

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/757

<u>Applicant</u>	: Luck Great Global Engineering Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 5, 6 S.A, 6 S.A ss.1, 7, 8 S.A, 8 S.B, 9 S.A (Part), 9 S.B (Part), 10 S.B (Part) and 11 (Part) in D.D. 84, Ta Kwu Ling, New Territories
<u>Site Area</u>	: About 7,508m 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>Zonings</u>	: (i) "Agriculture" ("AGR") (about 7,493m ² or 99.8% of the Site) (ii) "Industrial (Group D)" ("I(D)") (about 15m ² or 0.2% of the Site) ¹
<u>Application</u>	: Proposed Temporary Warehouse (Excluding Dangerous Goods Godown) 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 warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years and associated filling of land at the application site (the Site) which falls within an area zoned "AGR" on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years and filling of land within the "AGR" zone require planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 The Site is accessible via a local track to its southeast leading to Ping Che Road (**Plan A-1**). According to the applicant, the proposed use comprises one two-storey temporary structure (building height of about 13m) with a total floor area of about 6,804m² for warehouse (excluding dangerous goods godown), site office and washroom. The proposed warehouse is intended for storage of miscellaneous goods including but not limited to packaged food, apparel, footwear, electronic goods, furniture, etc. No dangerous goods will be stored at the Site. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out within the Site

¹ About 15m² (i.e. 0.2%) of the Site falls within the "I(D)" zone on the OZP, which is considered as minor boundary adjustment and not included in the planning assessment.

at any time during the planning approval period. Four private carparking spaces, three loading/unloading (L/UL) bays for medium goods vehicle (MGV) and three L/UL bays for container vehicle (CV) will be provided in the Site (**Drawing A-1**). Filling of land with concrete of not more than 2.1m (about) in depth is proposed at the entire Site for site formation of structures, parking spaces, L/UL spaces and circulation area (**Drawing A-2**). The applicant proposes to carry out all the works 3m away from the top back of the existing Ping Yuen River located to the west of the Site. 18 nos. of trees are proposed along the southeast boundary of the Site (**Appendix Ia**). The applicant will reinstate the Site to an amenity area after the planning approval period. The operation hours of the Site are between 7:00 a.m. and 7:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. The proposed layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 Sufficient space will be provided for vehicle to smoothly manoeuvre within the Site. To facilitate the smooth entry of vehicles to the Site, an ingress/egress gate with vehicle detection sensors will be implemented to initiate the pre-opening sequence based on the detection of the approaching vehicles. Staff will also be deployed at the ingress/egress of the Site to direct vehicle entering/exiting the Site to ensure no queuing of vehicle outside the Site. Lighting and alarm systems will be installed at ingress/egress to regulate traffic flow. 'Stop and give way' and 'beware of pedestrians' signs would also be erected to ensure pedestrian safety to/from the Site. Sufficient passing areas will also be provided along the local access connecting the Site to Ping Che Road.
- 1.4 A drainage layout plan, with provision of peripheral u-channels, catchpits and storage tank, is submitted by the applicant to mitigate adverse drainage impact generated by the proposed development (**Drawing A-3**). The applicant undertakes to submit a drainage proposal to the satisfaction of Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) after planning approval has been granted by the Board. The applicant will commence the construction works or operations, including site formation works, only after the drainage proposal is considered acceptable by CE/MN of DSD.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 24.4.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 13.6.2024 and 14.6.2024* (**Appendix Ia**)

** accepted and exempted from the publication and the recounting requirements*

2. Justifications from the Applicant

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

- (a) there has been an increasing demand for warehouse floor space in recent years and the proposed use will support local warehouse and storage industry;
- (b) the Site is surrounded by open storage yards and temporary structures. The proposed use is considered not incompatible with the surrounding areas;

- (c) an approved planning application No. A/NE-TKL/737 for the same use is located within the same “AGR” zone as the current application. Approval of the current application is in line with the Board’s previous decisions and will not set an undesirable precedent;
- (d) there is no active agricultural use within the Site, approval of the application on a temporary basis of three years would better utilize the deserted agricultural land and would not jeopardize the long-term planning intention of the “AGR” zone; and
- (e) the proposed use will not create significant nuisance to the surrounding areas. No adverse traffic impact is anticipated. The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (the COP) issued by Environmental Protection Department (EPD), comply with all environmental protection/ pollution control ordinances and follow the relevant Practice Notes for sewage treatment at the Site.

