

RNTPC Paper No. A/NE-TKL/737
For Consideration by the
Rural and New Town Planning
Committee on 8.9.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/737

- Applicant** : Mr. YEUNG Kwai Choi Mike represented by R-riches Property Consultants Limited
- Site** : Lots 967 (Part), 968 (Part), 969 (Part), 971 (Part), 972, 973, 975, 976, 977 and 978 RP in D.D. 82 and Adjoining Government Land (GL), Ping Che, New Territories
- Site Area** : 6,097m² (about) (including about 103m² of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : (i) Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
(ii) Approved Man Kam To OZP No. S/NE-MKT/4¹
- Zoning** : (i) “Agriculture” (“AGR”) on the portion falling within OZP No. S/NE-TKL/14 (about 6,057m² or 99.7% of the Site)
(ii) “Recreation” (“REC”) on the portion falling within OZP No. S/NE-MKT/4 (about 20.5m² or 0.3% of the Site)¹
- Application** : Proposed Temporary Warehouse (Excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of 3 Years and Associated 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 (excluding dangerous goods godown) with ancillary facilities for a period of 3 years (**Plan A-1**) and associated filling of land. The Site basically falls within an area zoned “AGR” on the Ping Che and Ta Kwu Ling OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years within “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is currently partly vegetated and covered with active agricultural land.
- 1.2 The Site is accessible via Ping Che Road (**Plan A-1**). According to the applicant, the proposed temporary development includes one 2-storey structure (not exceeding 13m in height) with a total floor area of about 7,696m² for warehouses, site office, meter room and fire service installations. The proposed warehouse is intended for storage

¹ About 20.5m² (i.e. 0.3%) of the Site falls within the “REC” zone on the Man Kam To OZP, which is considered as minor boundary adjustment and not included in the planning assessment.

of miscellaneous goods (i.e. packaged food, apparel, footwear, electronic goods, etc.). No dangerous goods and workshop activities will be stored/conducted at the Site. Two private car parking spaces and one loading/unloading bay each for light goods vehicle, medium goods vehicle and container vehicle will be provided within the Site (**Drawing A-1**). Filling of land with concrete of not more than 0.4m (about) is proposed at the Site to meet operational needs (**Drawing A-2**). The applicant will reinstate the Site to an amenity area after the planning approval period. The operation hours of the Site are from 9:00 a.m. to 7:00 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**.

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

- (a) Application Form with attachments received on 21.7.2023 (**Appendix I**)
- (b) Further Information (FI) received on 31.8.2023 (**Appendix Ia**)

2. Justifications from the Applicant

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

- (a) the proposal is to meet the increasing demand for indoor storage space and to support the local warehousing and storage industry;
- (b) the proposed development is compatible with the surrounding areas which are predominated by temporary structures for workshop and warehouse uses, vacant land and open storage yards;
- (c) similar applications for open storage uses within the same “AGR” zone were approved by the Board, and approval of the current application is in line with the Board’s previous decisions and would not set undesirable precedent cases; and
- (d) the proposed development will strictly follow EPD’s latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP), Professional Persons Environmental Consultative Committee Practice Notes and comply with all environmental protection/pollution control ordinances at all times during the planning approval period.

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 (TKLDRC) by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the 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 A very minor portion of the northeastern part of the Site is the subject of six previous applications (No. A/NE-TKL/20, 157, 219, 241, 295 and 334). Application No. A/NE-TKL/20 for temporary plastic workshop was rejected by the Board on review on 11.10.1996 mainly on the grounds that the proposed development was not in line with the planning intention of “AGR” zone; no information to show that the plastic workshop could not be accommodated in flatted factories in planned industrial areas; being incompatible with the surrounding agricultural and rural characters; the proposed development was located within the “flood fringe” of River Gangers and would have adverse drainage impact and setting undesirable precedents for similar applications.
- 5.2 Application No. A/NE-TKL/157 for temporary open storage of building materials was approved by the Board on review on 22.6.2001 mainly on the grounds that there was similar approved application in the vicinity and the Site would not be subject to resumption under public project within the approval period. Applications No. A/NE-TKL/219 and 241 for the same use were approved by the Rural and New Town Planning Committee (the Committee) on 11.10.2002 and 19.9.2003 mainly on the grounds that the applicant had made efforts in complying with the approval conditions of the applications. Applications No. A/NE-TKL/295 and 334 were approved by the Committee on 13.4.2007 and 5.3.2010 respectively on considerations that the applications generally complied with the TPB Guidelines for Application for Open Storage and Port Back-up Uses (previous versions of TPB PG-No. 13G) in that previous approvals had been granted and relevant government departments had no major adverse comments on the applications.
- 5.3 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 three similar applications (No. A/NE-TKL/638, 695 and 721) within the “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling areas (**Plan A-1**). Application No. A/NE-TKL/638 for temporary warehouse and office 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 the development would have no adverse traffic impact on the surrounding areas.
- 6.2 Application No. A/NE-TKL/695 for temporary open storage and warehouse for storage of timber and wooden parts falling within Category 2 areas under the then TPB PG-No. 13F, was approved by the Committee on 18.3.2022 mainly on consideration that the application generally complied with the then TPB PG-No. 13F in that no major departmental comments were received on the application and the concerns of the relevant government departments could be addressed through imposition of approval

