

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/663

- Applicant** : Global Power International Holdings Limited represented by R-riches Property Consultants Limited
- Site** : Lot 838 S.A (Part) in D.D. 77, Ng Chow South Road, Ta Kwu Ling, New Territories
- Site Area** : About 794 m²
- 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 493 m² or 62% of the Site)
(ii) Area shown as ‘Road’ (about 301 m² or 38% 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” and partly 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 occupied by a temporary structure (**Plans A-3, A-4a and A-4b**).
- 1.2 According to the applicant, the proposed temporary development comprises a two-storey structure of about 11 m in height with a total floor area of about 1,334 m² for wholesale trade, ancillary storage of goods and site office purposes, with the remaining area reserved as circulation space (**Drawing A-1**). One private car parking space (2.5m × 5m) and one loading/unloading space 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 Ng Chow South Road via the ingress/egress at the north (**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 8.4.2021 | (Appendix I) |
| (b) | Supplementary Information received on 15.4.2021 | (Appendix Ia) |
| (c) | Further Information received on 24.5.2021^ | (Appendix Ib) |
| (d) | Further Information received on 24.5.2021^ | (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 the attachments at **Appendices I, Ia to Ic**. They can be summarised as follows:

- (a) the applicant intends to operate a wholesale trade business for beverage in Ta Kwu Ling to provide service for the nearby retailers;
- (b) effort has been made to identify suitable site/structure 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 buildings for wholesale trade and godown uses would not be able to accommodate the operation of the proposed development due to limitations such as lack of fire service installations (FSIs) and proper ventilation and air conditioning systems for storage of beverage;
- (c) the proposed two-storey structure of about 11 m in height would provide better utilisation of the land;
- (d) since the proposed development is on a temporary basis, it will not frustrate the long-term planning intention of the “OS” zone. Should there be implementation programme for the road widening works on the area shown as ‘Road’ on the OZP, the applicant undertakes to surrender part of the Site upon Government’s request in the future;
- (e) no adverse traffic impact arising from the proposed development is anticipated, with three vehicular trips to be generated during morning and afternoon peaks respectively. Advanced booking is required to regulate the number of visitor and vehicle to the Site. Sufficient space will be provided for vehicles to manoeuvre smoothly to/from and within the Site to ensure no queuing and turning back of vehicles outside the Site. Staff is also deployed at the ingress/egress to direct vehicles for better traffic management. No medium or heavy goods vehicles, including container tractor/trailer, will be used; and
- (f) the proposed development will not create adverse environmental, landscape and drainage impacts to the surrounding areas. No storage of dangerous goods will be involved at the Site. Adequate mitigation measures, i.e. submission of drainage, FSIs and landscape 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 Applications

5.1 There are two similar applications (No. A/NE-TKL/634 and 659) for proposed temporary wholesale trade with ancillary storage/warehouse for a period of five years within/partly within “OS” zone or area shown as ‘Road’ on the OZP. They were approved with conditions by the Committee on 18.12.2020 and 16.4.2021 respectively mainly on the considerations that the proposed temporary developments would not jeopardise the long-term planning intention of the “OS” zone; they were not incompatible with the surrounding areas; and the impact induced by the proposed developments was tolerable.

5.2 Details of the similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

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

6.1 The Site is:

- (a) fenced off and paved;
- (b) occupied by a temporary structure; and
- (c) abutting Ng Chow South Road (**Plan A-2**).

6.2 The surrounding areas have the following characteristics:

- (a) to the east, south and west are laundry workshop, cargo handling area, open storage yards and warehouses scattered with domestic structures;
- (b) to the north is a vegetated knoll with some graves within the “Green Belt” zone; and
- (c) to the northeast are warehouse and workshop within the “Industrial (Group D)” zone.

7. Planning Intention

- 7.1 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.
- 7.2 The area shown as ‘Road’ is intended for possible Ng Chow South Road widening.

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 Lot No. 838 S.A (Part) in D.D. 77. The lot is an Old Schedule lot held under the Bock Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make his own arrangement for acquiring access to the 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) our inspection has revealed some existing structures erected on the lot without approval of her office. The aforesaid structures are not acceptable under the Lease concerned. Her office reserves the right to take lease enforcement action against the aforesaid structures;
 - (c) the actual occupation boundary does not tally with the Site. A piece of GL adjoining the Site is being occupied without approval of her office. Her office reserves the right to take land control action against the irregularities; and
 - (d) if the planning application is approved, the owner of the lot concerned shall apply to her office for STW and STT covering all the actual occupation area and structures concerned. 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 would 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.

Project Interface

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

- he has no comment on the application from the project interface point of view. Based on his understanding, there is no implementation programme for widening of Ng Chow South Road.