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

The applicant is not the 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 sending notice to the Ta Kwu Ling District Rural Committee by registered post and publishing newspaper notices. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any planning enforcement action.

5. Previous Applications

- 5.1 The Site is in part the subject of two previous applications. Applications No. A/NE-TKL/306 and 308 for proposed temporary open storage of metal goods/ equipment/ construction materials were rejected by the Board on review on 28.11.2008 and by the Rural and New Town Planning Committee (the Committee) on 6.6.2008, but their planning considerations are not relevant to the current application as they are of difference uses.
- 5.2 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are three similar applications (No. A/NE-TKL/695, 721 and 737) within the same “AGR” zone in the vicinity of the Site in Ping Che and Ta Kwu Ling area in the past five years. Application No. A/NE-TKL/695 for proposed 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 for proposed temporary warehouse for storage of construction materials and electronic products was approved by the Committee on 19.5.2023 mainly on considerations that the application was given policy support by the Secretary for Development (SDEV) to facilitate the relocation of the affected business by Yuen Long South Development and there were no major adverse departmental comments and concerns of the relevant government departments could be addressed through implementation of approval conditions.

- 6.2 Application No. A/NE-TKL/737 for the same use as the current application was approved by the Committee on 11.9.2023 mainly on considerations that there were no major adverse departmental comments and concerns of the relevant government departments could be addressed through implementation of approval conditions.
- 6.3 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) mostly vacant, partly grassed and some agricultural activities are found;
- (b) a domestic structure is located in the east; and
- (c) accessible via a local track to its southeast leading to Ping Che Road.

- 7.2 The surrounding areas are of rural landscape character mainly comprising warehouses, storage yards, domestic structures, active and fallow farmlands. An “I(D)” zone is adjoining the site on the east. Ping Yuen River is located to the west of the Site. Some domestic structures are located to the immediate east and northeast of the Site (**Plan A-2**).

8. Planning Intention

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land within the “AGR” zone may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government departments 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 comments on/ do not support the application and conveyed local views on the application:

Land Administration

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

- (a) he has adverse comments on 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 application site;
- (c) the following irregularity covered by the subject planning application has been detected by his office:

Unauthorized structures within the said private lot covered by the planning application

there are unauthorized structures on Lots 9 S.A and 9 S.B in D.D. 84. As access is not available, the above mentioned unauthorised structures may not be exhaustive. The lot owners should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (d) the following irregularity not covered by the subject planning application has been detected by his office:

Unauthorized structure within the said private lot not covered by the planning application

there are unauthorized structures within Lot 9 S.B in D.D. 84 not covered by the subject planning application but covered by another planning application (No. A/NE-TKL/755). The access is also not available, the above mentioned unauthorized structure may not be exhaustive. The lot owner should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (e) the STW application (if submitted) referred in (f) below will be considered on Lot basis. There is no information provided to show the subject planning application is related to planning application No. A/NE-TKL/755 mentioned in (d) above. The graphical division of the lot submitted in the two separate planning applications may create complication to the STW application(s) and the applicant should resolve the complication in submitting the STW application(s); and
- (f) the lot owners shall either (i) remove the unauthorized structures or provide evidence to demonstrate they are tolerated structures; or (ii) include the unauthorized structures in the subject planning application for the further

consideration by the relevant departments and, subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as aforesaid required, apply to his office for a STW to permit the structures erected/to be erected. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owners for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future. Besides, given the proposed use is temporary in nature, only erection of temporary structures will be considered.

Agriculture

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

- (a) the application is not supported from agricultural perspective;
- (b) the Site falls within the “AGR” zone and part of the Site is generally abandoned or under cultivation. The Site possesses potential for agricultural rehabilitation. The agricultural activities are active in the vicinity and 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.; and
- (c) he has no comment from nature conservation perspective having reviewed the FI submitted by the applicant (**Appendix Ia**).

