

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

**APPLICATION NO. A/NE-TKL/762**

<b><u>Applicants</u></b>	: Ms. CHAN Wai Lam and Mr. CHAN Ho Chuen represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lot 207 in D.D. 84, Ping Che, Ta Kwu Ling, New Territories
<b><u>Site Area</u></b>	: About 1,649m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Warehouse and Open Storage of Construction Materials with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

**1. The Proposal**

- 1.1 The applicants seek planning permission for proposed temporary warehouse and open storage of construction materials 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 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 hard-paved and is currently occupied by temporary structures and storage/open storage uses without valid planning permission.
- 1.2 The Site is accessible via a local track to its northeast leading to Ping Che Road (**Plan A-1**). According to the applicants, the proposed use includes two 1 to 2-storey structures with a maximum height of 8m and a gross floor area of about 1,121m<sup>2</sup> for warehouse, covered loading/unloading (L/UL), site office and washroom uses. The proposed warehouse and the area for open storage (about 96m<sup>2</sup> or about 5.8% of the Site) are intended for storage of construction materials (e.g. timber, tiles, pipes and bricks, etc.). Two private carparking spaces for staff and one L/UL space for container vehicle will be provided within the Site. The applicants propose to transplant four existing trees (i.e. *Terminalia mantaly* 小葉欖仁) at the Site which will be affected due to conflict with the

proposed structures and insufficient space for tree growth (**Plan A-2** and **Drawing A-1**). The applicants also apply for regularization of filling of land of the entire Site with concrete of not more than 0.3m (from +11.6mPD to +11.9mPD) for site formation works for the structures, parking spaces, L/UL bay and circulation area (**Drawing A-2**). The applicants commit to reinstating the Site to an amenity area upon expiry of the planning permission. The operation hours of the proposed use 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 applicants is shown in **Drawing A-1**.

- 1.3 The Site is the subject of a previously approved application (No. A/NE-TKL/695) for proposed open storage and warehouse for storage of timber and wooden parts for a period of three years submitted by the same applicants as the current application. That application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 18.3.2022. The planning approval was subsequently revoked on 18.9.2023 due to non-compliance with the approval conditions relating to the submission and implementation of drainage and fire service installations (FSI) proposals. The applicants state that some of the development parameters have been changed in the current application to meet the operational need. A comparison of the major development parameters between the current and the previously approved application is set out below:

<b>Major Development Parameters</b>	<b>Previous Application (A/NE-TKL/695) (a)</b>	<b>Current Application (A/NE-TKL/762) (b)</b>	<b>Difference (b) – (a)</b>
<b>Proposed Use</b>	Temporary Open Storage and Warehouse for Storage of Timber and Wooden Parts for a Period of Three Years	Temporary Warehouse and Open Storage of Construction Materials with Ancillary Facilities for a Period of Three Years and Associated Filling of Land	(i) Storage of construction materials with ancillary facilities instead of storage of timber and wooden parts (ii) regularization of filling of land
<b>Site Area (about)</b>	1,649m <sup>2</sup>	1,649m <sup>2</sup>	-
<b>No. of Structures</b>	2	2	-
<b>No. of Storeys</b>	1-2	1-2	-
<b>Total Floor Area</b>	452m <sup>2</sup>	1,121m <sup>2</sup>	+669m <sup>2</sup> (or about +148%)
<b>Open Storage Area</b>	812m <sup>2</sup>	96m <sup>2</sup>	-716m <sup>2</sup> (or about -88%)
<b>Building Height</b>	Not more than 7m	Not more than 8m	+1m
<b>No. of Parking Spaces</b>	1	2	+1
<b>No. of L/UL Bays</b>	1 (for medium/heavy goods vehicle)	1 (for container vehicle)	-

- 1.4 In support of the application, the applicants have submitted the following documents:

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|-----|---|---------------|
| (a) | Application Form with attachments received on 11.6.2024 | (Appendix I)  |
| (b) | Supplementary Information (SI) received on 13.6.2024    | (Appendix Ia) |
| (c) | Further Information (FI) received on 23.7.2024*         | (Appendix Ib) |

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

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed at **Appendices I** and **Ib** and summarized below:

- (a) there has been an increasing demand for construction materials in Hong Kong and the proposed use will alleviate the pressing demand and support the development of the Northern Metropolis;
- (b) the Site is surrounded by open storage yards and temporary structures for warehouse and workshop uses. The proposed use is considered not incompatible with the surrounding areas;
- (c) there are similar applications within the same “AGR” zone approved by the Board in 2023, with the latest one (No. A/NE-TKL/714) for the same open storage use approved by the Board on 19.5.2023. 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, hence 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;
- (e) the application is the subject of a previous application No. A/NE-TKL/695 for ‘temporary open storage and warehouse for storage of timber and wooden parts’ submitted by the same applicants as the current application, but the planning approval was revoked on 18.9.2023. The applicants indicate that they were not aware of the specified time limit for complying with the approval conditions relating to drainage facilities and FSI provision. In this regard, drainage and FSI proposals have been submitted in support of the current application; and
- (f) the proposed use will not create significant nuisance to the surrounding areas. No adverse traffic impact is anticipated. The applicants 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 applicants are the sole “current land owners” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is subject to planning enforcement action (No. E/NE-TKL/493) against unauthorized developments (UDs) involving storage use (**Plan A-2**). Enforcement notice (EN) was issued on 4.6.2024 requiring discontinuation of the UD. The EN will expire on 4.8.2024. The Site is under monitoring by the Planning Authority.

