

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/NE-TKL/672

- Applicant** : Miss WU King Hung
- Site** : Lot 1403 RP (Part) in D.D. 77, Ping Che, Ta Kwu Ling, New Territories
- Site Area** : About 263 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
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Metals and Tools and Containers (for Office and Storage of Tools) for a Period of 3 Years until 7.9.2024

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary open storage of metals and tools and containers (for office and storage of tools) for a further period of three years (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, temporary uses or development of any land or buildings not exceeding a period of three years within “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZP. The Site is currently used for the applied use with valid planning permission until 7.9.2021.
- 1.2 According to the applicant, there is a two-storey container-converted structure for site office and storage of tools uses with a total floor area of about 30 m² and a height of about 4.8 m at the southwestern portion of the Site. The rest of the Site is used for open storage purpose. The Site is accessible via a local track leading to Ping Che Road (**Plan A-1**). No parking and loading/unloading space would be provided on-site. The operation hours are between 9:00 a.m. to 5:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. Plans showing the drainage, tree preservation and fire services installations (FSIs) proposals submitted by the applicant are at **Drawings A-1 to A-3** respectively.

1.3 The Site is the subject of eight previous applications for various temporary open storage uses. The latest approved application No. A/NE-TKL/595 for the same use as the current application was renewed from 8.9.2018 until 7.9.2021 by the Rural and New Town Planning Committee (the Committee) on 6.7.2018. All the approval conditions under the last application have been complied with. Compared with the last approved application, all development parameters including site layout under the current application remain unchanged.

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

- (a) Application Form with attachments received on 18.5.2021 (Appendix I)
- (b) Supplementary Information received on 24.5.2021 (Appendix Ia)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) the Site is the subject of several previously approved applications for the same applied use. All approval conditions have been complied with, and the applicant is willing to comply with the approval conditions to be imposed by the Board in the renewal application;
- (b) since the metal tools stored on site would not be moved out or could be delivered by trolley, no vehicular traffic is generated and hence no parking and loading/unloading space would be provided within the Site; and
- (c) the existing drainage facilities, trees and FSIs at the Site will be maintained properly.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 The 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 by the Board on 27.3.2020 are relevant to the application. The Site falls within the Category 3 areas under the Guidelines. The relevant extract of the Guidelines is attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB-PG No. 34C) are relevant to this application. The relevant extract of the Guidelines is attached at **Appendix III**.

5. Previous Applications

- 5.1 The Site is the subject of eight previous planning applications (No. A/NE-TKL/184, 212, 243, 291, 322, 388, 515 and 595) for various temporary open storage uses since 2002.
- 5.2 Application No. A/NE-TKL/184 for temporary open storage of generators was rejected by the Board on review in March 2002 mainly for the reason that no technical assessments/proposals were provided in the submission to demonstrate that the use under application would not generate adverse drainage, environmental and traffic impacts on the surrounding areas. Applications No. A/NE-TKL/212 and 243, for the same use as application No. A/NE-TKL/184, were approved by the Committee in August 2002 and November 2003 respectively mainly on the considerations that relevant technical assessments had been submitted to demonstrate that the use under applications would not generate adverse impacts; the technical concerns of Government departments could be addressed through the implementation of relevant approval conditions; and the developments generally complied with the relevant Town Planning Board Guidelines.
- 5.3 The remaining five applications (No. A/NE-TKL/291, 322, 388, 515 and 595), involving largely the same site for the same applied use submitted by the same applicant as the current application, were approved by the Committee between December 2006 and July 2018 mainly on similar considerations of the approved applications as detailed in paragraph 5.2 above. For the latest approved application No. A/NE-TKL/595, all approval conditions have been complied with and the planning permission is valid until 7.9.2021. Compared with the last approved application, all development parameters including site layout under the current application remain unchanged.
- 5.4 Details of the previous applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are four similar applications (No. A/NE-TKL/345, 376, 386 and 478) involving three sites for various temporary open storage / repair workshop uses within/partly within the “AGR” zones in the vicinity of the Site.
- 6.2 Two similar applications No. A/NE-TKL/345 and 376 involving the same site and largely falling within “Open Storage” (“OS”) zone with a minor portion within the same “AGR” zone were approved by the Committee in April 2011 and November 2011 respectively 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; and the proposed developments were compatible with the surrounding areas.
- 6.3 Applications No. A/NE-TKL/386 and 478 were rejected by the Committee in 2012 and 2014 respectively mainly on similar considerations that the developments were not in line with the planning intention of the “AGR” zone; the applications did not comply with the then TPB PG-No. 13E; the applicants failed to demonstrate that the developments would not generate adverse impacts on the surrounding areas; and approval of the applications would set undesirable precedents.
- 6.4 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 **Plan A-4**)