conditions. Application No. A/NE-TKL/721 temporary warehouse for storage of construction materials and electronic products was approved by the Committee on 19.5.2023 mainly on consideration that the application was given policy support by Secretary for Development (SDEV) to facilitate the relocation of the affected business by Yuen Long South Development and the impact generated by warehouse was less than that by open storage.

- 6.3 Details of the similar applications 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) occupied by an active farmland in the northeastern portion, while the remaining portion is largely vacant; and
- (b) accessible via Ping Che Road (**Plan A-1**)

7.2 The surrounding areas are of a rural inland plains landscape character comprising open storages, temporary structures, vegetated areas, tree clusters, farmlands, woodlands within the “Green Belt” (“GB”) zones to the further east and Small Houses within the “Village Type Development” (“V”) zone. A stream (i.e. Ping Yuen River) is located to the west of the Site.

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 paragraph 9.2 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 The following government departments have reservation/comments on the application/conveyed local views on the application:

Land Administration

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

- there are suspected unauthorized structure(s) erected on the Site. The

lot owner(s) should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the lease breaches; and

- no consent is given for inclusion of GL (about 103m² as mentioned in 3(c) of the application form) for the proposed use. Any occupation of GL without Government's prior approval is an offence.

Agriculture

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

- the subject site falls within the "AGR" zone and part of the site is under active farming. 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.

Environmental

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

- according to the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (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;
- nevertheless, should the application be approved, the following measures in the recommended advisory clauses are to be included for the applicant to adopt: It is noted that there is existing public sewerage in the vicinity of the application site, the applicant is advised to connect all wastewater generated from the application site to public sewer as far as practicable. In case the connection to public sewer is not feasible, septic tank and soakaway system is also considered to be acceptable provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department", in particular the distance between stream and soakaway systems, and are duly certified by an Authorized Person. 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 "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP in order to minimize any possible environmental nuisances; and
- complaints about construction dust, land filling and flytipping of construction and demolition wastes were received in August 2020. During their inspections in August and September 2020, excavation

works were found conducted at the Site, yet no on-going land filling or flytipping of construction/demolition waste activities was spotted. Person-in-charge and excavation worker were reminded to take dust control measures and clear up the mud on Ping Che Road. During their subsequent inspection in October 2020, no construction waste was found or on-going flytipping activities was spotted. No environmental complaint related to the Site was received since 2021.

Drainage

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

- should the application be approved, condition should be included to request the applicant to submit and implement a drainage proposal for the site to ensure that it will not cause adverse drainage impact to the adjacent area, and the implemented drainage facilities at the site shall be maintained at all times during the planning approval period; and
- the application site is located in close proximity to Ping Yuen River (**Plan A-2**). Besides, there is an existing stream, which crosses Ping Che Road and discharges to the Ping Yuen River, along the southeastern boundary of the proposed development. The applicant is reminded to take into account the existing stream along the southeastern boundary of the proposed development and plan for necessary drainage improvement works in the drainage proposal. Should the application be approved, the applicant shall be required to place all the proposed works at least 3m away from the top of the bank of streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicant to his satisfaction;

District Officer's Comments

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

- the Resident Representative (RR) of Lei Uk and the RR of Fung Wong Wu support the application on the grounds of better utilizing land resources for development use;
- the RR of Chow Tin Tsuen and the Indigenous Inhabitant Representative (IIR) of Tai Po Tin object to the application;
- the incumbent North District Councilor of N16 Constituency, one IIR of Chow Tin Tsuen, the IIR of Fung Wong Wu, the IIR of Lei Uk, the IIR and the RR of Tong Fong have no comment; and
- TKLDRC, the Chairman of Fung Shui Area Committee, one IIR of Chow Tin Tsuen, the IIR and the RR of Kan Tau Wai and the RR of Tai Po Tin

did not reply.

