

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/695

- Applicants** : Mr. CHAN Ho Chuen and Miss CHAN Wai Lam represented by PlanPlus Consultancy Limited
- Site** : Lot 207 in D.D. 84, Ping Che, Ta Kwu Ling, New Territories
- Site Area** : About 1,649 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan No. S/NE-TKL/14
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Open Storage and Warehouse for Storage of Timber and Wooden Parts for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission for a proposed temporary open storage and warehouse for storage of timber and wooden parts for a period of 3 years at the application site (the Site). The Site falls within an area zoned “AGR” on the approved Ping Che and Ta Kwu Ling Outline Zoning Plan No. S/NE-TKL/14 (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “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 Plan. The Site is currently hard paved and vacant (**Plans A-3 and A-4**).
- 1.2 The Site is accessible via a local access road branching off from Ping Che Road. According to the applicants, the proposed development will involve two 1 to 2-storey structures with a height not exceeding 7 m and a total floor area of about 452m² for a warehouse and a portable toilet. The remaining area is for open storage and maneuvering space for vehicles. One private car parking space and one loading/unloading bay for medium / heavy goods vehicles will be provided within the Site. The operation hours of the Site are between 7:00 a.m. to 7:00 p.m. from Mondays to Saturdays. There will be 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 applicants have submitted the Application Form with planning statement received on 20.1.2022 at **Appendix I**.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the planning statement at **Appendix I** and summarized as follows:

- (a) temporary approval will not jeopardize the long-term planning intention of the “AGR” zone;
- (b) the Site falls within the Category 2 areas according to the Town Planning Board Guidelines for application for open storage and port back-up uses under section 16 of Town Planning Ordinance (TPB PG-No. 13F);
- (c) no workshop activities will be carried within the Site. The applicants will strictly follow Environment Protection Department’s latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” (CoP);
- (d) it is estimated that the maximum vehicular trips will be about two per day. Given the nature of the proposed development is for storage use only, there will be no visitors to the Site. Prior booking for parking and/or loading/unloading spaces is proposed to ensure no queuing of vehicles outside the Site;
- (e) the proposed development is compatible with the surrounding environment. No adverse landscape, traffic, environment, drainage and sewerage impacts are anticipated; and
- (f) there are similar applications for temporary open storage approved with conditions within the same “AGR” zone.

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

The applicants are the sole “current land owners” of the lots. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

Part of the Site is the subject of an active enforcement case involving unauthorized storage use (including deposit of containers) (No. E/NE-TKL/452) with an Enforcement Notice (EN) issued on 4.10.2021. According to site inspection on 5.1.2022, the unauthorized use at the Site was discontinued. The site conditions will be monitored to ascertain whether Compliance Notice shall be issued.

5. Town Planning Board Guidelines

The TPB PG-No. 13F promulgated by the Board on 27.3.2020 is relevant to this application. The Site falls within Category 2 area under the Guidelines. The relevant extract of the

Guidelines is at **Appendix II**.

6. Previous Application

The Site is not the subject of any previous application.

7. Similar Applications

- 7.1 There are 13 similar applications (No. A/NE-TKL/390, 443, 454, 460, 480, 514, 553, 555, 564, 622, 625, 642 and 671) involving five sites for temporary open storage/storage uses within the same “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area (**Plan A-1**).
- 7.2 10 applications (No. A/NE-TKL/390, 443, 454, 460, 553, 555, 564, 622, 642 and 671) involving three sites for temporary open storage of construction equipment/materials/machineries were approved with conditions by the Rural and New Town Planning Committee (the Committee) between September 2012 and July 2021 mainly for consideration that the proposed developments generally complied with TPB PG-No. 13E/F; there were similar applications approved in the vicinity; and no adverse departmental comments and local objections.
- 7.3 The other 3 applications (No. A/NE-TKL/480, 514 and 625) involving two sites for temporary open storage of construction materials and equipment/machineries/container uses were rejected by the Committee between September 2014 and October 2019 mainly on the grounds that the proposed developments were not in line with the planning intention of “AGR” zone; not complied with the then TPB PG-No. 13E; adverse departmental comments and local objections; the applicants failed to demonstrate that the proposed developments would not generate adverse impacts on the surrounding areas; and setting of undesirable precedents for similar applications.
- 7.4 Details of the similar applications are summarized at **Appendix III** and their locations are 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 PlanA-4)

8.1 The Site is:

- (a) currently paved, vacant and fenced off; and
- (b) accessible via a local road.

