

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/715

<u>Applicant</u>	Mr. CHAN Kwok Che represented by Mr. WONG Sun Wo William
<u>Site</u>	Lots 2264 and 2265 (Part) in D.D. 76, Ta Kwu Ling, New Territories
<u>Site Area</u>	About 820m 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 Rural Workshop (Furniture Processing) with Ancillary Warehouse for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary rural workshop (furniture processing) with ancillary warehouse for a period of three years (**Plan A-1a**). 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 Covering 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). The Site is currently flat, hard-paved and largely vacant.
- 1.2 The planning application is to facilitate the relocation of the applicant’s workshop at Lot 2240 S.J ss.3 in D.D. 96 in Kwu Tung. Since his workshop was affected by the Kwu Tung North New Development Area (KTN NDA) development, the concerned parcel of land had been resumed and reverted to the Government in the June 2021.
- 1.3 The proposed temporary development includes a 1-storey structure of about 8m in height with a total floor area of about 215m² for furniture processing workshop and ancillary warehouse at the southern portion of the Site. Two private parking spaces (2.5m x 5m), one parking space for light goods vehicles (3.5m x 7m) and one parking space for medium vehicles (3.5m x 11m) will be provided at the western part of the Site (**Drawing A-1**).
- 1.4 The Site is accessible from Sha Tau Kok Road – Ma Mei Ha Section (**Plan A-2**) via the adjoining workshop at the east which is owned by the applicant. The operation hours of the Site are between 8:30 a.m. and 5:30 p.m. on Mondays to Saturdays and there would

be no operation on Sundays and public holidays. The site layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.5 The Site, in part or in whole, is involved in six previous planning applications. Details of these previous applications are set out in paragraph 5 below. The latest planning application No. A/NE-TKL/633 for the same use submitted by the same applicant was approved by the Rural and New Town Planning Committee (the Committee) on 26.5.2020. The planning permission was revoked on 26.10.2022 due to non-compliance with approval conditions on the provision of drainage facilities, implementation of fire service installations (FSIs) and water supplies for fire-fighting, and implementation of environmental mitigation measures. Compared with the last application No. A/NE-TKL/633, the proposed total floor area has increased by 15m² (or 7.5%), no mobile toilet will be provided and the layout of the single-storey structure which is used for workshop and ancillary warehouse has been slightly revised for better utilization of space (**Appendix Id**).

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

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|-----|---|------------------------|
| (a) | Application form received by the Board on 19.1.2023 | (Appendix I) |
| (b) | Further Information (FI) received on 9.5.2023* | (Appendix Ia) |
| (c) | FI received on 14.5.2023* | (Appendix Ib) |
| (d) | FI received on 17.5.2023* | (Appendix Ic) |
| (e) | FI received on 5.6.2023* | (Appendix Id) |
| (f) | FI received on 20.8.2023 and 21.8.2023* | (Appendix Ie) |
| (g) | FI received on 3.10.2023* | (Appendix If) |

** accepted and exempted from publication*

- 1.7 On 17.3.2023 and 23.6.2023, the Committee agreed to the applicant's requests to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

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 to If**. They can be summarized as follows:

Effort in Identifying Suitable Site for Relocation

- (a) the applicant has spent effort in identifying suitable site for relocation of his workshop in Kwu Tung to pave the way for the Government's KTN NDA development;
- (b) whilst the applicant has tried to relocate his workshop to a number of alternative sites in Hung Lung Hang, San Tin and Queen's Hill etc., those sites were considered not suitable or impracticable due to various issues such as right of access and accessibility. The current application site is sheltered by Tan Shan River on three sides and is located far away from domestic structures (**Plan A-2**). The Site is accessible via Sha Tau Kok Road – Ma Mei Ha Section without causing adverse traffic impact on the surroundings;

The Applied Use is the Same as the Affected Business in Kwu Tung

- (c) the proposed temporary development involves furniture processing workshop such as processing of wooden doors, kitchen cabinet, wardrobe and false ceiling, etc.. The applied use is the same as the affected business in Kwu Tung. The area of the Site (i.e. about 820m²) is also similar to the area of the applicant's original business in Kwu Tung (i.e. about 800m²);

