

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/662

- Applicant** : Kam Hing Realty Resources Limited represented by Goldrich Planners & Surveyors Limited
- Site** : Lot 2159 (Part) in D.D. 76 and Adjoining Government Land, Wang Leng, Ping Che, New Territories
- Site Area** : 664.4 m² (about) (including about 527.6 m² of Government land)
- Land Status** : (a) Block Government Lease (demised for agricultural use) for Lot 2159 in D.D. 76
(b) Letter of Approval (LoA) No. 4345 for erection of temporary structures for the purpose of chicken shed, watchman shed and agricultural storage
(c) Modification of Tenancy (MOT) No. 37244 for erection of temporary structures for the purpose of dwelling and shade for Lot 2159 in D.D. 76
(d) Government land
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : "Open Storage" ("OS")
- Application** : Renewal of Planning Approval for Temporary Container Vehicle Repair Yard for a Period of 3 Years until 18.5.2024

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary container vehicle repair yard for a further period of 3 years until 18.5.2024 (**Plan A-1**). The Site falls within an area zoned "OS" on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, Container Vehicle Repair Yard is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission until 18.5.2021.
- 1.2 According to the applicant, the applied use comprises three 1-2 storey structures (about 5m to 6m in height) with a total floor area of about 394.1 m² for an open shed and two storerooms. All vehicle repair activities are carried out within the open shed which allows 4 container vehicles to be repaired at the same time. The uncovered area is mainly for manoeuvring of vehicles. The Site is accessible via a local track leading to Ping Che Road. The proposed operation hours are from 7:00 a.m. to 7:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. The land

status plan, site layout plan and section plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.3 The Site, in part or in whole, was involved in six previous applications (**Plan A-1**) (No. A/NE-TKL/91, 133, 165, 321, 387 and 584) for various vehicles repair workshop and warehouse uses submitted by the same applicant as the current application. All applications were approved by the Rural and New Town Planning Committee (the Committee) for a period between 1998 and 2018. There are no changes to the layout and development parameters comparing with the last approved application No. A/NE-TKL/584 for the same use. The applicant has complied with all approval conditions under the last application.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with Attachments received on 22.3.2021 (**Appendix I**)
 - (b) Supplementary Information received on 29.3.2021 (**Appendix Ia**)
 - (c) Further Information received on 1.4.2021 (**Appendix Ib**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the attachments of the application form at **Appendix I**. They can be summarised as follows:

- (a) the Site is the subject of previously approved applications;
- (b) the development is compatible with surrounding environment comprising open storage and workshops and would not cause adverse visual impact to the surrounding;
- (c) there are existing trees at the northern and eastern boundary of the Site and the applicant had followed the Guidelines for Tree Risk Assessment and Management Arrangement;
- (d) all approval conditions pertaining to the previously approved application have been complied with; and
- (e) the development would not cause adverse traffic impact on the surrounding area since there is enough space for manoeuvring of vehicles within the Site and the traffic generated/attracted by the development is low.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land within the Site, the “owner’s consent/notification” 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) is not applicable to the application.

4. Town Planning Board Guidelines

- 4.1 Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' (TPB PG-No. 13F) promulgated on 27.3.2020 is relevant to the application. The Site falls within Category 1 area under the Guidelines, relevant extract of which is at **Appendix II**.
- 4.2 The Town Planning Board Guidelines No. 34C on "Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development" (TPB PG-No. 34C) is relevant to this application. The relevant extract of the Guidelines is attached at **Appendix III**.

5. Previous Applications

- 5.1 The Site, in part or in whole, is the subject of six previous applications (**Plan A-1**) (No. A/NE-TKL/91, 133, 165, 321, 387 and 584) for various vehicle repairing workshop and warehouse uses submitted by the same applicant of current application. All applications were approved mainly on the considerations that the developments were in line with the planning intention of "OS" zone and complied with the then TPB PG-No. 13E; the developments were not incompatible with the surrounding land uses; adverse environmental, drainage and traffic impacts arising from the developments were not expected; they were subject of previous planning approvals; and the approval conditions had been complied with.
- 5.2 The last approved application (No. A/NE-TKL/584) for temporary container vehicle repair yard submitted by the same applicant was approved with conditions by the Committee on 18.5.2018 with valid planning permission until 18.5.2021. When compared with the previous approval, there are no changes to the layout and development parameters, and the applicant has complied with all approval conditions.
- 5.3 Details of these previous applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are three similar applications for temporary vehicle repair workshop which fall partly within another "OS" zone to the north of the Site (**Plan A-1**).
- 6.2 Three similar applications (No. A/NE-TKL/376, 481 and 602) involving the same site were approved with conditions by the Committee between November 2011 and October 2018 mainly on the considerations that the applications were generally in line with the planning intention of "OS" zone and complied with the then TPB PG-No. 13E; the proposed developments were compatible with the surrounding areas; they were subject of previous planning approvals; and the applicant had complied with all approval conditions.
- 6.3 Details of these similar applications are summarised at **Appendix V** and their locations are shown on **Plan A-1**.