7.1 The Site is:

- (a) flat, hard-paved and fenced off;
- (b) currently occupied by the applied use with valid planning permission; and
- (c) accessible via a local track leading to Ping Che Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north, east and west are predominantly warehouses and open storage yards intermixed with vacant land, workshop, parking of vehicles and domestic structures;
- (b) to the further northwest are fallow/active agricultural land; and
- (c) to the south across a local road are intermixed with domestic structures, open storage yard, warehouse, vacant/unused land and an orchard.

8. **Planning Intention**

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

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

- (a) the application 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 her own arrangement for acquiring access to the application lot, and there is no guarantee that any adjoining Government Land (GL) will be allowed for vehicular access to the Site for the applied use;
- (b) the actual occupation area does not tally with the Site. Portion of an adjoining Lot No. 1402 RP in D.D. 77 (**Plan A-2**) has also been occupied. Moreover, a two-storey container-converted structure has been erected within the Site without prior approval from her office. Her office reserves

the right to take necessary lease enforcement actions against the irregularities; and

- (c) the owner of the application lot has submitted an application to her office for a Short Term Waiver (STW), which is being processed by her office and will be considered by Government in its landlord's capacity. There is no guarantee that the STW application will be approved. If the STW is approved, its commencement date would 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 and administrative fees as considered appropriate by her office.

Traffic

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

- she has no objection to the renewal application from traffic engineering point of view.

Environment

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

- (a) given that no traffic of heavy vehicles would be generated, the materials stored (metals and tools) are not dusty in nature and there was no record of environmental complaint against the Site in the past three years, he has no objection to the application;
- (b) should the renewal application be approved, the applicant is advised to follow the relevant environmental mitigation measures and requirements in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (COP) in order to minimise any possible environmental nuisance; and
- (c) the applicant is also advised to provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal for wastewater generated from the development. If septic tank and soakaway system will be used, its design, construction, operation and maintenance should follow the requirements of ProPECC PN 5/93.

Landscape

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

- (a) she has no objection to the application from landscape planning perspective;
- (b) there has been no significant change to the rural landscape setting with warehouses and open storages in the surrounding since the approval of the last application. The existing Site, generally aligned with the proposed layout and remained the same with the previous permission, is a fenced-off

hard-paved area with a container office at southeastern corner and some existing trees screening the northern and western site boundaries; and

- (c) in view that significant adverse landscape impact arising from the continuation of the applied use is not envisaged and there is no major public frontage along the Site boundary, it is considered not necessary to impose landscape condition should the application be approved by the Board.

Agriculture

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

- considering that the previous applications for the same use as the current application were approved by the Board, he has no strong view against the renewal application.

Drainage

9.1.6 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, the applicant is required to:-
 - (i) submit a condition record of the existing drainage facilities on site as previously implemented on the same site in the planning application No. A/NE-TKL/595 to his satisfaction within three months from the date of commencement of the renewed planning approval; and
 - (ii) maintain those existing drainage facilities properly and rectify those facilities if they are found inadequate / ineffective during operation.

Fire Safety

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

- he has no in-principle objection to the renewal application subject to the existing FSIs on the Site being maintained in efficient working order at all times.

Building Matters

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

- (a) he has no in-principle objection under the Buildings Ordinance (BO) for the renewal application; and

- (b) there is no record of approval by the Building Authority for the structures existing at the Site. Detailed advisory comments under the BO are appended in **Appendix VII**.

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. All consultees, including the incumbent North District Council member of the subject constituency, the First Vice-Chairman of Ta Kwu Ling District Rural Committee, the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Ping Che, the IIR and RR of Ha Shan Kai Wat and the Chairman of Fung Shui Area Committee, have no comment.
- 9.2 The following Government departments have no comment on / no objection to the application:
- (a) Chief Highway Engineer/New Territories East, Highways Department;
 - (b) Project Manager (North), North Development Office, Civil Engineering and Development Department; and
 - (c) Chief Engineer/Construction, Water Supplies Department.

