

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/743

- Applicant** : Rank Charm Limited
- Site** : Lots 1115 (Part) in D.D. 82, Ta Kwu Ling, New Territories
- Site Area** : About 700m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Open Storage of Construction Machinery and Materials for a Period of Three Years

1 The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary open storage of construction machinery and materials for a period of three years at the application site (the Site) zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 According to the applicant, the Site will be used for open storage with one loading and unloading space for medium goods vehicle (MGV) in the eastern part of the Site (**Drawing A-1**). The proposed operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. No land filling/ site formation works will be involved in the proposed use. The Site is accessible from its north via a local track leading to Ping Che Road (**Plan A-2**). The 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 24.11.2023 (**Appendix I**)
 - (b) Further Information (FI) received on 5.12.2023* (**Appendix Ia**)
 - (c) FI received on 11.3.2024* (**Appendix Ib**)

**accepted and exempted from publication and recounting requirements*

2 Justifications from the Applicant

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

- (a) the Site falls within the Category 2 area under the Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G);
- (b) similar applications in the vicinity were approved before;
- (c) no operation or land filling will be involved. The Site is only for storage of construction machinery and materials; and
- (d) the proposed use will not induce adverse traffic, drainage and environmental impacts on or cause significant nuisance to the surrounding areas.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4 Town Planning Board Guidelines

The Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13G) promulgated on 14.4.2023 is relevant to this application. The Site falls within the Category 2 area under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

5 Background

The Site is not subject to any active enforcement actions.

6 Previous Applications

- 6.1 The Site is the subject of two previous applications submitted by the same applicant as the current application. Application No. A/NE-TKL/690 for temporary open storage of construction machineries with ancillary site office was rejected by the Committee on 14.1.2022 mainly on the grounds of not complying with the then TPB PG-No.13F (i.e. within the Category 3 area) in that no previous planning approvals were granted to the site; adverse departmental comments and local objections; and failure to demonstrate that the proposed use would not cause adverse traffic impact on the surrounding areas. Application No. A/NE-TKL/706 for temporary place of recreation, sports or culture (pets land) with ancillary facilities was approved by the Committee on 9.12.2022, but its considerations are not relevant to the current application.
- 6.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

7 Similar Applications

- 7.1 There are five similar applications involving temporary open storage uses/ respective renewal of planning approvals within the “AGR” zone in the vicinity of the Site in the past five years (**Plan A-1**). Applications No. A/NE-TKL/622, 642, 707 and 734 were approved by the Committee between 2019 and 2023 mainly on the grounds that they were within the Category 2 areas under the TPB PG-No. 13E/13F/13G and the proposed uses generally complied with the relevant TPB Guidelines; similar applications were approved in the vicinity; and no adverse departmental comments or local objections.
- 7.2 Application No. A/NE-TKL/641 which falls within the Category 3 area under the then TPB PG-No. 13F was rejected by the Committee on 1.9.2020 mainly on considerations that it did not comply with the then TPB PG No. 13F in that there was no previous approval of open storage use granted for the Site; there were adverse departmental comments and local objections on the applications; failure to demonstrate that the proposed use would not cause adverse traffic impacts; and the proposed use was not in line with the planning intention of the “AGR” zone.
- 7.3 Details of the similar applications are summarized at **Appendix IV** and the locations are shown on **Plan A-1**.

8 The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 8.1 The Site is:
- (a) vacant; and
 - (b) accessible from Ping Che Road via a local track.
- 8.2 The surrounding areas are of rural inland plains landscape character comprising village houses, active/fallow agricultural land, vegetated areas, open storage yards, logistic centres and tree clusters.

9 Planning Intention

- 9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

10 Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraph 10.2 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 are provided at **Appendices V** and **VI** respectively.
- 10.2 The following government departments have comments on/do not support the application:

Agriculture and Nature Conservation

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

- (a) the application is not supported from agricultural perspective; and
- (b) the Site possesses potential for agricultural rehabilitation, and agricultural activities are active in the vicinity. Agricultural infrastructures such as road access and water source are also available in the vicinity of the Site, which can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.

Environment

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

- (a) according to the “Code of Practice on Handling the Handling 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 Site (**Plan A-2**) and the use of MGVS is involved. Under the COP, MGVS is also considered as “heavy vehicles” and thus environmental nuisance is anticipated;
- (b) no substantiated environmental complaints against the Site were received during the past three years;
- (c) should the application be approved, it should be considered to include the following measures in the recommended advisory clauses for the applicant to adopt. 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 1/23 “Drainage Plans subject to Comment by the Environmental Protection Department”, and are duly certified by an Authorized Person; and
- (d) the applicant should comply with all environmental protection/pollution control ordinances, including the Water Pollution Control Ordinance.