Drainage

9.2.3 Comments of the CE/MN of DSD:

- (a) the FI and drainage plan (**Appendix Ia**) have not yet addressed the majority of her comments. However, in order to streamline the processes and act as a facilitator, she has no objection in principle to the application, provided that a detailed drainage impact assessment (DIA) is conducted afterwards, demonstrating that the proposed use will not result in any unacceptable drainage impacts and that it fully complies with DSD's requirements and standards; and
- (b) approval conditions on submission of a DIA before the commencement of any construction works or operation including site formation works, provision of drainage facilities before the commencement of any operation and maintaining the implemented drainage facilities at all times during the planning approval period are proposed should the application be approved.

Environmental

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

- (a) according to the COP, the application should not be supported as there are

residential structures in the vicinity of the Site (domestic structures to the immediate east and northeast of the Site) (**Plan A-2**) and the use of heavy vehicles is involved;

- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the COP to minimize any potential environmental nuisances;
- (c) as for the proposed land filling, which is situated next to a watercourse, the applicant is reminded to observe the Water Pollution Control Ordinance and follow the mitigation measures as required under Environment, Transport and Works Bureau Technical Circular (Works) (ETWB TC(Works)) No. 5/2005 “Protection of natural streams/rivers from adverse impacts arising from construction works” for the land filling works during construction phase; and
- (d) no environmental complaint against the Site has been received over the past three years.

Landscape

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

- (a) the Site is located in an area of miscellaneous rural fringe landscapes character comprising open storages, temporary structures, vegetated areas, farmlands, clusters of trees and woodlands within the “Green Belt” zones at the west. The proposed use under this application is considered not incompatible with its surrounding environment. Based on their site record taken on 25.3.2024, the Site is mostly fenced off and vacant. Tree groups of common and self-seeded invasive species are observed along the boundary within the northern portion of the Site. In comparison with the aerial photo of February 2023, vegetation in the centre of the Site have been cleared. Several piles of felled tree branches and scattered burnt plants were observed. Impact on the landscape resources within the site has been taken place. The Site is proposed to be filled wholly with concrete of not more than 2.1m (about) in depth. Noting that no information on existing trees within and along the site boundary, proposed tree treatment, and mitigation measures/ landscape proposal are provided in the application, potential adverse impact on the existing landscape resources within the Site arising from the proposed use cannot be reasonably ascertained;
- (b) the applicant is advised to provide basic information (e.g. species, size, general conditions and tree photos) on existing trees within and along the site boundary, proposed tree treatments and mitigation measures for the Board’s consideration; and
- (c) approval of the application does not imply approval of tree works such as pruning, transplanting and felling. The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to commencement of the works.

District Officer's Comments

9.2.6 Local views/comments conveyed by the District Officer (North), Home Affairs Department (DO(N), HAD) are as follows:

- (a) the Indigenous Inhabitant Representative of Lei Uk objects to the application on consideration that the access to the Site is shared with the local villagers and not suitable for heavy vehicles. The proposed use would cause adverse impact on pedestrian safety; and
- (b) six members of the North District Council (NDC) have no comment.

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

On 3.5.2024, the application was published for public inspection. During the first three weeks of statutory public inspection period, four comments were received. A member of the NDC indicates no comment on the application. The Kadoorie Farm & Botanic Garden Corporation urges the Board to reject the application, suggesting the Board to investigate the latest site status and whether the Site is involved in any ongoing unauthorized activities, and indicating the proposed use is not in line with the planning intention of the “AGR” zone. The Conservancy Association objects to the application on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; no information to demonstrate how to reinstate the Site; adverse environmental and drainage impacts; and disturbance to the natural stream. An individual objects to the application on the grounds that filling of land along the river is unacceptable and would adversely affect drainage in the long-run; tree-felling and encroachment of brownfield operations; and the need for the proposed uses is not justified given the current economic trend.

11. Planning Considerations and Assessments

- 11.1. The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. The proposed use is not in line with the planning intention of the “AGR” zone which is 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. DAFC does not support the application from the agricultural perspective as the Site possess potential for agricultural rehabilitation. Taking into account the planning assessment below, the proposed use on a temporary basis of three years could be tolerated.
- 11.2. The application involves filling of land at the whole Site with concrete of not more than 2.1m in depth for site formation of structures, parking spaces, L/UL bays and circulation area. 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 has no in-principle objection to the application from public drainage viewpoint provided that detailed DIA is conducted before the commencement of any construction works or operation, while DEP has not provided any comment on the proposed filling of land from environmental perspective. DEP’s advice on observing the Water Pollution Control Ordinance and follow the mitigation measures as required under ETWB TC(Works) No. 5/2005 for the land filling works during construction phase is included in the Recommended Advisory Clauses at **Appendix V**. An approval condition

requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.