Traffic

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

- (a) having reviewed the FI submitted by the applicant (**Appendix Ib**), 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;
- (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 entering/exiting the Site to ensure no queuing of vehicles outside the Site, and provision of signage to ensure pedestrian safety, as proposed by the applicant is recommended; and
- (c) the vehicular access between the Site and a section of Ng Chow South Road is not managed by Transport Department. The applicant should seek comment from the responsible party.

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

- (a) he is not aware of any implementation programme for “Road 6” shown on the OZP and has no comment on the application; and
- (b) the section of Ng Chow South Road abutting the Site is not maintained by HyD.

Environment

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

- (a) the Site falls within an area partly zoned as “OS” and partly shown as ‘Road’ on the OZP. 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, she has no objection to the application; and
- (b) should the application be approved, the applicant should be advised to follow the latest COP and ProPECC PN 1/94 *Construction Site Drainage* and should also comply with all relevant environmental protection / pollution control ordinances, including but not limited to Noise Control

Ordinance, to minimise any potential environmental nuisances on the surrounding area.

Drainage

8.1.6 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, approval conditions 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; and
- (c) there is public sewerage near the Site. A sewerage proposal should be submitted for approval if sewer connection to public sewerage is required.

Landscape

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

- (a) she has no adverse comment on the application;
- (b) according to the aerial photo of 2020 and the latest site photos, the Site is located within an area of miscellaneous rural fringe landscape character predominated by warehouses, open storage yards and tree groups. The proposed development is considered not incompatible with the landscape character of the surrounding area. The Site is currently occupied by a large mock-up building with a fruit tree *Carica papaya* (番木瓜) observed at the eastern site corner. With reference to the proposed layout plan which is different from the current setting, the proposed development is in conflict with the existing tree but significant adverse landscape impact is not anticipated in view that the tree is a common species and a young specimen; and
- (c) in view that significant adverse landscape impact arising from the proposed development is not anticipated, it is considered not necessary to impose a landscape condition should the application be approved by the Board.

Fire Safety

8.1.8 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.

Building Matters

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

- formal submission under the BO is required for any proposed new works. Detailed comments under the BO will be provided at the building plan submission stage. Other advisory comments under the BO are appended in **Appendix IV**.

District Officer's Comments

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

- he has consulted the locals regarding the application. The 1st Vice-Chairman of Ta Kwu Ling District Rural Committee raises objection on the grounds of adverse traffic impact. The incumbent North District Council member of the subject constituency, the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Ping Che have no comment.

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

- (a) Chief Engineer/Construction, Water Supplies Department; and
- (b) Commissioner of Police.

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

On 16.4.2021, 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. An individual raises objection mainly on the grounds of adverse traffic, environmental and fire safety impacts.

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” and partly shown as ‘Road’ 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. As for the area shown as ‘Road’, PM(N) of CEDD and CHE/NTE of HyD advise that there is at present no implementation programme for widening of Ng Chow South Road (**Plan A-2**). Given that the proposed development is only on a temporary basis, approval of the application would not jeopardise the long-term planning intention of the “OS” zone and the implementation programme of the possible Ng Chow South Road widening.
- 10.2 The proposed temporary development, involving the erection of a two-storey structure of about 11 m in height, is not incompatible with the surrounding area predominated by warehouses, open storage yards, workshops and tree groups. CTP/UD&L of PlanD has no adverse 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 three vehicular trips to be generated during the morning and afternoon peaks 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, and advises the applicant to follow the latest COP, ProPECC PN 1/94 and all relevant environmental protection / pollution control ordinances to minimise any potential environmental impacts. Other relevant Government departments consulted, including CE/MN of DSD and D of FS, have no objection to or no adverse comment on the application.
- 10.4 There are two similar applications (No. A/NE-TKL/634 and 659) for proposed temporary wholesale trade with ancillary storage/warehouse for a period of five years within/partly within “OS” zone or area shown as ‘Road’ on the OZP, which were approved by the Committee on 18.12.2020 and 16.4.2021 respectively mainly on the considerations that the proposed temporary developments would not jeopardise the long-term planning intention of the “OS” zone; they were not incompatible with the surrounding areas; and the impacts induced by the proposed developments were tolerable. The planning circumstances of the current application are similar to those approved applications.
- 10.5 Regarding the local objection conveyed by DO(N), HAD and adverse public comments as detailed in paragraphs 8.1.10 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 8.1.10 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 28.5.2026. 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 boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (e) 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 28.11.2021;
- (f) in relation to (e) 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 28.2.2022;
- (g) 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 28.11.2021;
- (h) in relation to (g) 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 28.2.2022;
- (i) 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 28.2.2022;
- (j) 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
- (k) if any of the above planning conditions (e), (f), (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**.

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 8.4.2021
Appendix Ia	Supplementary Information received on 15.4.2021
Appendix Ib	Further Information received on 24.5.2021
Appendix Ic	Further Information received on 24.5.2021
Appendix II	Similar s.16 Applications
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	UAV Photo
Plans A-4a & A-4b	Site Photos