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

On 28.7.2023, the application was published for public inspection. During the statutory public inspection period, five public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Hong Kong Bird Watching Society objects to the application on the grounds that the current application is not in line with the planning intention of “AGR”, water pollution to the adjacent natural stream may be resulted, and the approval of current application would set an undesirable precedent to future development in the “AGR” zone and create a “destroy first, build later” scenario. The Kadoorie Farm and Botanic Garden objects to the application on the grounds that the current application would affect the arability of the Site. One individual objects to the application on the grounds that the Site has no previous approval, adverse environmental impacts may arise, and that the proposed development is against the government policy to phase out brownfield operations; while another individual who claims to be a registered farm owner in Ta Kwu Ling objects to the application considering adverse environmental and traffic impacts may arise.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of 3 years and associated filling of land by concrete of not more than 0.4m (about) at the Site within the “AGR” zone on the OZP (**Plan A-1**). 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, taking into account the planning assessment below, the applied use on a temporary basis of 3 years could be tolerated. 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, relevant approval condition requiring the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area to the satisfaction of CE/MN of DSD will be recommended, whereas DEP has no objection to the proposed land filling from environmental perspective.
- 11.2 The Site is situated in an area of rural inland plains landscape character comprising open storages, temporary structures, vegetated areas, tree clusters, farmlands, woodlands within the “GB” zones to the further east and Small Houses within the “V” zone (**Plans A-2 and A-3**). The proposed temporary use is considered not entirely incompatible with the existing landscape character in the surrounding areas. CTP/UD&L of PlanD has no objection to the application from landscape perspective as significant adverse impact on landscape character and existing landscape resources within the Site is not anticipated.
- 11.3 The Site is located in close proximity to Ping Yuen River and an existing streamcourse is found along the southern boundary of the proposed development. In this regard, the applicant would be required to place all the proposed works at least 3m away from the

top of the bank of streamcourse, avoid creating any adverse drainage impacts both during and after construction, and propose flooding mitigation measures to the satisfaction of CE/MN, DSD.

- 11.4 The Site is accessible via Ping Che Road (**Plan A-2**). 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 comment on the application. While DEP does not support the application as there are sensitive receivers, i.e. residential buildings, in the vicinity of the Site (**Plan A-1**), relevant approval conditions restricting the operation hours and no operation on Sundays and public holidays during the planning approval period are recommended to address the concerns of DEP. Moreover, the applicant would be advised to follow the environmental mitigation measures set out in the COP. Other relevant government departments consulted, including D of FS and CE/C of WSD, have no adverse comment on/no objection to the application.
- 11.5 A very minor portion of the northeastern part of the Site is the subject of six previous applications (No. A/NE-TKL/20, 157, 219, 241, 295 and 334) for temporary plastic workshop and temporary open storage of building materials which are considered not relevant to the current application.
- 11.6 There are three similar applications (No. A/NE-TKL/638, 695 and 721) within the “AGR” zone in the vicinity of the Site. Application No. A/NE-TKL/638 for temporary warehouse and office was rejected mainly on the grounds that the applicant failed to demonstrate that it would have no adverse traffic impacts on the surrounding areas. Application No. A/NE-TKL/695 for temporary open storage and warehouse for storage of timber and wooden parts was approved mainly on consideration that the application generally complied with the then TPB PG-No. 13F in that no major departmental comments were received on the application and the concerns of the relevant government departments could be addressed through imposition of approval conditions. Application No. A/NE-TKL/721 for temporary warehouse for storage of construction materials and electronic products was approved mainly on consideration that the application was given SDEV’s policy support to facilitate the relocation of the affected business by government development project.
- 11.7 Although DLO/N of LandsD has comments on the application regarding the occupation of GL and the presence of suspected unauthorized building structure(s) on the Site, which are subject to land control and lease enforcement actions, the applicant advises that he would rectify the matters and settle the land issues accordingly with LandsD (**Appendix Ia**).
- 11.8 Regarding the local objection conveyed by DO(N), HAD and the adverse public comments mainly on traffic and environmental aspects as detailed in paragraphs 9.2.5 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 9.2.5 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 8.9.2026. The following conditions of approval and advisory clauses are 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) set back of all the proposed works for at least 3m away from the top of the bank of streamcourse;
- (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 9.3.2024;
- (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 9.6.2024;
- (f) in relation to (e) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (g) the implementation of proposals for fire service 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 9.6.2024;
- (h) 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 9.3.2024;
- (i) in relation to (h) 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 9.6.2024;
- (j) 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 19.6.2024; and
- (k) if any of the above planning condition (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 on the same date be revoked without further notice;

- (l) if any of the above planning condition (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 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 21.7.2023
Appendix Ia	FI received on 31.8.2023
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
Drawing A-2	Filling of Land Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**