

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/659

- Applicant** : Join Grand Limited represented by R-riches Property Consultants Limited
- Site** : Lot 2073 RP (Part) in D.D. 76 and Adjoining Government Land, Ping Che Road, Ping Che, New Territories
- Site Area** : About 1,323 m² (including about 250 m² of Government Land)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zonings** : (i) “Open Storage” (“OS”) (about 1,224 m² or 92.5% of the Site)
(ii) Area shown as ‘Road’ (about 99 m² or 7.5% of the Site)
- Application** : Proposed Temporary Wholesale Trade with Ancillary Warehouse for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary wholesale trade with ancillary warehouse for a period of five years (**Plan A-1**). The Site falls mainly within an area zoned “OS” with a minor portion falls within an area shown as ‘Road’ on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘Wholesale Trade’ in areas zoned “OS” and shown as ‘Road’ require planning permission from the Town Planning Board (the Board). The Site is currently used for open storage of recycling materials.
- 1.2 According to the applicant, the proposed temporary development comprises a single-storey enclosed structure of about 11 m in height with a total floor area of about 1,231 m² for wholesale trade of packaged drinks and ancillary warehouse (storage of packaged drinks) & site office (**Drawing A-1**), with the remaining area reserved as circulation space. Two loading/unloading spaces for light goods vehicles (3.5m × 7m) will be provided at the Site. The operation hours are from 9:00 a.m. to 6:00 p.m. on Mondays to Saturdays with no operation on Sundays and public holidays. The estimated maximum number of visitor per day is about eight people and there would be 10 staff working at the Site. The Site is accessible from Ping Che Road via the ingress/egress at the northeast (**Plan A-2**). The proposed site layout plan submitted by the applicant is at **Drawing A-1**.

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

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|-----|---|---------------|
| (a) | Application Form with attachments received on 23.2.2021 | (Appendix I) |
| (b) | Further Information (FI) received on 30.3.2021^ | (Appendix Ia) |
| (c) | FI received on 7.4.2021^ | (Appendix Ib) |
| (d) | FI received on 8.4.2021^ | (Appendix Ic) |

^ accepted and exempted from publication

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the Application Form and FI at **Appendices I and Ia to Ic** respectively. They can be summarised as follows:

- (a) the applicant intends to operate a wholesale trade business for packaged drinks in Ping Che to provide such service for the nearby retailers;
- (b) effort has been made to identify suitable site/premises for the proposed wholesale trade business but was unsuccessful due to various reasons such as incompatibility of land use, unsuitable size of site/structure and poor accessibility. In addition, most of the conventional godown premises would not be able to accommodate the operation of the proposed development due to limitations such as low ceiling height restricting the amount of goods to be stored, lack of fire service installations (FSIs) and proper ventilation and air conditioning systems to maintain indoor temperature for storage of packaged drinks;
- (c) as the proposed development will involve storage and handling of large quantity of packaged drinks for wholesale purpose, the proposed structure of about 11 m in height would provide better utilisation of space for efficient operation of the wholesale trade business and ancillary warehouse. Also, the high ceiling structure would allow more space available for FSIs, i.e. sprinkler system, as required by the Fire Services Department;
- (d) since the proposed development is on a temporary basis, it will not frustrate the long-term planning intention of the “OS” zone. The proposed structure will be confined within the “OS” zone portion of the Site with about 3 m setback from the eastern boundary;
- (e) vehicular trips to be generated by the proposed development (with four vehicular trips during morning and evening peak hours respectively) would be kept minimal as the proposed wholesale trade is to serve the nearby retailers, and advanced booking is required for visitors to access the Site and to use the loading/unloading spaces to prevent excessive number of visitors and vehicle to the Site; and
- (f) the proposed development will not create adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. No queuing of vehicles will occur outside the Site. No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, will be used. Vehicles will be manoeuvred within the proposed enclosed structure, hence providing better noise control and minimising noise nuisance to nearby noise sensitive receivers. Adequate mitigation measures, i.e. submission of drainage and FSIs proposals, compliance with the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (COP), etc., will be provided to mitigate any adverse impact arising from the proposed development.

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

The applicant is not a “current land owner” of the Site 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. 31A) by posting site notice and sending notice to the Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Previous Application**

There is no previous application at the Site.

5. **Similar Application**

5.1 There is a similar application (No. A/NE-TKL/634) for proposed temporary wholesale trade with ancillary storage for a period of five years submitted by a different applicant within another “OS” zone on the OZP. It was approved with conditions by the Committee on 18.12.2020 mainly on the considerations that the proposed temporary development would not jeopardise the long-term planning intention of the “OS” zone; it was not incompatible with the surrounding area; and the traffic impact induced by the proposed development was tolerable.

5.2 Details of the similar application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

6. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on **Plan A-3** and site photos on **Plans A-4a and A-4b**)

6.1 The Site is:

- (a) hard-paved, fenced off and currently used for open storage of recycling materials;
- (b) occupied by some container-converted structures at the southern portion; and
- (c) abutting Ping Che Road (**Plan A-2**).

