

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/686

<u>Applicant</u>	:	Cheung Shing Machinery Engineering Co. Ltd.
<u>Site</u>	:	Lot 2195 RP (Part) in D.D.76 and adjoining Government Land, Kwan Tei North Village, Fanling, New Territories
<u>Site Area</u>	:	About 709.14 m ² (including about 89m ² of Government land)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zonings</u>	:	“Open Storage” (“OS”) (about 363.08m ² or 51.2% of the site); and Area shown as ‘Road’ (about 346.06m ² or 48.8% of the site)
<u>Application</u>	:	Temporary Storage of Metal Hardware with Ancillary Workshop for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a temporary storage of metal hardware with ancillary workshop for a period of three years (**Plan A-1**). The Site falls within an area partly zoned “OS” and partly shown as ‘Road’ on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14 (**Plan A-1**). While the applied use is always permitted within the “OS” zone, such use in area shown as ‘Road’ requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is accessible via a local track branching off from Ping Che Road (**Plan A-1**). According to the applicant, there are a total of four temporary structures (with height ranging from about 2.5m to 6.8m), including an open shed with a toilet (Structure A), four stacked-up containers (2-storey high) for office and storage uses (Structure B), a common room (Structure C) and a metal structure (Structure D), with a total floor area of about 448.74m² (**Drawing A-1**). The uncovered area is mainly for the manoeuvring of vehicles and loading/unloading area for light goods vehicles. The operation hours are from 8:30 a.m. to 5:30 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. The layout plan submitted by the applicant is at **Drawing A-1**.

1.3 The Site is the subject of three previous applications (No. A/NE-TKL/389, 534 and 605) for the same use and submitted by the same applicant as the current application (**Plan A-1**). The last application No. A/NE-TKL/605 was approved by the Rural and New Town Planning Committee (the Committee) on 21.12.2018 for a period of three years. The planning permission was revoked on 12.6.2021 due to non-compliance with approval condition on the implementation of drainage proposal. Compared with the last application No. A/NE-TKL/605, all development parameters including the 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 by the Board on 31.8.2021 (**Appendix I**)
- (b) Supplementary Information received on 2.9.2021 (**Appendix Ia**)
- (c) Further Information received on 7.10.2021^ (**Appendix Ib**)
- (d) Further Information received on 11.10.2021^ (**Appendix Ic**)
- (e) Further Information received on 19.10.2021^ (**Appendix Id**)

^ 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 Id**. They can be summarized as follows:

- (a) the Site is the subject of three previously approved applications. There has been no change to the applied use, operation hours and major development parameters including layout when compared with the last application No. A/NE-TKL/605;
- (b) all the approval conditions under the previously approved application No. A/NE-TKL/605 have been complied with except the implementation of drainage proposal;
- (c) the applicant has made various submissions to Drainage Services Department (DSD) but there was insufficient time for the applicant to fully address DSD's comments, and hence failed to comply with the relevant approval condition. Planning approval was then revoked in June 2021; and
- (d) the applicant has submitted a revised drainage proposal and a fire service installations (FSIs) proposal under the current application. The applicant undertakes to implement the accepted proposals upon the receipt of the planning approval.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" 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 obtaining consent from the land owners on 26.7.2021. Detailed information would be deposited at the meeting for Members' inspection. For the Government land portion within the Site, TPB PG-No.31A is not applicable.

4. **Background**

The Site is not subject to active enforcement action and it will be closely monitored according to the established procedures.

5. **Previous Applications**

- 5.1 The Site is the subject of three previously approved applications (No. A/NE-TKL/389, 534 and 605) for the same use and submitted by the same applicant as the current application. These applications were approved by the Committee between January 2013 and December 2018 mainly on the considerations that there was no development programme for the proposed road project where part of the site fell within; the application sites were the subject of previous planning approvals; and the approval conditions had been complied with.
- 5.2 The last application No. A/NE-TKL/605 was approved with conditions by the Committee on 21.12.2018 for a period of three years. The planning permission was revoked on 12.6.2021 due to non-compliance with approval condition on the implementation of drainage proposal. Compared with the last application No. A/NE-TKL/605, all development parameters including the site layout under the current application remain unchanged.
- 5.3 Details of these previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

