

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/702

- Applicant** : Mr. CHOW Wai Kong represented by Metro Planning & Development Company Limited
- Site** : Lot 554 S.A ss.2 (Part) in D.D. 77, Ta Kwu Ling, New Territories
- Site Area** : About 980 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zonings** : “Agriculture” (“AGR”) (about 870 m² or 89% of the Site); and
“Industrial (Group D)” (“I(D)”) (about 110 m² or 11% of the Site)
- Application** : Proposed Temporary Warehouse for Storage of Metal for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary warehouse for storage of metal for a period of 3 years and filling of land by concrete of about 0.2 m in depth for the whole site (**Plan A-1**). The Site falls largely within an area zoned “AGR” with a minor portion zoned “I(D)” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘Warehouse (other than Dangerous Goods Godown)’ use is a Column 1 use within the “I(D)” zone which is always permitted. Temporary uses or development of any land or building not exceeding a period of 3 years within the “AGR” zone require planning permission from the Board notwithstanding that the use or development is not provided for under the Notes of the OZP. Filling of land for the proposed use in the “AGR” zone also requires planning permission from the Board. The Site is currently vacant, partly covered with grasses and partly hard paved.
- 1.2 According to the applicant, the current application is to facilitate the relocation of his warehouse for storage of metal (i.e. Lot 2240 S.E ss.2 in D.D. 96 in Ma Tso Lung) affected by the Kwu Tung North New Development Area (KTN NDA) development. The affected land has been resumed by and reverted to the government.

1.3 According to the applicant, the entire site will be filled to facilitate the proposed temporary structures to be constructed and for circulation purpose. The temporary development mainly comprises two 1 to 2-storey structures of about 3 to 8 m in height with a total floor area of about 810 m² for storage, site office, electricity meter room and toilet use (**Drawing A-1**). Two private car parking spaces and 1 loading/unloading space for light goods vehicles (LGVs) are provided at the Site. The Site is abutting Ng Chow South Road (**Plan A-2**). The operation hours are from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The proposed layout plan and paved area plan submitted by the applicant are shown in **Drawings A-1** and **A-2** respectively.

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

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|-----|--|------------------------|
| (a) | Application Form with Attachments received on 4.7.2022 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 7.7.2022 | (Appendix Ia) |
| (c) | Further Information (FI) received on 10.8.2022 | (Appendix Ib) |

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, SI and FI submissions at **Appendices I** to **Ib** and summarised below:

Effort in Identifying Suitable Site for Relocation

- (a) the applicant has spent effort in identifying suitable sites for relocation of the affected business in KTN to pave way for government's KTN NDA development; and
- (b) whilst the applicant has identified a number of alternative sites in various areas including Ta Kwu Ling, Ping Che, Kwan Tei and Shap Pat Heung for relocation of his warehouse business in KTN, those sites were considered not suitable or impracticable due to various issues such as site area not matching operational needs, incompatible with the surrounding environment, poor accessibility without proper connection with public roads, land ownership issues, etc. Though the Site is located away from his original premises in KTN, the site area (i.e. about 980 m²) is similar to his original premises in KTN (i.e. about 620 m²), and is directly accessible via Ng Chow South Road without causing adverse traffic impact on the surrounding areas;

The Applied Use is the Same as the Affected Business in KTN

- (c) the proposed temporary development involves a warehouse for storage of metal. The applied use is the same as the affected business in KTN;

No Adverse Impact on the Surrounding Areas

- (d) the applicant undertakes to provide the following measures to minimise environmental nuisance to nearby residents:
 - (i) the majority of the Site is for warehouse purpose. The manoeuvring/parking of vehicles as well as the loading/unloading activities will be entirely conducted inside an enclosed structure;

- (ii) the enclosed structure for warehouse use will be built with solid material, with no opening on the eastern side to minimise the noise impact to sensitive receivers (i.e. domestic structures) to the east of the Site;
 - (iii) the operation hours will be restricted from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays;
 - (iv) no workshop activities will be carried out at the Site, which is solely used for storage of metal; and
 - (v) EPD's latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (CoP) and the Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PN) No. 5/93 will be strictly followed;
- (e) the applicant has submitted a drainage proposal and fire service installations proposal in support of the application; and
- (f) the applicant has submitted traffic information, which indicates that adverse traffic impact on the surroundings is not anticipated.

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 enforcement action.

5. Previous Application

- 5.1 The Site is the subject of a previous application (No. A/NE-TKL/685) for proposed temporary animal boarding establishment (dog kennel) for a period of 3 years approved with conditions by the Committee on 28.1.2022. The current application is submitted by the same applicant for a different use.
- 5.2 Details of the previous application are summarised at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Application

- 6.1 There is one similar application (No. A/NE-TKL/638) for proposed temporary warehouse and office for a period of 3 years within the "AGR" zone in the vicinity of the Site. It was rejected by the Committee on 15.5.2020 mainly on consideration that the proposed development was not in line with the planning intention of the "AGR" zone; and the

applicant failed to demonstrate that it would have no adverse traffic impact on the surrounding areas.

- 6.2 Details of the similar application is summarised at **Appendix II** and the location is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1 to 4b)

- 7.1 The Site is:

- (a) currently vacant, fenced off, partly covered with grasses and partly paved; and
- (b) abutting Ng Chow South Road.

- 7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north and east are vacant land and some temporary domestic structures;
- (b) to the further east are some Small Houses, either existing or with planning permission;
- (c) to the immediate south is Ng Chow South Road, across which is a car park; and
- (d) to the further west are open storage yards of recycling materials, car services centre and warehouse in the “I(D)” zone.

