

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-TKL/746**

- Applicant** : Luck Great Global Engineering Limited represented by R-riches Property Consultants Limited
- Site** : Lots 645 (Part), 647, 650 S.A, 650 S.B (Part), 651 (Part), 653 (Part) and 654 (Part) in D.D. 82, Ta Kwu Ling, New Territories
- Site Area** : About 5,913m<sup>2</sup>
- 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 Materials and Machinery with Ancillary Facilities for a Period of three Years and Associated Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary open storage of construction materials and machinery with ancillary facilities for a period of three years and associated filling of land at the application site (the Site) which is 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 and the associated filling of land require planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 According to the applicant, the majority of the Site will be used for open storage, with two loading/unloading bays for one light goods vehicle (3.5m (W) x 7m (L)) and one medium goods vehicle (3.5m (W) x 11m (L)) in the southern part of the Site (**Drawing A-1**). The entire Site will be hard-paved with concrete of not more than 1.9m in depth (**Drawing A-2**). The proposed operation hours of the development are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is accessible from its south via a local track leading to Ping Che Road (**Drawing A-3 and Plan A-1**). The layout plan, land filling plan and vehicular access plan submitted by the applicant are shown in **Drawings A-1 to A-3**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 29.1.2024 (**Appendix I**)
  - (b) Further Information (FI) received on 4.3.2024\* (**Appendix Ia**)

(c) FI received on 5.3.2024\*

(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 proposed development would be used for storage of construction materials (e.g. scaffold, bricks, tiles and columns) and machinery (e.g. chainsaw and elevated platform), providing construction services for the locals and supporting the construction industry; and
- (b) the proposed development will not induce adverse traffic and environmental impacts on or cause significant nuisance to the surrounding areas.

## 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. 31B) by posting notice on the Site and sending notice to Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Town Planning Board Guidelines**

The TPB PG-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 by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 2 area under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

## 5. **Background**

The Site is part of the subject of an active planning enforcement case No. E/NE-TKL/478 (**Plan A-2**) regarding unauthorized filling of land. The Site is currently under monitoring by the Planning Authority.

## 6. **Previous Application**

There is no previous application at the Site.

## 7. **Similar Applications**

- 7.1 There were five similar applications (No. A/NE-TKL/622, 642, 671, 707 and 734) involving three sites for temporary open storage uses within the same “AGR” zone in the vicinity of the Site in the past five years (**Plan A-1**). All five application sites falling

within the Category 2 areas under the previous versions TPB PG-No. 13E/13F were approved by the Committee between 2019 and 2023 mainly on the grounds that the proposed developments generally complied with the relevant TPB Guidelines; similar applications were approved in the vicinity; and no adverse departmental comments or local objections.

- 7.2 Another application No. A/NE-TKL/745 for similar temporary open storage use (**Plan A-1**) will be considered at this meeting.
- 7.3 Details of the similar applications are summarized at **Appendix III** 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) currently vacant; and
  - (b) accessible from Ping Che Road via a local track.
- 8.2 The surrounding areas are predominantly occupied by open storage yards, temporary structures, vegetated areas, tree clusters, vacant land, and to the east are streamcourse, to the south are woodland within the nearby “Green Belt” (“GB”) zone, to the immediate west and further northwest are some domestic structures of Lei Uk.

## **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.
- 9.2 According to the Explanatory Statement (ES) of the OZP, planning permission from the Board is required for filling of land within the “AGR” zone as such activity may cause adverse drainage and environment impacts on the adjacent areas.

## **10. Comments from Relevant Government Departments**

- 10.1 Apart from the government departments as set out in paragraphs 10.2 and 10.3 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 IV** and **V** respectively.
- 10.2 The following government departments have comments on/do not support the application:

### **Land Administration**

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

- (a) no objection to the application;
- (b) the 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 Government land (GL) is granted to the Site; and
- (c) it is noted that no structure is proposed in the application.

### **Agriculture and Nature Conservation**

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

- (a) the Site falls within the “AGR” zone and is generally abandoned or vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also 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 use is not supported from agricultural perspective; and
- (b) it is noted that there is an existing watercourse running from the eastern boundary to northern boundary of the Site (**Plan A-2**). Having reviewed the applicant’s submission, he has no further comment from nature conservation perspective.

### **Environment**

#### 10.2.3 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 medium goods vehicles is involved. Under the COP, medium goods vehicles are also considered as “heavy vehicles” and thus environmental nuisance is anticipated;
- (b) a total of five environmental complaints against the Site were received during the past three years. Of which, three substantiated complaint cases on air and waste aspects, in particular land filling of soil and fly-tipping activities were received;
- (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 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department", and are duly certified by an Authorized Person;
- (d) the applicant should comply with all environmental protection/pollution control ordinances, including the Water Pollution Control Ordinance; and

- (e) the applicant is also advised to follow the environmental mitigation measures as set out in the latest COP issued by DEP in order to minimize any possible environmental nuisances to nearby sensitive receivers and watercourses.