No Adverse Environmental Impact on the Surroundings

- (d) to address EPD's concerns on possible environmental nuisance, the applicant undertakes to provide the following mitigation measures:
 - (i) workshop activities and loading/unloading (L/UL) activities would only be carried out inside a fully enclosed structure;
 - (ii) the open-air area will only be used as vehicle parking but not for storage;
 - (iii) all openings will be closed during noisy operation and such noisy operation will not be carried out more than one hour on days of operation. No operation will be carried out on Sundays and public holidays;
 - (iv) the structure is fully enclosed with dust extractors;
 - (v) follow the good practice recommended in "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (the COP);

No Adverse Traffic Impact on the Surroundings

- (e) the proposed temporary development would only generate a few car trips per day, minimal traffic impact on Sha Tau Kok Road is anticipated. To ensure traffic safety, traffic sign would be provided at Sha Tau Kok Road;
- (f) the applicant satisfactorily complied with the conditions on the submission and implementation of traffic management measures of the previous application no. A/NE-TKL/633;
- (g) the proposed temporary development is accessible via the Sha Tau Kok Road which is a dual 2-lane carriageway to its immediate southeast and the traffic congestion in the area has been relieved since the opening of the Heung Yuen Wai Highway opened to traffic. As such, the proposed temporary development would not cause adverse traffic impact on the surroundings; and

Compliance with the Non-complied Approval Conditions of Application No. A/NE-TKL/633

- (h) the applicant did not have enough time to complete the approval conditions of the previous application by the required deadline as the District Lands Officer/ North, Lands Department (DLO/N, LandsD) did not approve his application for temporary building permit in time. Should the current application be approved, the applicant undertakes that he would complete the non-complied approval conditions of application No. A/NE-TKL/633 as soon as possible (**Appendix Ie**).

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

The applicant is one of the “current land owners” and 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 other “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not involved in any active enforcement cases.

5. Previous Applications

- 5.1 The Site, in part or in whole, is involved in six previous applications (No. A/NE-TKL/70, 98, 141, 566, 590 and 633) for various temporary open storage and workshop uses rejected by the Committee or the Board on review between July 1998 and July 2017. They are considered not relevant to the subject application.
- 5.3 Planning application No. A/NE-TKL/590 for temporary private vehicle park for light goods vehicle and heavy goods vehicle and L/UL area approved by the Committee on 17.8.2018 is not relevant to the subject application.
- 5.5 Planning application No. A/NE-TKL/633 for the same use as the current application was approved by the Committee on 26.5.2020 mainly on considerations that the 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; policy support was given by the Secretary for Development (SDEV); the proposed temporary use was considered not entirely incompatible with the surrounding land uses; and no objection to or no adverse comment received from concerned government departments.
- 5.6 Details of these previous applications are summarized at **Appendix II** and their locations are shown on **Plans A-1a and A-1b**.

6. Similar Application

There is no similar application within the “AGR” zone in the vicinity.

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

- 7.1 The Site is:
 - (a) flat, hard-paved and largely vacant; and
 - (b) accessible from Sha Tau Kok Road – Ma Mei Ha via the adjoining site which is used as a workshop (**Plan A-2**).

- 7.2 The surrounding areas are of miscellaneous rural fringe landscapes character comprising temporary structures, vegetated areas and tree clusters. Tan Shan River is at the north.

8. 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.

9. Comments from Relevant Government Departments

- 9.1 Apart from the 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 at **Appendices III** and **IV** respectively.

9.2 Comments of SDEV:

- (a) it is understood that the Site is the subject of a previously approved application No. A/NE-TKL/633 for the same applied use submitted by the same applicant. The aforesaid previous application was to facilitate relocation of a rural workshop which had already been cleared under the government-led KTN NDA project. According to the information provided by the applicant, there are no major changes on the proposed development parameters as compared with the previously approved scheme. The applicant advises that as the Short Term Waiver (STW) for the Site was only approved in July 2022, he did not have enough time to complete the approval conditions of the previous application by the required deadline; and
- (b) given the above, support to the current application is maintained 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 still meeting the need of economy. The land freed up by the displaced operation will together with other cleared land be redeveloped into the KTN NDA, capable of providing about 49,900 housing units in phases. Facilitating relocation of affected brownfield operations is crucial to the smooth clearance for and implementation of the NDA project.

