

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

**APPLICATION NO. A/NE-TKL/674**

- Applicant** : Joyceway Industrial Limited represented by R&U Planning and Development Consultants Ltd.
- Site** : Lots 1507 S.B RP (Part), 2022 S.B RP (Part), 2036 (Part), 2037, 2038, 2039, 2040 (Part), 2041 (Part) and 2042 (Part) in D.D. 76 and Adjoining Government Land, Leng Tsai, Sha Tau Kok Road, Fanling, New Territories
- Site Area** : About 10,331 m<sup>2</sup> (including about 1,119 m<sup>2</sup> of Government Land)
- Land Status** : (i) Block Government Lease (demised for agricultural use)  
(about 9,212 m<sup>2</sup> or 89.2% of the Site)  
(ii) Government Land  
(about 1,119 m<sup>2</sup> or 10.8% of the Site)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zonings** : (i) “Agriculture” (“AGR”) (about 9,680 m<sup>2</sup> or 93.7% of the Site)  
(ii) “Village Type Development” (“V”) (about 651 m<sup>2</sup> or 6.3% of the Site)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Materials for a Period of 3 Years until 3.8.2024

**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 construction materials for a further period of three years (**Plan A-1**). The Site falls within an area mostly zoned “AGR” with a minor portion zoned “V” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years within “AGR” and “V” zones 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 3.8.2021.
- 1.2 According to the applicant, the temporary development involves 3 single-storey temporary structures with a total floor area of about 440 m<sup>2</sup> for office, staff resting area and storage purposes. The uncovered area of the Site is used for open storage of construction materials (**Drawing A-1**). The Site is accessible from Sha Tau Kok Road – Ma Mei Ha (**Plan A-1**).

Two private car parking spaces and three parking and loading/unloading spaces for heavy goods vehicles are provided at the Site. The operation hours are from 8:30 a.m. to 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of eight previous applications for the same applied use approved by the Rural and New Town Planning Committee (the Committee) or the Board on review between 1998 and 2018. The last application No. A/NE-TKL/585 submitted by the same applicant for the same use as the current application was approved by the Committee on 3.8.2018. 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 3.6.2021 (Appendix I)
  - (b) Supplementary Information received on 8.6.2021 (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 eight previously approved applications for the same applied use. All approval conditions under the previously approved applications have been complied with. Since the approval of the last application, there has been no material change in the planning circumstances and development parameters under the current application;
- (b) the applied use is compatible with the surrounding land uses and would have no adverse impact on the surrounding areas; and
- (c) the application generally complies with 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).

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

The applicant is one of the “current land owners” and 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 obtaining consents from the other two “current land owners”. For the Government land within the Site, the TPB PG-No. 31A is not applicable to the application. 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 2 area 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 involved in eight previous applications (No. A/NE-TKL/81, 130, 226, 277, 311, 377, 490 and 585) for temporary open storage of construction materials since 1998, with the last five applications submitted by the same applicant as the current application. These applications were approved by the Committee or the Board on review between 1998 and 2018 mainly on the considerations that the applications generally complied with the relevant Town Planning Board Guidelines in that there were no major impact or adverse departmental comments; there were previous planning approvals and the approval conditions of which had been complied with.
- 5.2 For the last application No. A/NE-TKL/585, all approval conditions have been complied with and the planning permission is valid until 3.8.2021. Compared with the last approved application, all development parameters including site layout under the current application remain unchanged.
- 5.3 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 five similar applications (No. A/NE-TKL/418, 539, 621, 624 and 655) involving three sites for various temporary open storage / warehouse uses within the “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.
- 6.2 Applications No. A/NE-TKL/539, 621 and 655 involving largely the same site to the immediate south of the Site falling within Category 2 area for proposed temporary (warehouse and) open storage of construction materials were approved by the Committee between October 2016 and May 2021 mainly on the considerations that the applications generally complied with the relevant Town Planning Board Guidelines in that no major adverse departmental comments have been received, and the technical concerns of relevant departments and local residents can be addressed through the implementation of approval conditions.
- 6.3 Applications No. A/NE-TKL/418 and 624, with their sites falling within Category 3 area, were rejected by the Committee in 2013 and 2019 respectively mainly for the reasons 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 in that there was no previous planning approval; there were adverse departmental comments and local objections; the applicants failed to demonstrate that the developments would not generate adverse impacts on the surrounding areas; and approval of the application 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 Plans A-4a to A-4c)**

7.1 The Site is:

- (a) formed, hard-paved and fenced off;
- (b) currently occupied by the applied use with valid planning permission; and
- (c) abutting Sha Tau Kok Road – Ma Mei Ha.

7.2 The surrounding areas have the following characteristics:

- (a) to the west and northwest are vacant/unused land and active/fallow agricultural land;
- (b) to the northeast across the drainage channel is the village proper of Leng Tsai;
- (c) open storage yard, parking of vehicles, goods distribution centre and workshops are found to the northeast and southwest of the Site along Sha Tau Kok Road; and
- (d) to the further south across Sha Tau Kok Road are intermixed with vacant/unused land, active/fallow agricultural land and domestic structures.

**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 Site comprises private Lots Nos. 1507 S.B RP, 2022 S.B RP, 2036, 2037, 2038, 2039, 2040, 2041 and 2042 all in D.D. 76. The lots are Old Schedule lots held under the Block 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 application lots, 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 existing structures on the application lots were erected without approval from her office. The total built-over area and the number of structures erected are larger than the ones stated in the planning application. The aforesaid structures are not acceptable under the Lease concerned. Her office reserves the right to take necessary lease enforcement actions against the aforesaid structures;
- (c) it is noted that portion of the GL within the Site is being occupied without approval from her office. Her office reserves the right to take necessary land control actions against the irregularities on GL; and
- (d) applications for a Short Term Waiver (STW) and a Short Term Tenancy (STT) have been received and are being processed by her office. The applications 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.

