

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/721

<u>Applicant</u>	: Power Up (China) Logistics Limited represented by Lawson David & Sung Surveyors Limited
<u>Site</u>	: Lots 4 S.A (Part), 4 S.B (Part), 4 S.C (Part) and 6 S.B in D.D. 84 and Adjoining Government Land, Ping Che, New Territories
<u>Site Area</u>	: 3,873m ² (about) (including about 91m ² of Government Land)
<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 Warehouse for Storage of Construction Materials and Electronic Products for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary warehouse for storage of construction materials and electronic goods for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “AGR” on the OZP. 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 vacant and partly vegetated or covered with overgrown grasses.
- 1.2 According to the applicant, the current application is submitted to facilitate the relocation of a warehouse on various lots in D.D. 120 and 121 in Yuen Long affected by the Yuen Long South Development (YLSD). The affected land has been resumed and reverted to the Government in 2022.
- 1.3 The Site is accessible via a local track leading from Ping Che Road (**Plan A-1**). According to the applicant, the proposed temporary development includes three 1-2 storeys structures (not exceeding 12m in height) with a total floor area of about 2,679m² for warehouse, site office and washroom uses. Three private car parking spaces, one loading/unloading (L/UL) bay for light goods vehicle, one L/UL bay for medium goods vehicle and one L/UL bay for container vehicle will be provided within the Site (**Drawing A-1**). The operation hours of the Site are from 9:00 a.m.

to 6:00 p.m. from Mondays to Saturdays. There would be no operation on Sundays and public holidays. The proposed layout plan submitted by the applicant is shown in **Drawing A-1**.

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

- (a) Application Form with planning statement received on 20.3.2023 (**Appendix I**)
- (b) Further information (FI) received on 12.4.2023 (**Appendix Ia**)
(*accepted and exempted from publication*)
- (c) FI received on 24.4.2023 (**Appendix Ib**)
(*accepted and exempted from publication*)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the planning statement at **Appendix I** and FI at **Appendices Ia and Ib**. 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 affected business in Yuen Long to pave way for the Government's YLSD;
- (b) whilst the applicant has identified a number of alternative sites in various areas including Sha Tau Kok, Pat Heung, Shek Kong and Tai Tong etc. for relocation of his business in Yuen Long, those sites were considered not suitable or impracticable due to various issues such as geographical constraints, unaffordable potential construction costs, potential right of way disputes from private lots owners, perceived local objections and traffic concerns, etc. The Site is similar in terms of area to their original business in Yuen Long, and is directly accessible via Ping Che Road without causing adverse traffic impact on the surroundings;

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

- (c) the proposed temporary development involves warehouse for storage of construction materials (including pipe, tiles and sanitary wares) and electronic products (including tablets, mobile phones and computers) with ancillary office use. The applied use is the same as the affected business in Yuen Long;

No Adverse Environmental Impact on the Surroundings

- (d) to minimize possible environmental nuisance, the applicant undertakes to provide the following mitigation measures:
 - (i) no workshop activities will be conducted in the Site;
 - (ii) all stocks will be stored within the proposed enclosed warehouse and all L/UL activities will be conducted within the enclosed structure;

- (iii) the existing 2.5m high corrugated metal fencing will be maintained along the site boundary;
- (iv) the operating hours will be restricted from 9:00a.m. to 6:00p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays;
- (v) no more than 3 round trips by goods vehicles daily to minimize the traffic and noise impact; and
- (vi) to strictly follow EPD's latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (COP), ProPECC PN 1/94 and and ProPECC PN 5/93.

No Adverse Impact on the Surroundings

- (e) the applicant has submitted a swept path analysis, drainage proposal, and fire service installations proposal in support of the application; and
- (f) staff will be deployed at the ingress/egress to manage traffic condition and direct vehicle entering / exiting the Site to ensure no queuing of vehicles outside the Site. To ensure pedestrian safety, warning lights will be posted at the access to alert the staff and pedestrian. In view of the low traffic generation/attraction from the proposed development, adverse traffic impact to the surrounding road networks is not anticipated.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "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 posting site notice and sending notice to the Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection. For the Government Land (GL) portion, the "Owner's Consent/Notification" requirements are not applicable.