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

On 25.5.2021, the application was published for public inspection. During the statutory public inspection period, one public comment was received from the Chairman of Sheung Shui District Rural Committee indicating no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for the renewal of planning permission for temporary open storage of metals and tools and containers (for office and storage of tools) for a further period of 3 years at the Site zoned “AGR” on the OZP. While the temporary use is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes, DAFC has no strong view against the renewal application. It is considered that the approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The Site falls within Category 3 areas under the TPB PG-No. 13F promulgated by the Board on 27.3.2020. The following considerations in the Guidelines are relevant:
- Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and relevant technical

assessments/proposals have been included in the fresh applications, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions.

- 11.3 The temporary public vehicle park is considered not incompatible with the surrounding environment predominately with warehouses, open storage yards and workshop with scattered trees and domestic structures (**Plan A-2**). CTP/UD&L of PlanD has no objection to the application from landscape planning perspective. Other Government departments consulted, including C for T, DEP, CE/MN of DSD and D of FS, have no objection to or no adverse comment on the renewal application.
- 11.4 The Site is the subject of eight previous applications for various temporary open storage uses. Except application No. A/NE-TKL/184 which was rejected by the Board on review in 2002, all the remaining seven applications were approved by the Committee between 2002 and 2018 mainly on the grounds that the technical concerns of Government departments could be addressed through the implementation of relevant approval conditions; and the developments generally complied with the relevant Town Planning Board Guidelines. Compared with the last approved application No. A/NE-TKL/595, all the development parameters under the current application remains unchanged. All approval conditions under the last approval have been complied with and the planning permission is valid until 7.9.2021. There has been no major change in the planning circumstances since the approval of the last previous application.
- 11.5 The application generally complies with the TPB-PG No. 13F and TPB-PG No. 34C in that previous approvals for open storage uses had been granted since 2002 and all approval conditions under the last application have been complied with; there is no adverse departmental comment; and the approval period sought which is the same as the last approval granted by the Board is not unreasonable.
- 11.6 There are four similar applications involving three sites for various temporary open storage/repair workshop uses within/partly within “AGR” zones in the vicinity of the Site. Two applications (No. A/NE-TKL/345 and 376) involving the same site were approved by the Committee in April 2011 and November 2011 respectively mainly on the considerations that the applications generally complied with the then TPB PG-No. 13E; and the proposed developments were compatible with the surrounding areas. The remaining two applications (No. A/NE-TKL/386 and 478) were rejected by the Committee in 2012 and 2014 respectively for similar reasons of not in line with the planning intention of the “AGR” zone; not complying with the then TPB PG-No. 13E; failure to demonstrate that the developments would not generate adverse impacts on the surrounding areas; and setting of undesirable precedents. The planning circumstances of the current application are similar to those approved similar applications.
- 11.7 No adverse public comment on the application was received during the statutory public inspection period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary use could be tolerated for a further period of 3 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 further period of 3 years and **be renewed from 8.9.2021 to 7.9.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 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 vehicles entering and exiting the Site, as proposed by the applicant, is allowed during the planning approval period;
- (d) the peripheral fencing and paving of the Site should be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained properly at all times during the planning approval period and rectified if they are found inadequate/ineffective during operation;
- (f) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on the Site as previously implemented on the same Site under Application No. A/NE-TKL/595 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 8.12.2021;
- (h) if any of the above planning conditions (a), (b), (c), (d), (e) 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;
- (i) if the above planning condition (g) 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; and
- (j) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

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 permission for renewal of the planning 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 18.5.2021
Appendix Ia	Supplementary Information received on 24.5.2021
Appendix II	Relevant Extract of TPB-PG No. 13F for Application for Open Storage and Port Back-up Uses
Appendix III	Relevant Extract of TPB-PG No. 34C on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development
Appendix IV	Previous Applications
Appendix V	Similar Applications
Appendix VI	Public Comment
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Drainage Plan
Drawing A-2	Tree Preservation Plan
Drawing A-3	Fire Services Installations Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2021**