

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/690

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| <u>Applicant</u> | : | Rank Charm Limited represented by KKL Storage Limited |
| <u>Site</u> | : | Lot 1115 (Part) in D.D.82, Ping Che, New Territories |
| <u>Site Area</u> | : | About 700 m ² |
| <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>Zoning</u> | : | “Agriculture” (“AGR”) |
| <u>Application</u> | : | Proposed Temporary Open Storage of Construction Machineries with Ancillary Site Office 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 proposed temporary open storage of construction machineries with ancillary site office for a period of 3 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 use or development of any land or building 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 vacant.
- 1.2 The Site is accessible from Ping Che Road via a local track (**Plan A-2**). According to the applicant, the proposed development comprises two single-storey enclosed structures for office and toilet uses with a total floor area of about 22 m² and a height not more than 3 m. One private car parking space and one loading/unloading space for medium and heavy goods vehicles will be provided within the Site. The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Fridays, 10:00 a.m. to 6:00 p.m. on Saturdays, with no operation on Sundays and public holidays. The proposed layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the application form with attachment received on 22.11.2021 (**Appendix I**).

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 falls within Category 3 area under the Town Planning Board Guidelines No. 13F and the boundary of the proposed Northern Metropolis;
- (b) the Site will be only used for storage of construction machinery, no workshop operations will be carried out within the Site;
- (c) there are similar applications previously approved in the vicinity of the Site;
- (d) the proposed development would not cause adverse traffic impact on the surrounding area; and
- (e) the applicant has submitted drainage and landscape proposals to address possible adverse impact arising from the proposed development.

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

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

4. Background

The Site is not subject to active planning enforcement action. However, the Site was subject to previous planning enforcement action against unauthorised development (UD) involving storage use. Enforcement Notice was issued on 26.4.2018 requiring discontinuation of the UD. Compliance Notice was issued on 21.8.2018 as the UD has discontinued.

5. Town Planning Board Guidelines

Town Planning Board Guideline for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) promulgated on 27.3.2020 is relevant to the application. The Site falls within Category 3 area under the Guideline, relevant extract of which is at **Appendix II**.

6. Previous Application

There is no previous application for the Site.

7. Similar Application

- 7.1 There is one similar application in the “AGR” zone within the Category 3 area under the TPB PG-No. 13F in the vicinity of the Site in the Ping Che and Ta Kwu Ling area. Application No. A/NE-TKL/560 for proposed temporary open storage of construction materials, metal machineries and materials with ancillary office for a period of 3 years (**Plan A-1**) was rejected by the Rural and New Town Planning Committee (the Committee) on 26.5.2017 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; not in compliance with the relevant Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” in that there was no previous approval at the Site; and adverse departmental comments on traffic, environmental and landscape aspects.
- 7.2 Details of the similar application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

8. 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)

- 8.1 The Site is:
- (a) flat, partly paved, partly vegetated, fenced off and currently vacant (**Plans A-3 and A-4**); and
 - (b) accessible from Ping Che Road via a local track (**Plan A-2**).
- 8.2 The surrounding areas have the following characteristics:
- (a) to its north are mainly vacant land intermixed with unused land and further north is a hobby farm;
 - (b) to its east are vacant land, warehouse and some domestic structures;
 - (c) to its south are some unused land and further south is a stream and fallow agricultural land; and
 - (d) to its west is Ping Che Road and further west are some open storage yards of construction materials and machinery (**Plan A-2**).

9. Planning Intention

The planning intention of the “AGR” zone is intended 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.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) the lot under application is an Old Schedule Lot held under Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make his own arrangement for acquiring access, and there is no guarantee that any adjoining Government Land (GL) will be allowed for the vehicular access of the proposed use; and
- (b) if the application is approved, the owner of the lot concerned shall apply to his office for a Short Term Waiver (STW) covering the concerned structures. The application for STW will be considered by government in its landlord's capacity and there is no guarantee that it 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 his office.

Traffic

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

- (a) she cannot render support to the application from traffic engineering perspective unless the applicant could satisfactorily address her following comments:
 - (i) the applicant shall substantiate the traffic generation and attraction from and to the Site and advise the traffic impact to the nearby road links and junctions;
 - (ii) the applicant shall justify the adequacy of the parking spaces and loading/unloading spaces so provided by relating to the number of vehicles visiting the Site;
 - (iii) the applicant shall advise the management/control measures to be implemented to ensure no queueing/parking of vehicles outside the Site;
 - (iv) the applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety;
 - (v) the applicant shall advise the measure in preventing illegal parking by visitors to the Site; and

- (b) the vehicular access between the Site and Ping Che Road is not managed by TD. The applicant should seek comment from the responsible party.

Agriculture

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

the agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

Environment

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

- (a) he does not support the application as there are domestic structures in the vicinity of the Site, the closest ones are located to the east at a distance of about 70 m (**Plan A-2**);
- (b) there was no substantiated environmental complaints against the Site during the past 3 years; and
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Drainage

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

- (a) he has no in-principle objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (c) the Site is in an area where no public sewerage connection is available; and
- (d) the advisory comments are appended in **Appendix V**.

Landscape

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

- (a) the Site is located in an area with landscape character of rural inland plains, which comprises open storages, vegetated areas, farmlands and clusters of trees;
- (b) the Site is vacant with self-seeded weed trees and wild grass. Significant adverse impact on existing landscape resources within the Site from the proposed development is not anticipated; and
- (c) the proposed development is considered not entirely incompatible with the landscape character of the surrounding area. There is a concern that approval of this application would encourage similar applications and set an undesirable precedent of landscape character alteration. The cumulative impact of such approvals would further degrade the landscape quality of the surrounding environment.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of his department;
- (b) having considered the nature of the open storage use, an approval condition on provision of fire extinguisher(s) within 6 weeks from the date of planning approval is recommended for inclusion in the planning permission. To address this condition, the applicant should submit certificate(s) under Regulation 9(1) of the Fire Services (Installations and Equipment) Regulations (Chapter 95B) to his department for compliance of condition; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) he has no in-principle objection under the Building Ordinance to the proposed use on the Site; and
- (b) for any new proposed buildings, his advisory comments are at **Appendix V**.