- 9.3 The following government departments have comments on the application/ conveyed local views on the application:

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

- (a) the application site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the

Government. No right of access via GL is granted to the Site (**Plan A-2**);

- (b) Lot No. 2264 in D.D. 76 in the application site is covered by a STW No. 1634 for the purpose of a rural workshop with ancillary warehouse (**Plan A-2**); and
- (c) according to the proposal submitted in the planning application, a portable toilet but no other structure is proposed in the Lot No. 2265 in D.D. 76. Attention is brought to the existing unauthorized structures erected on Lot No. 2265 in D.D. 76 (**Plan A-2**). The lot owner(s)/applicant should immediately rectify the lease breaches and this office reserves the right to take necessary lease enforcement action against the lease breaches without separate notice

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

- (a) according to the COP, the application should not be supported as there are residential buildings within 100m from the boundary of the application site and the use of heavy vehicle is involved. Environmental nuisance is anticipated; and
- (b) to minimize the potential environmental nuisance, the applicant has undertaken to implement the following mitigation measures:
 - i. operation hours are restricted to 8:30 a.m. - 5:30 p.m. on Mondays to Saturdays, and no operation on Sundays and public holidays;
 - ii. workshop activities and L/UL activities would only be carried out inside a fully enclosed structure with dust removal equipment;
 - iii. individual noisy machinery would be placed in the south-west portion inside the structure and would be equipped with noise insulating fabric; and
 - iv. no toilet would be constructed/installed within the application site.
- (c) should the application be approved, approval conditions should be imposed to ensure the applicant implement the mitigation measures proposed. Besides, the applicant should comply with all environmental protection/pollution control ordinances. The applicant is also advised to follow the environmental mitigation measures as set out in the latest COP in order to minimize any possible environmental nuisances; and
- (d) no complaints regarding the Site were received from 2020 to 2022.

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

- (a) the subject site falls within the “AGR” zone and is vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The subject site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the subject site possesses potential for agricultural rehabilitation, the proposed

development is not supported from an agricultural perspective; and

- (b) he has no comment on the proposed use from nature conservation point of view. Nevertheless, the Site is adjacent to Tan Shan River to the north (**Plan A-2**). Should the proposed use be approved, the applicant should be reminded to perform good site practices so as not to pollute or affect the nearby watercourse.

District Officer's Comments

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

- (a) he has consulted the locals regarding the application. The Indigenous Inhabitant Representative (IIR) of Kwan Tei Tsuen, the IIR of Ko Po Tsuen and the Chairman of Fanling District Rural Committee (FDRC) object to the proposal on the grounds that the Site is in close proximity to the river and is susceptible for piling up of waste, which would increase the possibility of flooding and lead to adverse impacts on air, environment and quality of life of villagers;
- (b) the IIR and the RR of Hung Leng Tsuen and the Chairman of Lung Shan Area Committee have no comment; and
- (c) the incumbent North District Councilor of N18 Constituency, the other IR and the-RR of Kwan Tei Tsuen did not reply by deadline.

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

On 7.1.2020, the application was published for public inspection. During the statutory public inspection period, six public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual states that the previous planning application No. A/NE-TKL/633 was revoked. Kadoorie Farm and Botanic Garden Corporation queries if the applicant is required to comply with the non-complied approval conditions under revoked planning application No. A/NE-TKL/633 in the current application. The Chairman, 1st Vice-Chairman and 2nd Vice-Chairman of FDRC object to the application on the grounds that the Site is in close proximity to the river and is susceptible for piling up of waste, which would increase the possibility of flooding and lead to adverse impacts on air, environment and quality of life of villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary rural workshop (furniture processing) with ancillary warehouse for a period of 3 years in an area zoned "AGR" on the OZP. The proposed temporary use 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. Since the Site has potential for agricultural rehabilitation, DAFC does not support the application from agriculture point of view. Nevertheless, the Site had

been hard paved and formed. Taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.