10.3 The following government department has relayed the following local views on the application:

**District Officer's Comments**

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 Lei Uk objects to the application for reasons that the proposed development would affect fung shui of the village and it may cause nuisance to the surroundings;
- (b) Ta Kwu Ling District Rural Committee, the Chairman of Fung Shui Area cum North District Councillor (NDC) and three NDCs have no comment while one NDC did not indicate his views;
- (c) 19 NDCs, the IIR and Resident Representative (RR) of Fung Wong Wu, the RR of Lei Uk, the IIR and RR of Tong Fong and Tai Po Tin did not replied to HAD; and
- (d) nine local objections received mainly on reasons that the proposed development would aggravate flood issues of the surroundings, affect fung shui, cause adverse impacts traffic, noise and air pollution impacts, and pedestrian safety issue.

**11. Public Comments Received During Statutory Publication Period**

On 6.2.2024, the application was published for public inspection. During the statutory public inspection period, four public comments were received. One individual indicates no comment on the application (**Appendix VIa**). The remaining three comments from an individual, villager from Ta Kwu Ling Lei Uk and the Kadoorie Farm and Botanic Garden Corporation (**Appendix VIb**) object to the application mainly on grounds that the proposed use would cause environmental nuisance to the surroundings; adverse traffic, air pollution and noise impacts; pedestrian and fire safety issues; in close proximity to nearby village cluster and watercourse; and the proposed use is not in line with the planning intention of “AGR” zone and no previously approved application for the same use covering the Site.

**12. Planning Considerations and Assessment**

- 12.1 The application is for a proposed temporary open storage of construction materials and machinery with ancillary facilities for a period of three years and associated filling of land 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 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, CE/MN of DSD and DEP have no objection from drainage and environmental perspectives.

12.3 The Site falls within Category 2 areas 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 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate 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;

12.4 The Site is located in an area of rural inland plains landscape character comprising vegetated areas, tree clusters, farmlands, open storages and temporary structures. The proposed use is considered not incompatible with the surrounding environments. In this regard, Chief Town Planner/Urban Design & Landscape, Planning Department has no objection to the application from landscape planning perspective since significant adverse impacts on the existing landscape character and landscape resources arising from the proposed development are not anticipated.

12.5 DEP considers that the application should not be supported as the proposed use involves the use of heavy vehicles (i.e. medium goods vehicles) and environmental nuisance to the sensitive receivers (i.e. domestic structures) in the vicinity of the Site is expected (**Plan A-2**). Also, there were five environmental complaint against the Site in the past three years. 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.

12.6 The Commissioner for Transport (C for T) has no comment on the application from the traffic engineering point of view. Other concerned government departments, including DLO/N of LandsD, Chief Engineer/Mainland North of Drainage Services Department, Chief Engineer/Construction of Water Supplies Department and Director of Fire Services have no objection to or no adverse comment on the application.

12.7 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.

12.8 There were five similar applications involving three sites for temporary open storage uses within the same “AGR” zone in the vicinity of the Site in the past five years (**Plan A-1**). All five application sites falling within the Category 2 areas under the previous versions TPB PG-No. 13E/13F were approved by the Committee between 2019 and

2023 mainly on the grounds as mentioned in paragraph 7. The planning considerations of the current application are similar to the approved applications.

- 12.9 Regarding the local comments conveyed by DO (N) of HAD and public comments on the application as detailed in paragraphs 10.3 and 11 respectively, 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 local comments conveyed by DO (N) of HAD and public comments as detailed in paragraphs 10.3 and 11 respectively, the Planning Department considers that the temporary development 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 15.3.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### **Approval Conditions**

- (a) no operation from 6:00 p.m. to 9:00 a.m. from Mondays to Saturdays, and Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 15.9.2024;
- (c) in relation to (b) 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 15.12.2024;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) 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 26.4.2024;
- (f) the submission of proposals for water supplies for fire-fighting and fire service installations 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 15.9.2024;
- (g) in relation to (f) above, the provision of water supplies for fire-fighting and fire service installations 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 15.12.2024;
- (h) if any of the above planning condition (a) or (d) 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;

- (i) if any of the above planning condition (b), (c), (e), (f) or (g) 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
- (j) 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**.

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

- the proposed use and associated filling of land 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**

<b>Appendix I</b>	Application Form with Attachments received on 29.1.2024
<b>Appendix Ia</b>	FI received on 4.3.2024
<b>Appendix Ib</b>	FI received on 5.3.2024
<b>Appendix II</b>	Relevant Extracts of TPB Guidelines No. TPB PG-No. 13G
<b>Appendix III</b>	Similar s.16 Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	Public Comments
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Land Filling Plan
<b>Drawing A-3</b>	Proposed Vehicular Access Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo



**Plan A-4**

Site Photos

**PLANNING DEPARTMENT  
MARCH 2024**