8.2 The surrounding areas have the following characteristics:

- (a) rural landscape character dominated by storage/open storage yards, warehouses, workshops, vacant land, active/fallow agricultural land and tree groups;

- (b) to the immediate northeast is warehouse and storage uses which are existing uses tolerated under the Town Planning Ordinance;
- (c) to the southwest is a workshop; and to the further southwest are warehouses and open storage yards subject to active enforcement cases; and
- (d) active agricultural land to the immediate northwest.

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 summarized as follows:

Land Administration

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

- (a) the Site comprises Lot 207 in D.D. 84 (the Lot). The Lot is an Old Schedule Lot held under the Block Government Lease (demised for agriculture use) without any guaranteed right of access. The applicant should make his own arrangement to acquire access to the Site. There is no guarantee that any adjoining government land (GL) will be allowed for vehicular access to the Site for the proposed use;
- (b) according to the development proposal, a toilet would be erected on the site. The applicants should note that any proposed toilet facility should meet the current health requirements; and
- (c) should the application be approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) to cover the structures concerned. 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 her office.

Traffic

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

- (a) no comment on the application from traffic engineering point of view and traffic impact induced by the temporary development is considered tolerable; and
- (b) the vehicular access between the Site and Ping Che Road is not managed by his office, the applicants should seek comment from the responsible party.

Environment

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

- (a) does not support the application as the temporary development is expected to generate traffic of heavy vehicles and there are domestic structures in the vicinity of the Site (the nearest one located to the east of the Site) (**Plan A-2**);
- (b) there were no substantiated environmental complaints against the Site during the past three years; and
- (c) should the application be approved, the applicants should be advised to follow the relevant environmental mitigation measures and requirements in the latest CoP issued by DEP to minimise any possible environmental nuisances on the surrounding areas.

Landscape

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

- (a) no adverse comments on the application from the landscape planning perspective;
- (b) the Site is located in an area of miscellaneous rural fringe landscape character comprising temporary structures, open storages, vegetated areas, farmlands and clusters of trees. The Site is hard paved and four existing trees of common species in fair condition are observed in the Site. According to the proposed layout, existing trees will be preserved at the proposed planting areas. Further significant adverse impact on existing landscape resources arising from the proposed development is not anticipated; and
- (c) in view that the Site is not abutting major public frontage and adverse landscape impact arising from the development is not anticipated, it is considered not necessary to impose a landscape condition should the Board approve the application, as the effect on enhancing the quality of public realm is not apparent.

Agriculture

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

- the Site is currently abandoned. 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.

Drainage

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

- (a) no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, approval conditions on submission and implementation of a drainage proposal for the Site should be imposed to ensure that the proposed development will not cause adverse impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

Fire Safety

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

- (a) no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of his department;
- (b) considering the nature of open storage, approval condition on the provision of fire extinguisher(s) within six weeks from the date of planning approval shall be added; and
- (c) detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. Detailed comments are appended at **Appendix V**.

Building Matters

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

- there is no record of approval by the Building Authority for the structures existing at the Site. Detailed advisory comments under the Buildings Ordinance are appended at **Appendix V**.

District Officer's Comments

10.1.9 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 the Ta Kwu Ling District Rural Committee objects to the application on the grounds that the proposed development is not compatible with the future development of the Ta Kwu Ling area; and the proposed development would cause adverse traffic impact to the surrounding areas. One Indigenous Inhabitant Representative (IIR) of Tai Po Tin objects to the application; and the Chairman of Fung Shui Area Committee, the incumbent North District Councilor of the subject Constituency, IIR of Lei Uk, Resident Representative (RR) of Lei Uk and RR of Tai Po Tin have no comment.