- 11.2 The application is the subject of a previous planning application No. A/NE-TKL/633 for the same use. According to the applicant, the application is to facilitate the relocation of a furniture processing workshop at Kwu Tung affected by the KTN NDA development. Whilst the applicant has spent effort in identifying suitable site to relocate of his workshop to a number of alternative locations, those sites were considered not suitable or impracticable due to various issues such as ownership, accessibility, easement or environmental problem. Planning application No. A/NE-TKL/633 was revoked on 26.10.2022 due to non-compliance with time-limited approval conditions. According to the applicant, he did not have enough time to complete the approval conditions of the previous application by the required deadline as DLO/N, LandsD did not approve his application for temporary building permit in time. Compared with the previous application, all development parameters under the current application remain unchanged except the layout of the single-storey structure for better utilization of space. According to DLO, STW has already been granted, and the applicant has undertaken to comply with the approval conditions. With the policy objective of ensuring timely development of the KTN NDA and delivery of the housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy, SDEV supports the application.
- 11.3 The surrounding areas are of miscellaneous rural fringe landscapes character comprising temporary structures, vegetated areas, tree clusters and Tan Shan River at the north (**Plans A-2 and A-3**). The applied use is considered not entirely incompatible with the existing landscape character in the surrounding area. CTP/UD&L of PlanD has no objection to the application from landscape perspective as significant adverse impact on the existing landscape character and landscape resources within the Site arising from the applied use is not anticipated.
- 11.4 The Site is accessible via Sha Tau Kok Road – Ma Mei Ha Section via the adjacent workshop operated by the same applicant. Having considered the information submitted by the applicant, C for T considers that the application is tolerable from traffic engineering point of view and has no objection to the application. While DEP does not support the application as there are residential buildings in the vicinity of the Site (**Plan A-1a**) and the use of heavy vehicle is involved, relevant approval conditions restricting the operation hours and no operation on Sundays and public holidays during the planning approval period and submission and implementation of environmental mitigation measures are recommended to address the concerns of DEP. Moreover, the applicant would be advised to follow the environmental mitigation measures set out in the COP. Other relevant Government departments consulted, including CE/MN of DSD, D of FS and CE/C of WSD, have no adverse comment on/no objection to the application.
- 11.5 Previous application No. A/NE-TKL/633 for the same use as the current application was approved mainly on the grounds that SDEV supported the application, the use was not incompatible with the surrounding land uses and no objection or no adverse comment received from concerned government departments. It was revoked on 26.10.2022 due to non-compliance with approval conditions. There has been no major changes of planning circumstances since the approval of the previous application No. A/NE-TKL/633. The applicant will be advised that should they fail to comply with any of the approval conditions resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further

application.

- 11.6 DLO/N of LandsD has comments on the application regarding the presence of unauthorized structures on the Site, which are subject to lease enforcement action. To address the concerns, the applicant undertakes to remove the said structures as soon as possible (**Appendix If**).
- 11.7 Regarding the adverse public comments and local objection conveyed by DO(N), HAD, the 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 taking into account the local objections conveyed by DO(N), HAD and public comments in paragraphs 9.3.4 and 10 above 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 **13.10.2026**. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:30 p.m. and 5:30 a.m. on 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) 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 13.7.2024;
- (d) the submission of traffic management measures within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 13.4.2024;
- (e) in relation to (d) above, the implementation of traffic management 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 13.7.2024;
- (f) 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 13.4.2024;
- (g) in relation to (f) 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 13.7.2024;

- (h) the submission of proposals for environmental mitigation measures within 6 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 13.4.2024;
- (i) in relation to (h) above, the implementation of proposals for environmental mitigation measures identified therein within 9 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 13.7.2024;
- (j) if any of the above planning conditions (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;
- (k) if any of the above planning conditions (c), (d), (e), (f), (g), (h) 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; and
- (l) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

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

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

- (a) the proposed temporary 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 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 approval of the application will set an undesirable precedent for similar applications within the same "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

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 19.1.2023
Appendix Ia	FI received on 9.5.2023
Appendix Ib	FI received on 14.5.2023
Appendix Ic	FI received on 17.5.2023
Appendix Id	FI received on 5.6.2023
Appendix Ie	FI received on 20.8.2023 and 21.8.2023
Appendix If	FI received on 3.10.2023
Appendix II	Previous s.16 Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Site Layout Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**