

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

APPLICATION NO. A/NE-TKL/707

- Applicant** : Shun Lee Development & Engineering Company represented by Aikon Development Consultancy Limited
- Site** : Lots 1344 (Part) and 1345 (Part) in D.D. 82, Ping Che, New Territories
- Site Area** : 8,481m² (about)
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Equipment and Materials for a Period of 3 Years until 14.10.2025

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for a temporary open storage of construction equipment and materials for a further period of three years until 14.10.2025 (**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 3 years 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 14.10.2022.
- 1.2 The temporary development comprises 17 container-converted structures and 3 temporary structures for site office, storage and guard house uses with a total floor area of about 325m² (**Drawing A-1**). The structures are either one or two storeys (not exceeding 5.2m) in height. Compared with the previously approved scheme under application No. A/NE-TKL/622, there are slight changes in the site layout and a reduction of number of container-converted structures from 22 to 17 (i.e. -5) and reduction of number of temporary structures from 5 to 3 (i.e. -2) under the current application. The uncovered area of the Site will be used for open storage of construction equipment and materials. Two parking spaces for private car and heavy goods vehicle (HGV) and two loading/unloading bays for HGV are provided within the Site (**Drawing A-1**). The operation hours of the Site are from 7:00 a.m. to 11:00 p.m. during Mondays to Saturdays,

with no operation on Sundays and public holidays. The Site is accessible via a local track branching off Ping Che Road (**Plan A-2**). The applicant submitted a site layout plan in support of the application (**Drawing A-1**).

- 1.3 The Site, in part or in whole, is the subject of 12 previous applications (No. A/DPA/NE-TKL/70 and 96, and A/NE-TKL/19, 100, 156, 225, 281, 315, 342, 443, 553 and 622). The last application (No. A/NE-TKL/622) for the same applied use as the current application submitted by the same applicant was approved by the Rural and New Town Planning Committee (the Committee) on 6.9.2019 for a period of three years up to 14.10.2022. The applicant has complied with all the approval conditions of the last approved application.
- 1.4 In support of the application, the applicant has submitted the following documents:
- | | | |
|-----|---|------------------------|
| (a) | Application form with attachments received on 26.7.2022 | (Appendix I) |
| (b) | Supplementary Planning Statement received on 26.7.2022 | (Appendix Ia) |
| (c) | Supplementary Information (SI) received on 28.7.2022 | (Appendix Ib) |
| (d) | Further Information (FI) received on 16.8.2022 | (Appendix Ic) |

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement and FI at **Appendices Ia** and **Ic** respectively. They can be summarized as follows:

- (a) the Site is the subject of previously approved planning applications for temporary open storage of construction equipment and materials;
- (b) the Site falls within Category 2 area under the Town Planning Board Guidelines No. 13F (TPB-PG No. 13F). As no adverse departmental comments were received in the previous planning approvals, and the applicant has demonstrated genuine effort to comply with the approval conditions, the current application is considered in line with TPB-PG No. 13F;
- (c) there are no substantial changes in the planning circumstances since the approval of the previous application;
- (d) no adverse infrastructural nor environmental impacts are anticipated, and the applicant undertakes to maintain the existing drainage provision and landscape treatment in efficient working order;
- (e) as the applied use is temporary in nature, it would not jeopardize the planning intention of the “AGR” zone or implementation of any planned infrastructural development;
- (f) the temporary development could maximize land utilization in an area which is predominated by industrial or open storage use;
- (g) the vehicular trips to/from the Site is approximately 4 to 5 per day. As such, the traffic impact to nearby road links and junctions caused by the applied use is relatively small;
- (h) sufficient manoeuvring spaces for vehicles is provided within the Site and a setback of 10m from ingress/egress to the local track is provided as a passing bay and waiting space for vehicles to enter/exit the Site. Therefore, queuing of vehicles at the local track and Ping Che Road is not anticipated in view of the low traffic volume, entrance setback and sufficient space within the Site; and

- (i) to ensure the safety of pedestrians at the access point of the Site, the applicant undertakes to erect road signs to alert drivers and pedestrians to proceed in a caution manner.