Project Interface

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

- (a) he has no comment on the application from the project interface point of view; and
- (b) the proposed application on a 3-year basis is located within the proposed New Territories North (NTN) New Town. The Planning and Engineering (P&E) Study for NTN New Town and Man Kam To already commenced on 29 Oct 2021 for completion in 36 months. While the implementation programme of NTN New Town will be formulated under the P&E Study, the site formation works will likely commence soon after the completion of detailed design in next stage. Hence, please be reminded that subject to the land use planning in the P&E Study, the temporary open storage may need to be vacated for the site formation works if the applicant intends to extend the application in the future.

District Officer's Comments

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

he has consulted the locals regarding the application. The Indigenous Inhabitants Representative (IIR) of Tai Po Tin objects to the application mainly on the grounds that the proposed development would generate traffic impact to the surrounding area. The Resident Representative (RR) of Tai Po Tin supports the proposal. The 1st Chairman of Ta Kwu Ling District Rural Committee, the incumbent North District Council member of subject constituency, the Chairman of Fung Shui Area Committee, the IIRs of Lei Uk and Tong Fong and the RR of Lei Uk have no comment on the proposal.

10.2 The following government departments have no comment on/no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (b) Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

11. Public Comments Received During Statutory Publication Period

On 30.11.2021, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix IV**). The Chairman of Sheung Shui Rural Committee indicates no comment on the application. Kadoorie Farm & Botanic Garden Corporation and two individuals object to the application mainly on the grounds that the proposed development is not in line with the planning intention of "AGR" zone; there is no prior approval granted; adverse traffic impact, deteriorated living conditions, environmental and fire safety impacts.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed temporary open storage of construction machineries with ancillary site office for a period of 3 years at the Site zoned “AGR” on the OZP (**Plan A-1**). The proposed development 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 does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation and can be used as open-field cultivation, greenhouses or plant nurseries. No strong planning justification has been given in the submission to justify for a departure from the planning intention, even on a temporary basis.
- 12.2 The Site falls within Category 3 area 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 falling within Category 3 areas 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. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years.
- 12.3 The Site is situated in an area of rural character mixed with vacant and fallow agricultural land with some open storage yards and domestic structures. The applied use is considered not entirely incompatible with the surrounding land uses. CTP/UD&L, PlanD has no adverse comment on the application as significant adverse impact arising from the proposed development is not anticipated. However, approval of the application would encourage similar applications within the area and set an undesirable precedent of landscape character alteration. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment.
- 12.4 C for T does not support the application from the traffic engineering viewpoint as the applicant fails to demonstrate in the submission that the development will not cause adverse traffic impact on the surrounding areas and the applicant has not satisfactorily addressed various traffic aspects arising from the development. DEP does not support the application as there are sensitive receivers (i.e. domestic structures) in the vicinity of the Site and the closest one is located to the east at a distance of about 70 m (**Plan A-2**). Other relevant government departments consulted, including CE/MN, DSD, CE/C, WSD, D of FS and PM/(N), CEDD have no adverse comment on or no objection to the application.
- 12.5 The application does not comply with the TPB PG-No. 13F in that the Site falls within Category 3 areas where applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. The Site is not the subject of any previous planning approval; there are adverse departmental comments and local objections to the application; and the applicant has failed to demonstrate that the development would have no adverse traffic impact on the surrounding areas.

- 12.6 There is no previous planning application at the Site. One similar application No. A/NE-TKL/560 for temporary open storage of construction materials, metal machineries and materials with ancillary office in the “AGR” zone within the Category 3 area under the TPB PG-No. 13F in the vicinity of the Site was rejected by the Committee in 2017 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; not in compliance with the relevant Guidelines; and had adverse departmental comments on traffic, environmental and landscape aspects. The planning circumstances of the current application are similar to the rejected application.
- 12.7 Regarding the local objection conveyed by DO(N), HAD and the adverse public comments as detailed in paragraphs 10.1.10 and 11 above respectively, government departments’ comments and planning assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account local objection conveyed by DO(N), HAD and public comments mentioned in paragraphs 10.1.10 and 11 above respectively, the Planning Department does not support the application for the following reasons:
- (a) the proposed development 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. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis; and
 - (b) the applicant fails to demonstrate that the proposed development would not cause adverse traffic impact on the surrounding areas.
- 13.2 Alternatively, 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 14.1.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) 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 14.7.2022;
- (b) in relation to (a) 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 14.10.2022;
- (c) the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.2.2022;

- (d) the submission of proposals for fire service installations and water supplies for firefighting 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 14.7.2022;
- (e) in relation to (d) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 14.10.2022;
- (f) the submission of a traffic review within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 14.7.2022;
- (g) in relation to (f) above, the implementation of traffic mitigation measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 14.10.2022; and
- (h) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (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 V**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

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| Appendix I | Application Form with Attachments received on 22.11.2021 |
| Appendix II | Relevant Extract of Town Planning Board Guidelines No. 13F on Application for Open Storage and Port Back-up Uses |
| Appendix III | Similar s.16 Application |
| Appendix IV | Public Comments |
| Appendix V | Recommended Advisory Clauses |
| Drawing A-1 | Proposed Site Layout Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |

**PLANNING DEPARTMENT
JANUARY 2022**