- 11.3. The Site is situated in an area of rural landscape character mainly comprising warehouses, storage yards, domestic structures, active and fallow farmlands. CTP/UD&L of PlanD advises that there is no information on existing trees within and along the site boundary, proposed tree treatment, and mitigation measures/ landscape proposal in the application, potential adverse impact on the existing landscape resources within the Site arising from the proposed use cannot be reasonably ascertained. Nevertheless, she advises that the proposed use is not incompatible with its surrounding environment.
- 11.4. The Site is accessible via a local track leading to Ping Che Road. C for T has no comment on the application from traffic engineering perspective. While DEP considers that the application should not be supported as the proposed development involves the use of heavy vehicles and environmental nuisance on the sensitive receivers (i.e. residential structures) in the vicinity of the Site is expected, relevant approval conditions restricting the operation hours and workshop activities are recommended to address the concerns of DEP. The applicant would also be advised to follow the environmental mitigation measures set out in the COP.
- 11.5. Regarding CE/MN of DSD's comments, approval conditions (in paragraph 13.2 (d), (e) and (f)) requiring the submission of a DIA and provision of drainage facilities before commencement of any construction works or operations and maintaining the implemented drainage facilities at all times during the planning approval period should be imposed. Other relevant departments consulted, including Director of Fire Services and Chief Engineer/ Construction of Water Supplies Department, have no adverse comment on/no objection to the application.
- 11.6. In response to DLO/N, LandsD's comments regarding the presence of unauthorized structures within the lot covered by the current application, the applicant advises that he will rectify the matters and settle the land issues accordingly by applying STW accordingly. The applicant will be advised to liaise with LandsD to deal with the land issues separately under the land administration regime.
- 11.7. There are three similar applications (No. A/NE-TKL/695, 721 and 737) within the same "AGR" zone in the vicinity of the Site in Ping Che and Ta Kwu Ling area in the past five years, and all of them were approved by the Committee. Application No. A/NE-TKL/737 for the same use as the current application was approved by the Committee in 2023 mainly on considerations that there were no major adverse departmental comments and concerns of the relevant government departments could be addressed through implementation of approval conditions. As such, approval of the current application is in line with the Committee's previous decisions.
- 11.8. Regarding the local objection conveyed by DO(N), HAD and the public comments as detailed in paragraphs 9.2.6 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 comment conveyed by DO(N) of HAD and the public comments in paragraphs 9.2.6 and 10

above respectively, the Planning Department considers that the temporary use under the application could be tolerated for a period of three 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 three years until 21.6.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 7:00 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) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, shall be carried out within the Site at any time during the planning approval period;
- (d) the submission of a drainage impact assessment before the commencement of any construction works or operation including site formation works to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (e) in relation to (d) above, the provision of drainage facilities before the commencement of any operation to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the submission of 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 21.12.2024;
- (h) in relation to (g) above, the implementation of the 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 21.3.2025;
- (i) 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 21.3.2025;
- (j) in relation to (i) above, the implemented traffic management measures shall be maintained at all times during the planning approval period;
- (k) if planning condition (d) is not complied with before the commencement of any construction works or operations including site formation works, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if planning condition (e) is not complied with before the commencement of any operation, the approval hereby given shall cease to have effect and shall be revoked

immediately without further notice;

- (m) if any of the above planning condition (a), (b), (c), (f) or (j) 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;
- (n) if any of the above planning condition (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
- (o) upon expiry of the planning permission, the reinstatement of the **“AGR” portion of the Site** to an amenity area to the satisfaction of the 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 use with associated filling of land 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. There is no strong planning justification in the submission for a departure from the 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 applicants.

14. Attachments

Appendix I	Application Form with Attachment received on 24.4.2024
Appendix Ia	FI received on 13.6.2024 and 14.6.2024
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	Land Filling Area Plan

Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to A-4c	Site Photos

PLANNING DEPARTMENT
JUNE 2024