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

The applicant is not the “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 consents from the concerned land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 Town Planning Board Guidelines No. 13F (TPB PG-No. 13F) for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ is relevant to this application. The Site falls within Category 2 area under TPB PG-No. 13F promulgated on 27.3.2020. A relevant extract of the Guidelines is attached at **Appendix II**.
- 4.2 Town Planning Board Guidelines No. 34D (TPB-PG No. 34D) on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ are relevant to this application. The relevant extract of the Guidelines is attached at **Appendix III**.

5. Previous Applications

- 5.1 The Site in whole is involved in 12 previous applications (No. A/DPA/NE-TKL/70 and 96, and A/NE-TKL/19, 100, 156, 225, 281, 315, 342, 443, 553 and 622). Four applications (No. A/DPA/NE-TKL/70 and 96, and A/NE-TKL/19 and 100) for open storage/temporary open storage of containers, container trailers construction materials and machinery were rejected by the Committee or by the Board on review between 1993 and 1998 mainly on the grounds that the developments were not in line with the planning intention for the area; the developments were incompatible with the surrounding land uses; and approval of the applications may set undesirable precedents for similar applications.
- 5.2 Application No. A/NE-TKL/156 was approved with conditions by the Board on review in 2001 mainly on the considerations that the development was in line with the long-term planning intention of the area, as the Site was previously designated as “Open Storage” and ‘Road’ on the former Recommended Outline Development Plan for the Ping Che and Ta Kwu Ling New Development Area; no local objection was received; and approval of the application would not have adverse impacts in terms of infrastructural provision. The application was revoked in 2002 due to non-compliance with approval condition.
- 5.3 The remaining seven applications (No. A/NE-TKL/225, 281, 315, 342, 443, 553 and 622) for the same applied use for a period of 3 years were approved by the Committee between 2002 and 2019 mainly on the grounds that there were no material changes in the planning circumstances since the previous temporary approvals were granted; the applicant has complied with previous approval conditions; compliance with relevant Town Planning Board Guidelines; and no adverse departmental comments or local objections to the

applications. Except application No. A/NE-TKL/315 which was revoked on 8.2.2010, relevant approval conditions of other applications had been complied with.

- 5.4 Details of the previous applications are summarized at **Appendix IV** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 11 similar applications within the “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.
- 6.2 Eight applications (No. A/NE-TKL/390, 454, 460, 555, 564, 642, 671 and 695) for temporary open storage of goods (aerial working platform and elevating platform), construction equipment/machinery/materials/waste paper, waste plastics and waste metal cans for recycling, temporary curtain wall testing centre and temporary warehouse for storage of timber and wooden parts were approved with conditions by the Committee between 2012 and 2022 mainly on considerations that the proposed development generally complied with relevant Town Planning Board Guidelines; similar applications were approved in the vicinity; and there were no adverse departmental comments and local objections.
- 6.3 The remaining three applications (No. A/NE-TKL/480, 514 and 625) for temporary open storage uses were rejected by the Committee between 2014 and 2019 mainly on considerations that the proposed developments were not in line with the planning intention of the “AGR” zone; the developments did not comply with the relevant Town Planning Board Guidelines; and there were no previous approval of open storage granted for the Sites; and the applicants failed to demonstrate that the developments would not generate adverse traffic and landscape impacts on the surrounding areas.
- 6.4 Details of the similar applications are summarized at **Appendix IV** and the locations are shown on **Plan A-1**.

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

- 7.1 The Site is:

- (a) flat, formed and fenced off;
- (b) currently used as open storage of construction materials and equipment; and
- (c) accessible via a village track leading to Ping Che Road (**Plan A-2**).

- 7.2 The surrounding areas have the following characteristics:

- (a) situated in a rural landscape character area dominated by open storage uses and tree groups intermixed with some temporary structures;
- (b) fronting Ping Yuen River and its tributary to the immediate north, east and west and to the immediate west are fallow agricultural land;
- (c) to the immediate east across the river is an approved planning application No. A/NE-TKL/642 for temporary open storage of construction materials, equipment

and machineries; and

- (d) to the south across the local track is a mix of open storage yards of construction materials, a temporary site office and temporary 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 Department

9.1 Apart from the government department as set out in paragraph 9.2 below, other government 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 V** and **VI** respectively.