6.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is Ng Tung River (River Indus), across which are open storage of construction machinery, car repair workshop and some temporary domestic/vacant structures;
- (b) to the immediate east is Ping Che Road, across which is Regency Court within “Village Type Development” zone of Hung Leng Village (**Plans A-1 and A-2**);
- (c) to the west are open storage of recycling materials, vacant land and some domestic structures; and

- (d) to the south are car repair workshops and warehouses.

7. Planning Intention

- 7.1 The planning intention of the “OS” zone in Ping Che and Ta Kwu Ling area is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses which cannot be accommodated in conventional godown premises.
- 7.2 The area shown as ‘Road’ is intended for road development.

8. Comments from Relevant Government Departments

- 8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

- 8.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) the Site comprises private Lot No. 2073 RP (Part) in D.D. 76 and adjoining Government Land (GL). The lot is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make its own arrangement for acquiring access to the lot, and there is no guarantee that any adjoining GL will be allowed for the vehicular access to the Site for the proposed use;
 - (b) the application lot is covered by a valid Short Term Waiver (STW) No. 1214. According to the terms and conditions of the STW concerned, the permitted user is for storage of electrical parts, the permitted built-over area shall not exceed 125 m², and the height of the buildings or structures erected shall not exceed 5 m in height. Please note that the applicant is not the waivee of the STW concerned;
 - (c) the proposed development schedules indicate that the permitted user, built-over area, and height of buildings or structures do not tally with the ones stipulated in the terms and conditions of the STW concerned;
 - (d) his record also revealed that the built-over area and height of the existing structures erected on the application lot have exceeded the permitted ones under the STW. There is a structure on site being used for toilet use. The applicant should note that any proposed toilet facility should meet the current health requirements;
 - (e) the GL located within the Site next to Lot No. 2072 in D.D. 76 (**Plan A-2**) at the northern part was previously covered by an ex-Short Term Tenancy (STT) No. 1107 and is now being illegally occupied. This office reserves

the right to take enforcement action against the illegal occupation of GL;
and

- (f) if the planning application is approved, the owner of the lot concerned shall apply to his office for cancel-and-reissue of the existing STW and a fresh STT to cover all the actual occupation area and to regularise the unauthorised structures on site. The application for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW and STT are approved, their commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee / rent and administrative fees as considered appropriate by his office.

Traffic

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

- (a) having reviewed the FI submitted by the applicant (**Appendix Ia**), he has no further comment on the application as the traffic impact induced by the proposed development is tolerable from traffic engineering point of view; and
- (b) should the application be approved, an approval condition on the implementation of traffic management measures, i.e. deployment of staff at the ingress/egress to direct vehicles and provision of signs to ensure pedestrian safety, as proposed by the applicant is recommended.

8.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) the section of Ping Che Road abutting the Site is under HyD's maintenance purview. However, the proposed access to the Site will pass through a strip of land between Ping Che Road and the Site, which is an unallocated government land (**Plan A-2**). The applicant is required to sort out the land issues with relevant land authority; and
- (b) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) the Site falls within the "OS" zone and an area shown as 'Road', and it is outside the water gathering ground. Spaces for loading/unloading and circulation of light goods vehicles would be provided inside the enclosed structure. Provided that the measures proposed by the applicant (i.e. restriction on operation hours, adoption of mitigation measures in the COP and prohibition of medium or heavy goods vehicles on site) would be properly implemented, DEP has no objection to the application.

- (b) should the application be approved, the applicant should be reminded of his obligation to comply with environmental protection / pollution control ordinances, including but not limited to Noise Control Ordinance and Water Pollution Control Ordinance. Besides, according to the COP, “*sewage discharge from the site should be directed to nearby public sewer. In case of unavailability of public sewer, a septic tank and soakaway pit (STS) should be provided.*” In such case, all requirements in ProPECC PN 5/93 should be followed, including Minimum Clearance Distance and Percolation Test requirements, and the design, construction, operation and maintenance of the STS should be duly certified by an Authorised Person; and
- (c) considering the watercourses in the vicinity (**Plan A-2**), the applicant is recommended to adopt best management practices to avoid refuse/wastewater/sewage and other pollution from entering the surface runoff and the watercourses, for example installation of silt traps and rubbish traps at suitable intervals at the drainage channels at the perimeter of the site to prevent surface runoff pollution to the stream course. The silt traps and rubbish traps should be regularly maintained to ensure they function properly.

Drainage

8.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection to the application from public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that the development will not cause adverse drainage impact to the adjacent area. In their submission, the applicant requires assessing and identifying the project’s potential drainage impacts and demonstrate in their submission with the implementation of necessary mitigation measures, the project will not cause an unacceptable increase in the risk of flooding in areas upstream of, adjacent to or downstream of the development; and
- (c) the Site is in an area where no public sewerage connection is available. Detailed comments are appended in **Appendix IV**.

Fire Safety

8.1.6 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to FSIs being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the following points:

- (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
- (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

8.1.7 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) existing water mains located within the Site will be affected (**Plan A-2**). The applicant is required to either divert or protect the water mains found on site. Detailed comments are appended in **Appendix IV**.