6. **Similar Application**

- 6.1 There is a similar application in the vicinity of the Site for temporary storage use falling partly within "OS" zone and areas shown as 'Road' on the Ping Che and Ta Kwu Ling OZP (**Plan A-1**). Application No. A/NE-TKL/419 for temporary storage of electrical appliances and metalware related to engineering works for a period of three years was rejected by the Committee in January 2013 mainly on the considerations that there were adverse departmental comments on the application and the applicant had failed to demonstrate that the development would not generate adverse environmental and traffic impacts on the surrounding area.
- 6.2 Details of this similar application is summarized at **Appendix III** and its location is 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) currently used for the applied use without a valid planning permission;
 - (b) fenced, formed and hard-paved; and
 - (c) accessible via a local track leading to Ping Che Road.

7.2 The surrounding areas have the following characteristics:

- (a) predominated by temporary warehouses, open storage yards and workshop uses;
- (b) some temporary domestic structures are found to the north, east and further northwest and south of the Site;
- (c) there is a waterworks reserve to the north of the Site (**Plan A-2**) and;
- (d) falls within the Hung Leng Site of Archaeological Interest.

8. Planning Intentions

8.1 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 that cannot be accommodated in conventional godown premises.

8.2 The area shown as ‘Road’ is intended for road development.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) the Site comprises a private lot and the adjoining Government land (GL). The lot is an Old Schedule lot held under the Block Government Lease (demised for agriculture use) without any guarantee of right of vehicular access. The applicant should make his own arrangement for acquiring access to the Site, and there is no guarantee that any adjoining GL will be allowed for the vehicular access to the Site for the applied use;
- (b) it is noted that there are unauthorized structures erected within the application lot and outside the application boundary. Portions of adjoining GL are occupied without approval from her office. Her office reserves the right to take necessary lease enforcement actions against the structures on the lot and land control action against the irregularities on GL as appropriate;
- (c) the existing total built-over area and the number of structures erected on Site do not tally with those mentioned in the planning parameters of the application;

- (d) it is noted that a toilet has been constructed within one of the structures. The applicant should note that any toilet facility should meet the current health requirements; and
- (e) the owners of the lot concerned has submitted an application to her office for a Short Term Tenancy (STT) to cover the occupation of GL within the Site. Should the application be approved, the owners of the lot concerned shall apply to her office for a Short Term Waiver (STW) to regularize the unauthorized structures erected on the application lot. The STT and STW applications will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If they are approved, the 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):

- having considered that the Site is the subject of three previously approved applications, and reviewed the further information as submitted by the applicant including the information on the maneuvering spaces of vehicles, width of ingress/egress and width of the local access road etc., he has no further comment on the application from the traffic engineering point of view.

Project Interface

9.1.3 Comments of the Project Manager (New Territories East), Civil Engineering and Development Department (PM(NTE), CEDD):

- (a) he has no comment on the application from the project interface point of view; and
- (b) there is at present no implementation programme of the proposed Road 1.

Environment

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

- (a) there are domestic structures about 15m away from the Site. The materials stored on site are not dusty in nature. Provided that the same approval condition on "no medium and heavy goods vehicles exceeding 5.5 tonnes is allowed" is imposed as in the three previous applications, the applied use is not expected to generate traffic of heavy vehicles; and
- (b) the applicant should be advised to follow the environmental mitigation measures as set out in the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (CoP) and comply with requirements of ProPECC PN 5/93 in order to minimize any possible environmental nuisances.

Drainage

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

- (a) having reviewed the further information as submitted by the applicant, he has no major comments on the drainage proposal and has no in-principle objection to the application; and
- (b) should the application be approved, a condition should be included to request the applicant to implement the accepted drainage proposal for the Site to ensure that it will not cause adverse impact to the adjacent areas. His advisory comments are appended in **Appendix V**.

Building Matters

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

- (a) he has no objection to the application; and
- (b) there is no record of approval by the Building Authority for the existing buildings/structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application. For any new proposed buildings, his advisory comments are at **Appendix V**.

Water Supply

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

- (a) he has no objection to the application; and
- (b) part of the Site encroaches upon WSD's waterworks reserve (**Plan A-2**) where no structure shall be erected over the waterworks reserve and such area shall not be used for storage purposes.