4. Background

The Site is currently not the subject of any enforcement cases.

5. Previous Applications

- 5.1 The Site is part of the subject of four previous applications (No. A/NE-TKL/244, 257, 262 and 306) submitted by different applicants for different uses (i.e. temporary open storage of construction machinery and containers, open storage of second hand computer parts and monitors, recycling facilities for electronic appliances, and open storage of metal goods and equipment) rejected by the Rural and New Town Planning Committee (the Committee)/ the Board on review between 2003 and 2008. The rejected applications for temporary open storage uses are not relevant to the

subject application for temporary warehouse use.

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

6. Similar Applications

- 6.1 There are two similar applications (No. A/NE-TKL/638 and 695) for temporary warehouse and office and temporary open storage and warehouse for storage of timber and wooden parts respectively within the “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area (**Plan A-1**). Application No. A/NE-TKL/638 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 “AGR” zone and the applicant failed to demonstrate that the development would have no adverse traffic impact on the surrounding areas. Application No. A/NE-TKL/695 was approved by the Committee on 18.3.2022 mainly on consideration that the application generally complied with the then TPB PG-No. 13F.
- 6.2 Details of this similar application are at **Appendix III** and its location is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1 to A-2, aerial photo on **Plan A-3 and site photos on **Plans A-4**)**

- 7.1 The Site is:
- (a) largely vacant, partly formed and partly vegetated or covered with overgrown grasses; and
 - (b) accessible via Ping Che Road (**Plan A-1**).
- 7.2 The surrounding areas are of a rural landscape character with vacant land, open storage yards, warehouses, agricultural land, tree clusters and temporary structures with a section of Ping Yuen River to its south.

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 IV** and **V** respectively.

9.2 Comments of Secretary for Development (SDEV):

- (a) the application is to facilitate relocation of a logistics company for storage of construction materials and electronic products in Yuen Long, which will be displaced by the First Phase development of the YLSD. According to the applicant, a thorough site search has been conducted with a view to identifying suitable site for re-establishment of his business elsewhere to pave way for the clearance under the project, and the site under the current application is the only one considered suitable and practicable after the site search. The proposed warehouse is of similar scale as the existing one to be cleared by the Government; and
- (b) according to the concerned departments, the proposed use is not incompatible with surrounding land uses and would not create insurmountable impacts in technical terms subject to imposition of appropriate approval conditions. To facilitate smooth clearance for the project and provide operating space for displaced brownfield operations still needed by the community, the application is supported from the policy perspective.

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

Land Administration

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

- No consent is given for inclusion of GL (about 91m² mentioned in para. 2 of the Executive Summary of the Planning Statement) in the site (**Plan A-2**). The GL within the site has been fenced off without any permission. Any occupation of GL without Government's prior approval is an offence. The lot owner(s)/the applicant should immediately cease any occupation of GL and this office reserves the rights to take necessary land control action against the illegal occupation of GL without separate notice; and
- there are unauthorised building works on the private lots. The lots owner(s) should immediately rectify the lease breaches and this office reserves the rights to take necessary lease enforcement action against the breaches without separate notice.

Agriculture

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

- agricultural infrastructures such as road access and water source are 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 proposed development is not supported from agricultural perspective.

District Officer's Comments

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

- the incumbent North District Councilor of N16 Constituency objects to the application. The Indigenous Inhabitant Representative (IIR) of Lei Uk also objects to the application on the grounds that the proposed development would cause traffic impact to the surrounding areas and affect pedestrian safety. The Chairman of Fung Shui Area Committee, the Resident Representative (RR) of Lei Uk, the IIR of Tong Fong, the RR of Tai Po Tin and TKLDRC have no comment on the application.