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);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (c) Director of Electrical and Mechanical Services (DEMS).

11. Public Comments Received During Statutory Publication Period (Appendix IV)

On 25.1.2022, the application was published for public inspection. During the statutory public inspection period, 3 public comments were received. Kadoorie Farm & Botanic Garden Corporation raises objection to the application on the grounds that there are some active agricultural land in the vicinity of the Site and should be preserved; and there are similar rejected applications for temporary workshop/ open storage uses near the Site. Two individuals raise objection to the application mainly on the grounds that the agricultural land should be preserved; the proposed development would cause adverse traffic and environmental impacts on the surrounding areas, increase fire risk and pose threats to the villagers.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed temporary open storage and warehouse for storage of timber and wooden parts for a period of 3 years at the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of “AGR” zone which is intended 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 agricultural point of view since the Site possesses potential for agricultural rehabilitation. Nonetheless, as the Site is currently hard paved, it is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “AGR” zone.

- 12.2 The Site falls within Category 2 areas under the TPB PG-No. 13F. 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 three 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.
- 12.3 The Site is currently hard paved and vacant, and located in an area of miscellaneous rural fringe landscape character dominated by temporary structures, warehouses, storage/open storage yards and farmlands (**Plan A-2**). CTP/UD&L, PlanD has no adverse comments on the application from landscape planning perspective, and considers that further significant adverse impact on existing landscape resources arising from the proposed development is not anticipated. C for T has no comment on the application from traffic engineering point of view and considers that the traffic impact induced by the development is tolerable. While DEP does not support the application as there are sensitive receivers, i.e. temporary domestic structures, in the vicinity of the Site (**Plan A-2**), relevant approval conditions restricting the operation hours and no operation on Sundays and public holidays during the planning approval period are recommended to address the concerns of DEP. Moreover, the applicants would be advised to follow the environmental mitigation measures set out in the CoP. Other concerned government departments, including D of FS and CE/MN of DSD have no adverse comment on or no objection to the application.
- 12.4 The application generally complies with TPB PG-No. 13F in that no major departmental comments have been received on the application and the concerns of the relevant government departments can be addressed through imposition of approval conditions.
- 12.5 Of the 13 similar applications involving five sites for temporary open storage/storage uses within the same “AGR” zone, 10 of them were approved with conditions by the Committee between September 2012 and July 2021 mainly on the considerations of compliance with TPB PG-No. 13E/F. The remaining three applications were rejected by the Committee between September 2014 and October 2019 mainly on the grounds of not in compliance with TPB PG-No. 13E; and there were adverse departmental comments and local objections received. The planning circumstances of the current application is similar to those approved applications.
- 12.6 Regarding the local objections conveyed by DO(N) of HAD and public comments as detailed in paragraphs 10.1.9 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 the local objections conveyed by DO(N) of HAD and public comments in paragraphs 10.1.9 and 11 above, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 years.

- 13.2 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 18.3.2025. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 7:00 a.m. from Mondays to Saturdays, as proposed by the applicants, is allowed at the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, is allowed at the Site during the planning approval period;
- (c) 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 18.9.2022;
- (d) in relation to (c) above, the implementation of drainage proposal 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 18.12.2022;
- (e) 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 29.4.2022;
- (f) the submission of proposals for 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 18.9.2022;
- (g) in relation to (f) above, the implementation of proposals for fire service installations within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.12.2022;
- (h) if any of the above planning condition (a) or (b) 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 any of the above planning conditions (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**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The proposed development is not in line with the planning intention of the "AGR" zone

which 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. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form with Planning Statement received on 20.1.2022
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 Applications
Appendix IV	Public Comments
Appendix V	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
MARCH 2022**