-2**) and the proposed use will generate traffic of heavy vehicles;

- (b) should the application be approved, it is suggested to include approval conditions, as per the similar application No. A/NE-TKLN/77, on (i) restricting the operation hours; and (ii) provision of the 2.5m high solid metal wall along the site boundary as proposed by the applicant to his satisfaction. The applicant is also advised to follow the relevant mitigation measures and requirements in the COP to minimise any potential environmental nuisances; and
- (c) no environmental complaint against the Site has been received in the past three years.

10. Public Comments Received During Statutory Publication Period

On 23.7.2024, the application was published for public inspections. During the statutory public inspection period, two comments were received (**Appendix V**). One comment from a member of the North District Council indicates no comment on the application. The other comment from an individual objects to the application mainly on the grounds of adverse environmental and traffic safety impacts on the surrounding areas and nearby residents, and that brownfield use should not be extended to this area.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years at the Site zoned “REC” on the OZP. The proposed use 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. Nevertheless, there is no known planned recreational development at the Site. According to the applicant, the application is to facilitate the relocation of their business operation in Ngau Tam Mei which will be affected by the NOL Main Line development. The applicant has spent effort in identifying suitable sites to relocate their business operation to a number of alternative locations, but those sites were considered not suitable due to various issues as detailed in paragraph 2 above. In this regard, STL advises that the applicant’s affected business operation is within the land resumption boundary under the railway scheme of the NOL Main Line project, and he sees merit for the application to be considered favourably. Moreover, SDEV advises that the application is to facilitate relocation of an existing warehouse and its ancillary facilities at a site in Ngau Tam Mei which falls within the study area of the ongoing Land Use Review Study for Ngau Tam Mei Area and subject to concerned departments’ comments on land use compatibility and technical aspects, the application is supported from the policy perspective. Taking into account the planning assessments below and the policy support rendered by SDEV, sympathetic consideration could be given to the proposed use on a temporary basis of three years.
- 11.2 The Site is fenced-off, largely vacant, partly paved and partly covered with grass and trees. CTP/UD&L of PlanD advises that noticeable change of landscape character arising from the proposed use within “REC” zone is anticipated. However, the Site falls within the development zone of “REC” primarily for low-density recreational developments. The surrounding areas are of rural character mainly comprising domestic structures, vacant land and tree clusters. To the east across Lin Ma Hang Road is the site of an approved similar application (No. A/NE-TKLN/77) involving temporary warehouse use. The proposed use is considered not entirely incompatible with the surrounding areas. To compensate for the loss of trees, the applicant proposes to plant the same number of new trees along the western

boundary of the Site.

- 11.3 Having considered the information submitted by the applicant, the Commissioner for Transport has no comment on the application, and approval conditions on the submission and implementation of traffic improvement and management measures are recommended in paragraph 12.2 below. While DEP considers that the application should not be supported as the proposed use involves the use of heavy vehicles and environmental nuisance on the sensitive receivers (i.e. residential structures) in the vicinity of the Site is expected (**Plan A-2**), approval conditions on restricting the operation hours and provision of a 2.5 m high solid metal wall along the site boundary are recommended in paragraph 12.2 below should the application be approved. Also, the applicant will be advised to follow the environmental mitigation measures as set out in the COP. CE/MN of DSD has no-principle objection to the application subject to imposing approval conditions on submission and implementation of drainage impact assessment before commencement of construction works and operation respectively as set out in paragraph 12.2 below.
- 11.4 In response to DLO/N of LandsD's comments regarding the presence of unauthorised structures at the lots and unlawful occupation of GL covered by the current application, the applicant advises that they will rectify the matter by applying STT and STW to LandsD. The applicant will be advised to liaise with LandsD to deal with the land issues separately under the land administration regime. Other relevant government departments consulted, including the Director of Fire Services and Chief Engineer/Construction of Water Supplies Department have no objection to or no adverse comment on the application.
- 11.5 There was a similar application for proposed temporary logistic centre, warehouse (excluding dangerous goods godown) and container vehicle park with ancillary facilities located in the vicinity of the Site. The application was approved with conditions by the Committee on 15.3.2024 mainly on considerations that it was to facilitate the relocation of business operations affected by government projects with policy support from SDEV; the proposed use was not entirely incompatible with the surrounding areas and generally complied with the relevant TPB Guidelines; and there was no adverse departmental comment or their concerns could be addressed by relevant approval conditions. The planning circumstances of the current application are similar to those of the approved application. As such, approval of the current application is in line with the Committee's previous decision.
- 11.6 Regarding the public comments on the application as detailed in paragraph 10, government bureaux/departments' comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10 above, the Planning Department considers that the proposed use could be tolerated for a period of three years.
- 12.2 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 three years until 6.9.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 7:00 a.m. on Mondays to Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the provision of 2.5 m high solid metal wall along the site boundary, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 6.6.2025;
- (d) the submission of a drainage impact assessment before the commencement of any construction works or operations including site formation works to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (e) in relation to (d) above, the provision of drainage facilities before the commencement of any operation to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installations proposal 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 6.3.2025;
- (h) in relation to (g) above, the implementation of the fire service installations proposal 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 6.6.2025;
- (i) the submission of traffic improvement and management measures within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.3.2025;
- (j) in relation to (i) above, the implementation of traffic improvement and management measures before the commencement of any operation to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (k) if the above planning condition (d) is not complied with before the commencement of any construction works or operations including site formation works, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if any of the above planning condition (e) or (j) is not complied with before the commencement of any operation, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (m) if any of the above planning condition (a), (b) 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

- (n) if any of the above planning condition (c), (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 IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use is not in line with the planning intentions 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. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 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.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application Form with Attachment received on 11.7.2024
Appendix Ia	Supplementary Information received on 15.7.2024
Appendix Ib	Further Information received on 29.8.2024
Appendix II	Similar Application
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Proposed Access Arrangement Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4d	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2024**