### **Traffic**

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

- (a) it is noted from previous submission under application No. A/NE-TKL/585 that the applicant has agreed to:
  - (i) employ traffic warden for management of the vehicle manoeuvring within the Site and entering/exiting the Site;
  - (ii) provide a separate gate for pedestrian; and
  - (iii) provide bollard to separate pedestrians from the vehicular traffic within the Site; and
- (b) provided that the above measures will continue to be implemented, she has no objection to the application from the traffic engineering point of view.

### **Environment**

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

- (a) given that the construction materials stored (steel beams) 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; and
- (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.

### **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) since the approval of the last application, there has been no significant change to the rural landscape setting with big village clusters, active and fallow farmlands, scattered group groups and open storages. The existing Site is generally aligned with the proposed layout and remained the same with the previous permission. The existing trees along the boundaries within the Site are generally kept in fair conditions;
- (c) in view that significant adverse landscape impact arising from the continuation of the applied use is not envisaged and there are existing trees generally along the Site boundary, it is considered not necessary to impose landscape condition should the application be approved by the Board; and
- (d) it is noted that a few additional tree stubs are observed at the westernmost corner of the Site as compared with the last inspection on 27.2.2018 for the previous application No. A/NE-TKL/585. The applicant is advised that approval of the application by the Board does not imply approval of the trees works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority / Government department(s) direct to obtain necessary approval on tree works.

### **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, a condition should be included to request the applicant to submit drainage condition record for the Site to ensure that there will be no adverse drainage impact to the adjacent area. If the existing drainage system is found to be inadequate or ineffective during

operation, the applicant is required to rectify the system to the satisfaction of the relevant Government departments and also at his own cost;

- (c) the applicant is reminded to maintain his system properly and rectify any inadequacies or defects found during operation. In addition, the applicant shall be liable for and shall indemnify claims and demands arising out of damage or nuisance due to failure of the system; and
- (d) there is public sewerage near the Site.

### **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) to the renewal application; and
- (b) there is no record of approval by the Building Authority for the buildings/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. The Chairman of Fanling District Rural Committee and the Resident Representative of Leng Tsai have no comment to the application. The Chairman of Lung Shan Area Committee has no strong view on the application and suggests staff to direct vehicles entering/leaving the Site to ensure pedestrian safety.

#### 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 Comments Received During Statutory Publication Period (Appendix VI)**

On 11.6.2021, 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 concern on the fire risks, having taken long time for compliance with approval conditions under the last application, and the possibility to accommodate Government, Institution and Community (GIC) facilities on the Government land portion of the Site.

## **11. Planning Considerations and Assessments**

11.1 The application is for the renewal of planning permission for temporary open storage of construction materials for a further period of 3 years at the Site largely 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 2 area under the TPB PG-No. 13F promulgated by the Board on 27.3.2020. The following considerations in the Guidelines are relevant:

- Category 2 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. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

11.3 The temporary open storage is considered not incompatible with the surrounding land uses with open storage yard, parking of vehicles, workshops, etc. in the vicinity along Sha Tau Kok Road, fallow/active agricultural land and village houses (**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 the same applied use, which were all approved by the Committee or the Board on review between 1998 and 2018. Compared with the last approved application No. A/NE-TKL/585, 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 3.8.2021. 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 1998 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 five similar applications involving three sites for various temporary open storage/warehouse uses within the same “AGR” zone in the vicinity of the Site. Of them, three applications (No. A/NE-TKL/539, 621 and 655) involving largely the same site to the immediate south of the Site (**Plan A-1**) were approved by the Committee between October 2016 and May 2021 mainly on the considerations that the applications generally complied with the relevant Town Planning Board Guidelines. The remaining two applications (No. A/NE-TKL/418 and 624), with their sites falling within Category 3 area, were rejected by the Committee in 2013 and 2019 respectively mainly for the reasons of not in line with the planning intention of the “AGR” zone; and not complying with the then TPB PG-No. 13E. The planning circumstances of the current application are similar to those approved similar applications.
- 11.7 Regarding the adverse public comment mentioned in paragraph 10 above, the Government departments’ comments and the planning assessments above are relevant. With respect to the suggestion of accommodating GIC facilities on the Government land portion of the Site, it should be noted that the current application involves only temporary open storage development. Also, the concerned Government land only accounts for about 10.8% of the Site mainly at the north-western boundary of the Site (**Plan A-2**).

## 12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, 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 4.8.2021 to 3.8.2024**. 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 8:30 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 and paving of the Site shall be maintained at all times during the planning approval period;
- (d) all existing trees on Site shall be properly 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;

- (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 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 4.11.2021;
- (h) if any of the above planning conditions (a), (b), (c), (d), (e), (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (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.

#### 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**

<b>Appendix I</b>	Application Form with attachments received on 3.6.2021
<b>Appendix Ia</b>	Supplementary Information received on 8.6.2021
<b>Appendix II</b>	Relevant Extract of TPB-PG No. 13F for Application for Open Storage and Port Back-up Uses
<b>Appendix III</b>	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
<b>Appendix IV</b>	Previous Applications
<b>Appendix V</b>	Similar Applications
<b>Appendix VI</b>	Public Comment
<b>Appendix VII</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan

<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4c</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2021**