Fire Safety

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

- (a) having reviewed the FSIs proposal as submitted by the applicant, he considered that the proposal is acceptable and has no in-principle objection to the application subject to FSIs and water supplies for firefighting being provided to the satisfaction of his department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans. Detailed comments are appended in **Appendix V**.

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 1st Vice-Chairman of Fanling District Rural Committee and one Indigenous Inhabitant Representative of Kwan Tei objected to proposal on the grounds that the development would cause traffic and environmental impact to the surroundings.

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) Executive Secretary (Antiquities & Monuments), Antiquities and Monuments Office (ES(A&M), AMO); and
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD).

10. Public Comments Received During Statutory Publication Periods (Appendix IV)

On 7.9.2021, 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. One individual objects to the application mainly on the grounds that the development would cause environmental impact to the surrounding areas; and the previously approved application has been revoked due to non-compliance of time-limited approval condition.

11. Planning Considerations and Assessments

- 11.1 The application is for a temporary storage of metal hardware with ancillary workshop for a period of 3 years at the Site partly zoned "OS" and partly on area shown as 'Road'. While the applied use is always permitted within the "OS" zone, such use in area shown as 'Road' requires planning permission from the Board. According to PM(N), CEDD, there is currently no implementation programme for the proposed road. Given that the development is only on a temporary basis, approval of the application would not frustrate the implementation programme of the proposed road and the future development in the area.
- 11.2 The temporary storage of metal hardware with ancillary workshop is considered not entirely incompatible with the surrounding land uses which comprises open storage yards, warehouses, workshops and temporary domestic structures (**Plan A-2**). 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. Other relevant government departments consulted including C for T, CE/C of WSD and CBS/NTW, BD have no adverse comment on or no objection to the application.

- 11.3 With regard to the sensitive receivers, i.e. temporary domestic structures in the vicinity of the Site (**Plan A-2**), DEP opines that the materials stored on the Site are not dusty in nature which may not cause significant dust nuisance. To address DEP's concern on traffic of heavy vehicles, approval condition restricting medium and heavy goods vehicles exceeding 5.5 tonnes is recommended. Moreover, the applicant would be advised to follow the environmental mitigation measures as set out in the revised CoP.
- 11.4 The Site is the subject of three previously approved applications (No. A/NE-TKL/389, 534 and 605) for same use submitted by the same applicant as the current application. The last planning application No. A/NE-TKL/605 was revoked on 12.6.2021 due to non-compliance with approval condition on the implementation of drainage proposal. Compared with the last application No. A/NE-TKL/605, all development parameters including the site layout under the current application remain unchanged. The applicant has submitted a revised drainage proposal and a FSIs proposal in support of the current application. In this regard, CE/MN of DSD and D of FS have no comment on the respective proposals and have no in-principle objection to the application. Should the Committee decide to approve the application, shorter compliance periods on the approval conditions are proposed to monitor the progress of compliance. Moreover, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 11.5 There is a similar application for storage uses falling partly within the "OS" zone and areas shown as 'Road' in the vicinity of the Site. Application No. A/NE-TKL/419 for temporary storage of electrical appliances and metalware related to engineering works for a period of three years was rejected by the Committee in January 2013 mainly on the considerations that there were adverse departmental comments on the application and the applicant had failed to demonstrate that the development would not generate adverse environmental and traffic impacts on the surrounding area. The planning circumstances of the current application are different from that rejected application.
- 11.6 Regarding the local objection conveyed by DO(N), HAD and adverse public comments as detailed in paragraphs 9.1.9 and 10 above respectively, the government departments' comments and the 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) of 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 3 years until 29.10.2024. The following conditions of approval with shorter compliance periods and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no medium and heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed for the operation of

the Site at any time during the planning approval period;

- (b) the provision of drainage facilities 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 29.4.2022;
- (c) the provision of 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 29.4.2022;
- (d) if any of the above planning condition (a) 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;
- (e) if any of the above planning conditions (b) or (c) 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 V**.

12.3 There is no strong 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 received on 31.8.2021
Appendix Ia	Further Information received on 2.9.2021
Appendix Ib	Further Information received on 7.10.2021
Appendix Ic	Further Information received on 11.10.2021
Appendix Id	Further Information received on 19.10.2021
Appendix II	Previous s.16 Applications
Appendix III	Similar s.16 Application
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2021**