7. **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)

7.1 The Site is:

- (a) flat, formed, fenced off and accessible via a local track leading to Ping Che Road;
- (b) abut to Ng Tung River to its south (Plan A-2); and
- (c) currently occupied by a container vehicle repair workshop (Plans A-4a and A-4b) with a valid planning permission until 18.5.2021.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north and northeast of the Site are open storage use and recycling workshops;
- (b) to the immediate northwest are three temporary domestic structures;
- (c) to its west are knolls densely covered with trees; and
- (d) to its south is Ng Tung River and to the south-west are workshops and ancillary office use.

8. **Planning Intention**

The planning intention of the “OS” zone 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.

9. **Comments from Relevant Government Departments**

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

Land Administration

9.1.1 Comment of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Lot 2159 (Part) in D.D. 76 private lots and adjoining Government land. The private lot is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make his own arrangement for acquiring access to the application lot, and there is no guarantee that any adjoining Government land will be allowed for vehicular access to the Site for the proposed use;

- (b) the actual occupation area exceeds the application boundary. The unauthorised structures on Site are not accepted under the Lease. The Government land within the Site and Government land adjoining the eastern and western boundary of the application lot are being illegally occupied. This office reserves the right to take enforcement action against the lease breaches and the illegal occupation of Government land respectively;
- (c) Lot 2159 in D.D.76 is also covered with (i) a Modification of Tenancy (MOT) No. 37244 for erection of temporary structures for the purpose of dwelling and shade and; (ii) a Letter of Approval (LoA) No. 4345 for erection of temporary structures for the purpose of chicken shed, watchman shed and agricultural storage. Given the dimensions of the existing structures on the concerned lot do not tally with the approved ones under the aforesaid MOT and LoA, her office reserves the rights to take enforcement action and cancel the MOT and LoA if situation warrants; and
- (d) should the application be approved, the owner of the application lot concerned shall apply to her office for a Short Term Waiver (STW) and a Short Term Tenancy (STT) to cover all the actual occupation area including the whole concerned lot and adjoining Government land for regularization of the unauthorised structures on Site. The applications for STW/STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT applications are approved, their commencement date will be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by her office.

Traffic

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

- (a) he has no objection to the application from traffic engineering perspective; and
- (b) the vehicular access between the Site and Ping Che Road is not managed by his office. The applicant should seek comments from the responsible party.

Environment

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

- (a) he does not support the application as there are domestic structures in the vicinity of the Site, the closest ones are located to the north at a distance of about 20m (**Plan A-2**);
- (b) there was no substantiated environmental complaints against the Site during the past three years; and

- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses".

Drainage

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

- (a) he has no in-principle objection to the application from the public drainage point of view;
- (b) the Site is in an area where no public sewer connection is available; and
- (c) should the application be approved, a condition should be included to request the applicant to submit a condition record of the existing drainage facilities implemented under the last application No. A/NE-TKL/584. The applicant is also required to maintain those existing drainage facilities properly and rectify those facilities if they are found inadequate/ineffective during operation.

Building Matters

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

- (a) there is no record of approval by the Building Authority for the buildings/structures existing at the application site and BD is not in a position to offer comments on their suitability for the use related to the application; and
- (b) detailed comments are appended in **Appendix VII**.

Agriculture

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

she has no comment on the renewal application from nature conservation perspective as there was previously approved application for the same use as the current application.

Fire Safety

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

- (a) having reviewed the further information (**Appendices Ia and Ib**) as submitted by the applicant, he has no in-principle objection to the proposal subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department;
- (b) the approval condition in relation to the implementation of proposal for fire service installations and water supplies for firefighting has been complied

under the last application No. A/NE-TKL/584. Nevertheless, there are inadequate information (i.e. a valid FS251 certificate) provided by the applicant for streamlining the process of such renewal case. Should the application be approved, a condition should be included to request the applicant to implement the proposal for fire service installations and water supplies as submitted; and

- (c) detailed fire safety requirements will be formulated upon receipt of formal submission of the general building plans.

Water Supply

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

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard.

District Officer's Comments

9.1.9 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), the Vice-Chairman of FDRC-cum-Indigenous Inhabitant Representative (IIR) of Kwan Tei, the 2nd Vice Chairman of FDRC objected to the proposal on the grounds that the development would generate environmental nuisances and traffic impacts to the surrounding area; and concerned about the pedestrian safety of the local villagers.