8. Planning Intentions

- 8.1 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.
- 8.2 The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.
- 8.3 According to the Explanatory Statement of the OZP, permission from the Board is required for filling of land within the “AGR” zone, as the activity may cause adverse drainage and environmental impacts on the adjacent areas.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government bureau and departments’ comments as set out in paragraphs 9.2 and 9.3 respectively below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and

advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

9.2 Comments of the Secretary for Development (SDEV):

Policy Aspect

- (a) the current application is submitted by an operator whose warehouse would be displaced under the government-led KTN NDA project. According to the applicant, the proposed site is of similar scale with his displaced warehouse; the proposed development is not incompatible with the surrounding environment; and that only insignificant traffic and environmental impacts are anticipated;
- (b) the land freed up by the displaced warehouse will be redeveloped into KTN NDA together with other cleared land, capable of providing about 43,600 housing units in phases. Facilitating relocation of affected brownfield operations including the warehouse is crucial to the smooth clearance for and implementation of the NDA project; and
- (c) from the perspective of ensuring timely development of the NDA and delivery of the housing yield as well as facilitating the continued operation of displaced brownfield operations for meeting the economic needs, the current application is supported.

9.3 The following government departments have objection to/reservation on the application:

Agriculture

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

- there are active agricultural activities 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 and plant nurseries. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

District Officer's Comments

9.3.2 District Officer (North), Home Affairs Department (DO(N), HAD) has consulted the locals on the application with the following comments:

- the incumbent North District Council member of the subject constituency and the First Vice-Chairman of the Ta Kwu Ling District Rural Committee raise objection on the grounds that the proposed development would overload the road network and cause adverse traffic impact on the surrounding areas. The Chairman of Fung Shui Area Committee, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Ping Che have no comment.

10. Public Comments Received During Statutory Publication Period (Appendix V)

On 12.7.2022, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Kadoorie Farm and Botanic Garden Corporation and an individual raise objection to the application on the consideration that the proposed development is not in line with the planning intention of “AGR” zone.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary warehouse for storage of metal for a period of three years and filling of land by concrete of about 0.2 m in depth at the Site mainly zoned “AGR”, with a minor portion zoned “I(D)” on the OZP (**Plan A-1**). According to the applicant, this application is to facilitate the relocation of his warehouse affected by the KTN NDA development. Whilst the applicant has spent effort in identifying suitable sites to relocate the warehouse to a number of alternative locations, those sites were considered not suitable or impracticable due to various issues such as site area not matching operational needs, poor accessibility, environmental concerns, etc. Though the Site is located away from the original location, the Site area (i.e. 980 m²) is similar to the original business in KTN (i.e. 620 m²). With the policy objective of ensuring timely development of the NDA delivering the housing yield, and facilitating the continued operation of displaced brownfield operations for meeting economic needs, SDEV supports the application.
- 11.2 Whilst the proposed use is always permitted within the “I(D)” zone, it 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. It is also intended 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 as the Site possesses potential for agricultural rehabilitation. Nonetheless, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “AGR” zone. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, CE/MN of DSD and DEP have no objection from drainage and environmental perspectives.
- 11.3 The Site is situated in an area of rural fringe landscape character comprising temporary domestic structures, warehouses, open storage, Small Houses and some tree clusters. The proposed use is considered not entirely incompatible with the surrounding environment. Given that significant adverse impact on existing landscape resources is not anticipated, CTP/UD&L of PlanD has no objection on the application from landscape planning perspective.
- 11.4 The Site is abutting Ng Chow South Road (**Plan A-2**). Having considered the information submitted by the applicant, C for T has no objection to the application from traffic engineering viewpoint. DEP has no objection to the application and advises that the applicant should follow the latest CoP to minimise any potential environmental impacts. Other relevant government departments consulted, including CE/MN of DSD, D of FS and CE/E of WSD, have no objection to or no adverse comment on the application.

- 11.5 There is one similar application (No. A/NE-TKL/638) for proposed temporary warehouse and office for a period of 3 years within the “AGR” located to the northwest of the Site. It was rejected by the Committee in 2020 mainly on the consideration that the proposed development was not in line with the planning intention of the “AGR” zone; and the applicant failed to demonstrate that it would have no adverse traffic impacts on the surrounding areas. As relevant government departments, including C for T, have no objection to or no adverse comment on the application, the planning circumstances of the current application are different from the rejected application.
- 11.6 Regarding the local comments conveyed by DO(N), HAD and adverse public comments as detailed in paragraphs 9.3.2 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 having taken into account the local comments conveyed by DO(N), HAD and public comments mentioned in paragraphs 9.3.2 and 10 respectively, the Planning Department considers that the temporary use under the application could be tolerated for a 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 period of 3 years until 26.8.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m. from Mondays to Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) 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 26.2.2023;
- (e) in relation to (d) 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 26.5.2023;
- (f) in relation to (e) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;

- (g) 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 26.2.2023;
- (h) in relation to (g) 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 26.5.2023;
- (i) the submission of a run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 26.2.2023;
- (j) in relation to (i) above, the implementation of the run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 26.5.2023;
- (k) if any of the above planning conditions (a), (b), (c) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if any of the above planning conditions (d), (e), (g), (h), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (m) upon expiry of the planning permission, the reinstatement of the portion of the Site falling within “AGR” zone to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

12.3 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 primarily to retain and safeguard good 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 such planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with attachments received on 4.7.2022
Appendix Ia	SI received on 7.7.2022
Appendix Ib	FI received on 10.8.2022
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Proposed layout plan
Drawing A-2	Proposed paved area plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
AUGUST 2022**