9.2 The following government department has the following comments on the application.

9.2.1 Comments of the Director of Environment Protection (DEP):

- (a) he does not support the application as there are domestic structures in the vicinity of the Site, the closest one is located to the southeast of the Site at a distance of about 40m (**Plan A-2**);
- (b) there was no environmental complaint against the Site during the past three years; and
- (c) the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (CoP) issued by the DEP to minimize potential environmental nuisance to the surrounding area.

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

On 2.8.2022, 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 has no comment on the application. The remaining comment submitted by an individual objects to the application mainly on the grounds that the approval of the application would cause adverse traffic and environmental impacts to the surrounding areas and increase fire risks, thus affecting the quality of life and safety of residents living nearby.

11. Planning Considerations and Assessments

11.1 The application is for renewal of a planning permission for a temporary open storage of construction equipment and materials for a further period of three years at the Site zoned “AGR” on the OZP. 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. However, DAFC has no strong view against the application from agricultural point of view considering that the previous application for the same use submitted by the same applicant was approved. Approval of the application on a temporary basis for 3 years would not frustrate the long-term planning intention of the area.

- 11.2 The Site falls within Category 2 area under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (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 Compared with the last approved scheme under application No. A/NE-TKL/622, there are slight changes in the site layout and reduced number of containers and structures under the current application. The Site is located in an area of rural inland plains landscape character comprising of open storages, vegetated areas, farmlands and clusters of tree groups (**Plan A-2**). CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view as there is no change in the landscape character surrounding the Site and further significant adverse impact on existing landscape resources within the Site arising from the proposed continuous use is not anticipated.
- 11.4 Although 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**), it is noted that there is no record of environmental complaint received for the Site in the past 3 years. To address the concerns of DEP, relevant approval conditions restricting the operation hours and no operation on Sundays and public holidays during the planning approval period are recommended. The applicant is also advised to follow the environmental mitigation measures as set out in the latest CoP to minimize any potential environmental impacts. Other relevant government departments, including C for T, D of FS, CE/MN of DSD and CE/C, WSD, have no objection to or no adverse comment on the application.
- 11.5 This application generally complies with the TPB PG-No. 13F in that there are previous approvals for similar use on the Site and no major adverse departmental comments have been received on the application. Moreover, the application generally complies with the TPB-PG No. 34D as there has not been any material change in planning circumstances since the approval of the last application; there are no major adverse departmental comments against the renewal application; all the approval conditions for the last application have been complied with; and the approval period sought is the same as the last approval granted by the Board, is not unreasonable.
- 11.6 Of the 11 similar applications in the vicinity of the Site (**Plan A-1**), eight were approved by the Committee between 2012 and 2022 mainly on considerations that the proposed developments generally complied with the relevant Town Planning Board Guidelines; there were similar applications approved in the vicinity; and there were no adverse departmental comments and local objections. The planning circumstances of the current application are similar to those approved applications.

- 11.7 Regarding the public comments on the application as detailed in paragraph 10 above, government departments' comments and 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 public comments as detailed in paragraph 10 above, the Planning Department considers that the temporary use under 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 and **be renewed from 15.10.2022 to 14.10.2025**. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 11:00 p.m. and 7:00 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 should be maintained at all times during the planning approval period;
- (d) the setting back of the site boundary to avoid encroachment on the project limit of "PWP Item 4173CD – Drainage Improvement Works in Ta Kwu Ling" as and when required by the Director of Drainage Services;
- (e) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (f) the submission of a revised drainage proposal within 6 months from the commencement date of renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.4.2023;
- (g) in relation to (f) above, the implementation of the revised drainage proposal identified therein within 9 months from the commencement date of renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.7.2023;
- (h) in relation to (g) above, the implemented drainage facilities at the Site should be maintained at all times during the planning approval period;
- (i) the implementation of the traffic management measures within 9 months from the commencement date of renewed planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 15.7.2023;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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

- (k) if any of the above planning conditions (f), (g) or (i) 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 VI**.

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

- the 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 provided in the submission to justify a departure from the 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 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 with Attachments received on 26.7.2022
Appendix Ia	Supplementary Planning Statement received on 26.7.2022
Appendix Ib	SI received on 28.7.2022
Appendix Ic	FI received on 16.8.2022
Appendix II	Relevant Extract of TPB Guidelines No. 13F
Appendix III	Relevant Extract of TPB Guidelines No. 34D
Appendix IV	Previous and Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos