

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

**APPLICATION NO. A/NE-TKL/761**

- Applicant** : Most Powerful Limited represented by R-riches Property Consultants Limited
- Site** : Lots 1110 S.A (Part), 1114 (Part), 1118 (Part) and 1119 S.A in D.D. 82 , Ta Kwu Ling, New Territories
- Site Area** : About 2,255m<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 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). The Site 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 building 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 largely vacant with a temporary structure, partly paved and partly covered with vegetation.
- 1.2 The Site is accessible via a local track leading to Ping Che Road and is divided into three portions (i.e. the eastern, the middle and the western portions) (**Plan A-1 and A-2**). According to the applicant, a total of about 1,263m<sup>2</sup> or about 56% of the Site is intended for open storage of construction materials (i.e. scaffold, bricks, tiles, column, screws, etc.) and machinery (i.e. tamping rammer, generator, elevated platform, etc.). No structure will be erected at the Site, and no dangerous goods will be stored at the Site. A total of three loading/unloading (L/UL) spaces (two for light goods vehicle and one for medium goods vehicle) will be provided at the Site. The operation hours are between 8:00 a.m. and 7:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. The applicant also applies for filling of land with concrete (not more than 0.2 m in depth) at the entire Site for open storage use and circulation purpose (**Drawing A-2**). A 2.5m high solid metal wall will be erected along the site boundary to minimise nuisance to the surrounding areas. Traffic management measures, including deployment

of staff to manage the traffic and provision of signs at the entrance/exit of the Site to ensure traffic/pedestrian safety are proposed. The applicant also submits drainage and landscape proposals to support the application. The proposed layout plan submitted by the applicant is shown in **Drawing A-1**

- 1.3 The Site is the subject of two previous applications (No. A/NE-TKL/638 and 698) for proposed warehouse and office; and proposed filling of pond for agricultural use respectively. Details of the application are provided in paragraph 6.2 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachment received on 6.6.2024 **(Appendix I)**
  - (b) Further Information (FI) received on 7.8.2024<sup>^</sup> **(Appendix Ia)**
  - (c) FI received on 9.10.2024\* **(Appendix Ib)**
  - (d) FI received on 17.10.2024\* **(Appendix Ic)**
- <sup>^</sup> *accepted but not exempted from publication and recounting requirements*  
<sup>\*</sup> *accepted and exempted from publication and recounting requirements*
- 1.5 On 2.8.2024 and 4.10.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months each to address departmental comments.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ic**, as summarised below:

- (a) the applicant would like to use the Site for storage of construction materials and machinery to support construction industry in the New Territories;
- (b) the proposed use is not incompatible with the surrounding areas and there is no active agricultural use within the Site. Approval of the application on a temporary basis of three years would better utilise the deserted agricultural land and would not jeopardise the long-term planning intention of the "AGR" zone. The applicant will reinstate the Site to an amenity area after the planning approval period; and
- (c) the proposed use will not create significant nuisance to the surrounding areas. The applicant will strictly comply with all environmental protection/pollution control ordinances at all times during the planning approval period and follow the 'Code of Practices on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (COP) issued by Environmental Protection Department (EPD). While all the existing 21 trees at the Site are proposed to be felled, three new trees will be planted at the eastern portion of the Site. The applicant will demolish the existing temporary structure at the Site upon obtaining planning approval.

### **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 sending notice to the Ta Kwu Ling District Rural Committee by registered post and posting site notice. 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 by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 2 areas 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 planning enforcement action.

### **6. Previous Applications**

6.1 The western portion of the Site is the subject of two previous applications (No. A/NE-TKL/638 and 698) submitted by a different applicant. Application No. A/NE-TKL/638 for proposed temporary warehouse and office was rejected by the Committee on 15.5.2020, while application No. A/NE-TKL/698 for proposed filling of land for agricultural use was approved with condition by the Committee on 14.10.2022. Since they are of different uses from the current application, their planning considerations are not relevant to the current application.

6.2 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

### **7. Similar Applications**

7.1 There were 15 similar applications for temporary open storage within the “AGR” zone in the vicinity of the Site in Ping Che and Ta Kwu Ling area in the past five years (**Plan A-1**).

7.2 13 similar applications (Nos. A/NE-TKL/642, 671, 695, 707, 714, 724, 734, 743, 745, 746, 758, 762 and 763) involving nine sites falling within the Category 2 areas under the TPB PG-No. 13F/13G for various temporary open storage uses were approved with conditions by the Committee between 2020 and 2024 mainly on the considerations that the proposed uses generally complied with the relevant TPB Guidelines; there were no major adverse departmental comments and concerns of the relevant government departments could be addressed through implementation of approval conditions; and similar applications were approved in the vicinity.

- 7.3 Two applications (No. A/NE-TKL/641 and 690) were rejected by the Committee in 2020 and 2022 respectively mainly on the grounds that they were not in line with the planning intention of the “AGR”; the applications fell within the Category 3 areas under the then TPB PG-No. 13F and did not comply with TPB Guidelines in that there was no previous planning approval for open storage use; there were adverse comments from relevant government departments and local objections against the applications; and/or the applicants failed to demonstrate that the proposed use would not cause adverse traffic impact on the surrounding areas.
- 7.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

## **8. The Site and Its Surrounding Areas (Plans A-1 to A-4b)**

- 8.1 The Site is:
- (a) largely vacant with a temporary structure located at the western portion of the Site, partly paved and partly covered with vegetation; and
  - (b) accessible via a local track leading to Ping Che Road.
- 8.2 The surrounding areas are of rural character mainly comprising warehouses, open storage yards, active agricultural land, hobby farm, domestic structures and vacant land. A “Green Belt” (“GB”) zone is located to the further northeast.

## **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 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.

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

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

### **Land Administration**

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

- (a) she 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 Site;
- (c) her office notes that no structure is proposed in this planning application, but unauthorised structures are erected on the Site;
- (d) the following irregularity covered by this planning application has been detected by her office:

unauthorised structures within Lot No. 1110 S.A in D.D. 82 covered by this planning application

LandsD has reservation on this planning application since there are unauthorised structures on Lot No. 1110 S.A in D.D. 82 which are already subject to lease enforcement actions according to case priority. The lot owner should rectify the lease breaches as demanded by LandsD; and

- (e) the applicant should comply with all the land filling requirements imposed by relevant government departments. GL should not be disturbed unless with prior approval.

### **Agriculture**

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

- (a) the application is not supported from the agricultural perspective; and
- (b) the Site falls within the “AGR” zone and is generally abandoned. 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. The Site possesses potential for agricultural rehabilitation.

### **Environment**

10.2.3 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 (the nearest to the immediate east of the middle portion and between the middle and the eastern portions of the Site) and the use of heavy vehicle is involved;

- (b) no comment on the proposed land filling;
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the COP to minimise any potentially environment nuisances; and
- (d) no environmental complaint against the Site was received in the past three years.

## **11. Public Comments Received During Statutory Publication Periods**

On 14.6.2024 and 16.8.2024, the application was published for public inspection. During the statutory public inspection periods, five comments were received (**Appendix VII**). Two comments from a member of the North District Council indicate no comment on the application. The remaining three comments from the Conservancy Association and an individual object to the application mainly on the grounds that unauthorised use and structures have been taken place at the Site; the proposed use is not in line with the planning intention of “AGR” zone; absence of details on reinstatement upon expiry of the planning approval; and adverse environmental and drainage impacts.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for 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” 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 possesses potential for agricultural rehabilitation. Taking into account the planning assessments below, the proposed use on a temporary basis of three years could be tolerated.
- 12.2 The application involves filling of land with concrete of not more than 0.2 m in depth at the entire Site for open storage use and circulation area. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from the public drainage viewpoint, while DEP has no comment on the filling of land from the environmental perspective. An approval condition requiring the reinstatement of the Site to an amenity areas is recommended in paragraph 13.2 below.
- 12.3 The Site is located in an area of rural character mainly comprising warehouses, open storage yards, active agricultural land, hobby farm and domestic structures. The Chief Town Planner/Urban Design and Landscape of Planning Department considers that significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated and the proposed use is not entirely incompatible with its surrounding environment.

- 12.4 The Site falls within the 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.

- 12.5 The application generally complies with TPB PG-No. 13G in that relevant departments consulted, including the Commissioner for Transport, CE/MN, DSD, Chief Engineer/Construction of Water Supplies Department and Director of Fire Services, have no objection to or no adverse comment on the application. DEP does not support the application as the proposed use involves the use of heavy vehicles and environmental nuisance to the sensitive receivers (i.e. residential structures) in the vicinity of the Site is expected. In this regard, the applicant will be advised to follow the environmental mitigation measures set out in the COP to minimise the possible environmental impact on the surrounding areas.
- 12.6 In response to DLO/N, LandsD's comments regarding the presence of unauthorised structures within the lot covered by the current application, the applicant advises that he will demolish the existing structures at the Site after obtaining planning approval, and no structure will be erected for the proposed use. The applicant will also be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 12.7 There were 15 similar applications within the "AGR" zone in the vicinity of the Site in the past five years, of which 13 applications falling within the Category 2 areas under TPG PG-No. 13F/13G were approved with conditions by the Committee between 2020 and 2024 mainly on the considerations as detailed in paragraph 7.2 above. The planning circumstances of the current application are similar to those of the approved applications. As such, approval of the current application is in line with the Committee's previous decisions. On the other hand, the sites of other two applications rejected by the Committee fell within the Category 3 areas and were subject to different planning considerations.
- 12.8 Regarding the public comments as detailed in paragraph 11, government departments' comments and planning assessments above are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department considers that the proposed 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 22.11.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) the implementation of the accepted drainage proposal 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 22.8.2025;
- (b) in relation to (a) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (c) 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 3.1.2025;
- (d) 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 22.5.2025;
- (e) in relation to (d) 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 22.8.2025;
- (f) the implementation of the 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 22.8.2025;
- (g) if the above planning condition (b) 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;
- (h) if any of the above planning condition (a), (c), (d), (e) or (f) 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
- (i) upon expiry of the planning permission, the reinstatement 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 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 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 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 applicant.

#### **15. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 6.6.2024
<b>Appendix Ia</b>	FI received on 7.8.2024
<b>Appendix Ib</b>	FI received on 9.10.2024
<b>Appendix Ic</b>	FI received on 17.10.2024
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 13G
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Government Departments' General Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Appendix VIa</b>	Good Practice Guidelines for Open Storage Sites
<b>Appendix VII</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Land Filling Area Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plans A-3a to A-3b</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2024**