Building Matters

8.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- there is no record of approval by the Building Authority (BA) for the existing buildings/structures at the Site and BD is not in a position to offer comments on their suitability for the proposed use. There is also no record of submission of the proposed buildings/structures to the BA for approval. For any new proposed buildings, detailed advisory comments under the BO are appended in **Appendix IV**.

Nature Conservation

8.1.9 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- the Site is paved, with a channelized watercourse, Ng Tung River, located 30 m away from the Site (**Plan A-2**). While he has no comment on the application from nature conservation point of view, the applicant should adopt good site practice to avoid causing adverse impact to the watercourse nearby.

Project Interface

8.1.10 Comments of the Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD):

- there is no programme of widening of Ping Che Road abutting the Site. In this regard, he has no comment on the application from the project interface

point of view.

District Officer's Comments

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

- he has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee (FDRC)-cum-Resident Representative (RR) of Ko Po, the Vice-Chairman of FDRC-cum-Indigenous Inhabitant Representative (IIR) of Ko Po, the Vice-Chairman of FDRC-cum-IIR of Kwan Tei, the IIR and RR of Hung Leng and the Chairman of Regency Court Owners' Committee object to the application mainly on the grounds of close proximity to residential area; heavy traffic; noise and dust nuisances; visual incompatibility with the surrounding village setting; and not being in line with the planning intention of "OS" zone.

8.2 Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no comment on the application.

9. Public Comments Received During Statutory Publication Period (Appendix III)

On 2.3.2021, the application was published for public inspection. During the statutory public inspection period, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Regency Court Owners' Committee raises objection on the grounds of close proximity to residential area, heavy traffic, and noise and dust nuisances.

10. Planning Considerations and Assessments

- 10.1 The application is for a proposed temporary wholesale trade with ancillary warehouse for a period of five years at the Site mainly zoned "OS" on the OZP. The proposed development is not in line with the planning intention of the "OS" zone, which is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. The "OS" zone provides for the orderly development of land for open storage uses which cannot be accommodated in conventional godown premises. Nevertheless, given that the proposed development is only for a temporary basis, approval of the application would not jeopardise the long-term planning intention of the "OS" zone.
- 10.2 The proposed temporary development, involving the erection of a single-storey structure of about 11 m in height with setback from the eastern boundary of the Site facing Ping Che Road, is not entirely incompatible with the surrounding area intermixed with car repair workshops, warehouse, open storage yards, vacant / temporary domestic structures, car parks and vacant land. CTP/UD&L of PlanD has no comment on the application.
- 10.3 Having reviewed the FI submitted by the applicant, C for T considers that the traffic impact induced by the proposed development, with four vehicular trips to be generated during the morning and evening peak hours respectively, is tolerable from traffic engineering

viewpoint subject to provision of traffic management measures as proposed by the applicant. DEP has no objection to the application provided that the measures proposed by the applicant (i.e. restriction on operation hours, adoption of mitigation measures in the COP, prohibition of medium or heavy goods vehicles on site, etc.) would be properly implemented. To address the concerns on the possible environmental nuisance generated by the proposed temporary development, relevant approval conditions have been recommended. The applicant will also be advised to follow the COP and all relevant environmental protection / pollution control ordinances in order to alleviate any potential environmental impact. Other relevant Government departments consulted, including CE/MN of DSD, CE/C of WSD, D of FS, DAFC and PM(N) of CEDD, have no objection to or no adverse comment on the application.

- 10.4 There is a similar application (No. A/NE-TKL/634) for proposed temporary wholesale trade with ancillary storage for a period of five years within another “OS” zone on the OZP, which was approved by the Committee on 18.12.2020 mainly on the considerations that the proposed temporary development would not jeopardise the long-term planning intention of the “OS” zone; it was not incompatible with the surrounding area; and the traffic impact induced by the proposed development was tolerable. The planning circumstances of the current application are similar to that approved application.
- 10.5 Regarding the local objections conveyed by DO(N), HAD and adverse public comments as detailed in paragraphs 8.1.11 and 9 above respectively, the Government departments’ comments and the planning assessments above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the local comments conveyed by DO(N), HAD and public comments mentioned in paragraphs 8.1.11 and 9 respectively, the Planning Department has no objection to the application.
- 11.2 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 5 years until 16.4.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., 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) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site 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 16.10.2021;

- (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 16.1.2022;
- (f) 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 16.10.2021;
- (g) in relation to (f) 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 16.1.2022;
- (h) the implementation of traffic management measures, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 16.1.2022;
- (i) if any of the above planning conditions (a), (b) or (c) 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
- (j) if any of the above planning conditions (d), (e), (f), (g) or (h) 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**.

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

- the proposed development is not in line with the planning intention of the "OS" zone which is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses which cannot be accommodated in conventional godown premises. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.

12.3 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.

13. Attachments

Appendix I	Application Form with attachments received on 23.2.2021
Appendix Ia	FI received on 30.3.2021
Appendix Ib	FI received on 7.4.2021
Appendix Ic	FI received on 8.4.2021
Appendix II	Similar s.16 Application
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & A-4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2021**