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

On 28.3.2023, the application was published for public inspection. During the statutory public inspection period, three public comments were received. A North District Council member indicates no comment on the application. Kadoorie Farm and Botanic Garden and one individual object to the application on the grounds that the Site has no previous approval and the displaced brownfield operations should be relocated to other sites under appropriate zonings.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary warehouse for storage of construction materials and electronic goods for a period of 3 years at the Site within the "AGR" zone on the OZP (**Plan A-1**). According to the applicant, the application is to facilitate the relocation of his warehouse in Yuen Long affected by YLSD. Whilst the applicant has made efforts in identifying suitable sites to relocate his business to a number of alternative locations, those sites were considered not suitable or impracticable due to various issues such as geographical constraints, unaffordable potential construction costs, potential right of way disputes from private lots owners, perceived local objections and traffic concerns, etc. The site area (i.e. about 3,873m²) is similar to their original business in Yuen Long (i.e. about 3,500m²). With the policy objective of facilitating smooth clearance for the YLSD and providing operating space for displaced brownfield operations still needed by the community, SDEV supports the application.
- 11.2 The proposed temporary use is not in line with the planning intention of the "AGR" zone to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural perspective as the Site possess potential for agricultural rehabilitation. Nonetheless, it is noted that a large portion of the Site is formed and covered with overgrown grasses. In view of the above and with the policy support given by SDEV, it is considered 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.

- 11.3 The Site is situated in an area of rural landscape character surrounded by vacant land, open storage yards, warehouses, agricultural land, tree clusters and temporary structures (**Plans A-2 and A-3**). The proposed temporary 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 landscape impact arising from the proposed development is not anticipated.
- 11.4 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. DEP also has no objection to the application as the applicant undertakes the implementation of relevant mitigation measures. To address environmental concerns, relevant approval conditions in relation to the implementation of the environmental mitigation measures are also recommended. Moreover, the applicant will be advised to follow the latest COP issued by DEP to minimize the potential environmental impacts on the surrounding areas. 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 There are two similar applications No. A/NE-TKL/638 and 695 for temporary warehouse and office/open storage and warehouse for storage uses within the same “AGR” zone. Application No. A/NE-TKL/695 was approved with conditions by the Committee on 18.3.2022 mainly on the consideration of compliance with the then TPB PG-No. 13F, which may not be relevant to the subject application mainly for warehouse use. Application No. A/NE-TKL/638 was rejected by the Committee on 15.5.2020 mainly on the grounds of that the proposed development was not in line with the planning intention of “AGR” zone and the applicant failed to demonstrate that it would have no adverse traffic impacts on the surrounding areas. As the applicant’s operation is affected by the government project and policy support is given by DEVB for the application, and C for T has no objection to the application on traffic engineering point of view, the circumstances of the rejected application are not applicable to the subject application.
- 11.6 Although DLO/N of LandsD has comments on the application regarding the occupation of GL and the presence of unauthorized building works on the Site, which are subject to land control and lease enforcement actions respectively, the applicant will be advised to liaise with LandsD to rectify/ regularize the illegal occupation of GL and lease breaches.
- 11.7 Regarding the local objection conveyed by DO(N), HAD and the adverse public comments mainly on traffic and environmental aspects as detailed in paragraphs 9.3.3 and 10 above respectively, 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 local objections conveyed by DO(N) of HAD and public comments in paragraphs

9.3.3 and 10 above, 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 19.5.2026. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 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) 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 19.11.2023;
- (d) in relation to (c) 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 19.2.2024;
- (e) in relation to (d) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (f) the implementation of proposals for fire services installations and water supplies for firefighting, as proposed by the applicant, 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 19.2.2024;
- (g) the implementation of traffic management measures, as proposed by the applicant, within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 19.2.2024;
- (h) the implementation of environmental mitigation measures, as proposed by the applicant, 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 19.2.2024; and
- (i) if any of the above planning condition (a), (b) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice;
- (j) if any of the above planning condition (c), (d), (f), (g) or (h) 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
- (k) 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 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 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.

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 planning statement received on 20.3.2023
Appendix Ia	FI received on 12.4.2023
Appendix Ib	FI received on 24.4.2023
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
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