Landscape

10.2.3 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) significant adverse impact on the existing landscape resources within the site arising from the proposed use is not anticipated; and
- (b) there is a concern that approval of the application may further alter the landscape character.

11 Public Comments Received During Statutory Publication Period (Appendix VI)

On 1.12.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received. A member of the North District

Council indicates no comment on the application. An individual raises objection to the application mainly on considerations that the applicant was not genuinely interested in using the Site for recreational use but was paving way for open storage use and that was why relevant approval conditions under its previous application No. A/NE-TKL/706 were not complied with.

12 Planning Considerations and Assessment

12.1 The application is for proposed temporary open storage of construction machinery and materials for a period of three years at the Site zoned “AGR”. The proposed use is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard 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 agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessment below, the proposed use on a temporary basis of three years could be tolerated.

12.2 The Site was reclassified from Category 3 to Category 2 area under the TPB PG-No. 13G. 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 three 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 or if required, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas;

12.3 The Site is located in an area of rural inland plains landscape character comprising village houses, active/fallow agricultural land, vegetated areas, open storage yards, logistic centres and tree clusters. While CTP/UD&L, PlanD has concern that approval of the application may alter the landscape character, she advises that significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated.

12.4 DEP considers that the application should not be supported as the proposed use involves the use of heavy vehicles (i.e. MGV) and environmental nuisance to the sensitive receivers (i.e. domestic structures) in the vicinity of the Site is expected (**Plan A-2**). It should be noted that MGV could enter the Site via a local track without passing through these domestic structures mainly located to the east of the Site. Nevertheless, to address the concern of DEP on possible environmental nuisance to be generated by the temporary use under application, relevant approval conditions including restriction on the operation hours at the Site have been recommended in paragraph 13.2 below. Should the application be approved, the applicant will also be advised to follow the COP to minimize the possible environmental impacts on the surrounding areas.

12.5 The Commissioner for Transport and Chief Engineer/Mainland North of Drainage Services Department have no comment on the application. Other government departments concerned, including Chief Highway Engineer/New Territories East of Highways Department, Chief Engineer/Construction of Water Supplies Department and Director of Fire Services have no objection to or no adverse comment on the application.

- 12.6 The application generally complies with the TPB PG-No. 13G in that no major adverse departmental comments have been received on the application and the concerns of the relevant government departments can be addressed through implementation of approval conditions.
- 12.7 The Site is the subject of a previous application No. A/NE-TKL/690 for temporary open storage of construction machineries with ancillary site office rejected by the Committee in 2022 mainly on the grounds that the application did not comply with the then TPB PG-No.13F as detailed in paragraph 6.1. For the current application, it generally complies with the TPB PG-No. 13G as detailed in paragraph 12.6 above after the Site and its adjoining area being reclassified from Category 3 to Category 2 under the TPB PG-No. 13G. The planning circumstances of the current application are different from the rejected application.
- 12.8 There are five similar applications (No. A/NE-TKL/622, 641, 642, 707 and 734) in the vicinity of the Site in the past five years, of which four application sites falling within the Category 2 areas under the then and the latest TPB PG-No. 13E/13F/13G were approved by the Committee between 2019 and 2023 mainly on consideration that the applications generally complied with the relevant TPB Guidelines as detailed in paragraph 7.1. The planning considerations of the current application are similar to the approved applications.
- 12.9 Regarding the public comments on the application as detailed in paragraph 11, government departments' comments and planning assessment above are relevant.

13 Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments as detailed in paragraph 11, the Planning Department considers that the temporary use could be tolerated for a period of three years.
- 13.2 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 three years until 19.4.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation ~~from~~ **between** 6:00 p.m. ~~to~~ **and** 9:00 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 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 19.10.2024;
- (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 19.1.2025;

- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 31.5.2024;
- (g) the submission of ~~proposals for water supplies for fire fighting and~~ a fire service installations **proposal** 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 19.10.2024;
- (h) in relation to (g) above, the ~~provision~~ **implementation** of ~~water supplies for fire fighting and~~ a fire service installations **proposal** 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 19.1.2025;
- (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 be revoked immediately 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 VI**.

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

- the proposed use is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good agricultural land / farm / fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14 Decision Sought

14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.

14.2 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.

14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15 Attachments

Appendix I	Application Form with Attachments received on 24.11.2023
Appendix Ia	FI received on 5.12.2023
Appendix Ib	FI received on 11.3.2024
Appendix II	Relevant Extracts of TPB Guidelines No. TPB PG-No. 13G
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VIa	Good Practice Guidelines for Open Storage
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
Plan A-4	Site Photos

PLANNING DEPARTMENT
APRIL 2024