9.2 The following Government departments have no comment on / no objection to the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD); and
- (d) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

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

On 30.3.2021, the application was published for public inspection. During the statutory public inspection periods, four public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Chairman, 1st

Vice-chairman and 2nd Vice-chairman of Fanling District Rural Committee object to the application mainly on the grounds that the development would cause safety issue to villagers; and the development would cause environmental nuisances.

11. Planning Considerations and Assessments

- 11.1 The application is for the renewal of planning permission for temporary container vehicle repair yard for a further period of three years. The temporary container vehicle repair yard is generally 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. It provides for the orderly development of land for open storage uses which cannot be accommodated in conventional godown premises.
- 11.2 The Site falls within Category 1 area under the TPB PG-No. 13F promulgated by the Board on 27.3.2020. The following considerations in the Guidelines are relevant:
- Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.
- 11.3 The temporary container vehicle repair yard is considered not incompatible with the surrounding land uses which are mainly open storages, workshops and warehouses. Adverse landscape impact arising from the proposed development is not anticipated. In this connection, CTP/UD&L of PlanD has no objection to the application.
- 11.4 The Site is accessible by a local track leading to Ping Che Road (**Plan A-1**). C for T has no objection to the renewal application from traffic engineering point of view. Other relevant Government departments consulted, including D of FS, CE/MN of DSD, CE/C of WSD, PM(NTE) of CEDD and CBS/NTW of BD, have no adverse comment on / no objection to the application.
- 11.5 DEP does not support the application as there are sensitive receivers, i.e. temporary domestic structures in the vicinity of the Site (**Plan A-2**), and environmental nuisance to the residents nearby may be created. To address DEP’s concerns, approval conditions restricting the operation hours of the Site would be imposed. Moreover, the applicant will be advised to follow the environmental mitigation measures as set out in the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’.
- 11.6 The application generally complies with the TPB PG-No. 13F (**Appendix II**) in that there are no adverse traffic impacts, and the concerns of the departments and the concerns of the local can be addressed through the implementation of approval conditions. Moreover, the application generally complies with the TPB PG-No. 34C on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ as there has not been any material change in planning circumstances since the approval of the last application; all the approval conditions for the last application have been complied with; and the approval period sought which is for the same as the last approval granted by the Board is not

unreasonable.

- 11.7 The Site is the subject of six previous applications for various vehicle repairing workshop and warehouse uses. They were approved mainly on the grounds of being in line with the planning intention of "OS" zone and complied with the then TPB PG-No. 13E; not incompatible with the surrounding land uses; unlikely to have adverse environmental, drainage and traffic impacts; subject of previous planning approvals; and the approval conditions had been complied with. The applicant has complied with all approval conditions under the last application (No. A/NE-TKL/584) and that planning permission is valid until 18.5.2021. There has been no major change in the planning circumstances for the area since the approval of the previous applications.
- 11.8 There are three similar applications involving the same site which were approved with conditions by the Committee mainly on the consideration that the applications were generally in line with the planning intention of "OS" zone and complied with the then TPB PG-No. 13E; the proposed developments were compatible with the surrounding areas; and the applicant had complied with all approval conditions. The planning circumstance of current application is similar to those approved applications.
- 11.9 Regarding the adverse public comments as detailed in paragraph 10 and the local objections conveyed by DO(N), HAD in paragraph 9.1.9 above concerning the safety issue and environmental nuisances to the villagers caused by the development, the departmental comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and taking into account the local objections conveyed by DO(N), HAD and public comments in paragraphs 9.1.9 and 10 above respectively, the Planning Department has no objection to the application.
- 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 and **be renewed from 19.5.2021 to 18.5.2024**. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 7:00 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) the peripheral fencing shall be maintained on Site at all times during the planning approval period;
- (d) the existing trees and landscape planting on Site shall be maintained at all times during the planning approval period;

- (e) the implementation of proposals for fire services installations and water supplies for firefighting, as proposed by the applicant, within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.8.2021;
- (f) the submission of a condition record of the existing drainage facilities implemented under planning application No. A/NE-TKL/584 on the Site within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 19.8.2021;
- (g) if any of the above planning conditions (a), (b), (c) or (d) 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
- (h) if any of the above planning conditions (e) or (f) 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 VII**.

12.3 There is no strong planning reason to recommend rejection of the application.

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 Attachments received on 22.3.2021
Appendix Ia	Supplementary Information received on 29.3.2021
Appendix Ib	Further Information received on 1.4.2021
Appendix II	Relevant Extract of TPB Guidelines No. TPB PG-No. 13F for Application for Open Storage and Port Back-up Uses
Appendix III	Relevant Extract of TPB Guidelines No. 34C on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development
Appendix IV	Previous s.16 Applications
Appendix V	Similar s.16 Applications for Temporary Vehicle Repair Workshop in the vicinity of the application site partly within the "Open Storage" zone in the Ping Che and Ta Kwu Ling Area

Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-3	Land Status Plan, Site Layout Plan and Section 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
MAY 2021**