**5. Previous Application**

5.1 The Site is the subject of a previous application (No. A/NE-TKL/695) for proposed open storage and warehouse for storage of timber and wooden parts for a period of three years submitted by the same applicants as the current application, but the proposed area of open storage (812m<sup>2</sup>) was much larger than that under the current application (96m<sup>2</sup>) as explained in paragraph 1.3 above. That application was approved by the Committee on 18.3.2022 mainly for the considerations of its general compliance with the then Town Planning Board Guidelines No. 13F for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13F) in that no major adverse departmental comments were received on the application and the concerns of the relevant government departments could be addressed through imposition of approval conditions. The planning approval was subsequently revoked by the Committee on ~~18.3.2022~~ **18.9.2023** due to non-compliance with approval conditions on the submission and implementation of drainage and FSI proposals.

5.2 Details of the previous application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

**6. Similar Applications**

6.1 There were 14 similar applications for temporary warehouse and/or open storage uses within the same “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area in the past five years (**Plan A-1**).

6.2 10 applications (No. A/NE-TKL/622, 642, 671, 707, 714, 724, 734, 745, 746 and 758) involving six sites falling within the Category 2 areas under the previous and current versions of TPB PG-No. 13G for various proposed open storage uses were approved with conditions by the Committee between 2019 and 2023 mainly on considerations that they generally complied with the relevant TPB Guidelines; and there were no major adverse departmental comments and concerns of the relevant government departments could be addressed through imposition of approval conditions.

6.3 Another application (No. A/NE-TKL/721) for proposed temporary warehouse for storage of construction materials and electronic products was approved with conditions 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; there were no major adverse departmental comments; and concerns of the relevant government departments could be addressed through imposition of approval conditions. Two other applications (No. A/NE-TKL/737 and 757) for temporary warehouse (excluding dangerous goods godown) with ancillary facilities were approved by the Committee on 11.9.2023 and 21.6.2024 respectively mainly on considerations that there were no major adverse departmental

comments and concerns of the relevant government departments could be addressed through imposition of approval conditions.

- 6.4 Application No. A/NE-TKL/625 for temporary open storage of construction machinery and containers fell within Category 3 area under the then TPB PG-No. 13E was rejected by the Committee on 4.10.2019 mainly on the grounds that the application did not comply with the then TPG PG-No. 13E in that there was no previous planning approval and there were adverse comments from the relevant government departments and local objections against the application; and the applicant failed to demonstrate that the proposed use would not cause adverse traffic impact on the surrounding areas.
- 6.5 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-4b)**

### **7.1 The Site is:**

- (a) fenced-off, occupied by temporary structures and storage/open storage uses; and
- (b) accessible via a local track to its northeast leading to Ping Che Road.

### **7.2 The surrounding areas are of rural character mainly comprising temporary structures, warehouses and workshop<sup>1</sup>, active/fallow agricultural land and tree clusters. Some domestic structures are located to the north across a local track (the nearest domestic structure being about 50m away) (**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:

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<sup>1</sup> The Site and its vicinity are under regular monitoring by the Planning Authority. Appropriate enforcement action would be undertaken should there be “UD” under the Town Planning Ordinance identified.

### **Land Administration**

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

- (a) she has no objection to the application;
- (b) the application site (the Site) comprises Old Schedule Agricultural Lot 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) the Site is currently already being used for the applied use;
- (d) the following irregularity covered by the subject planning application has been detected by her office:

#### **Unauthorized structures within the private lot covered by the planning application**

there are unauthorized structures on the private lot. The lot owners should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice; and

- (e) if the planning application is approved, the lot owners shall apply to her office for a Short Term Waiver (STW) to permit the structure erected/to be erected within the said private lot. 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 back-dated waiver fee from the first date the unauthorized structures were erected and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure 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; and
- (b) the Site falls within the “AGR” zone and is generally occupied by some structures. 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.

### **Environmental**

9.2.3 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 domestic structures being about 50m to the north) (**Plan A-2**) and the use of heavy vehicles is involved;
- (b) no comment of the applied land filling;
- (c) should the application be approved, the applicants are advised to follow the relevant mitigation measures and requirements in the COP to minimize any potential environmental nuisances;
- (d) adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the proposed use should be provided. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of EPD's Practice Note for Professional Person (ProPECC) PN 1/23 "Drainage Plans subject to Comment by the Environmental Protection Department" including percolation test and are duly certified by an Authorized Person;
- (e) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances; and
- (f) no environmental complaint against the Site was received in the past three years.

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

On 18.6.2024, the application was published for public inspection. During the statutory public inspection period, two comments were received. A member of the North District Council indicates no comment on the application. An individual objects to the application mainly on the grounds that the applicants did not comply with the approval conditions under previous application No. A/NE-TKL/695; the proposed use would pose danger to workers on site and the local community; and agricultural land should be protected unless it is for housing use.

## **11. Planning Considerations and Assessments**

- 11.1. The application is for proposed temporary warehouse and open storage of construction materials 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 assessments below, the proposed use on a temporary basis of three years could be tolerated.
- 11.2. The application involves regularization of filling of land at the whole Site with concrete of not more than 0.3m in depth for site formation of structures, parking spaces, L/UL bay 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, while DEP has no comment on the filling of land from environmental perspective.

- 11.3. The Site is situated in an area of rural character mainly comprising temporary structures, warehouses, workshop, active/fallow agricultural land and tree clusters. CTP/UD&L of PlanD considers that the proposed use is not incompatible with its surrounding environment. She has no comment on the applicants' proposal of transplanting the four existing trees within the Site. Her advisory comments are included in the Recommended Advisory Clause at **Appendix V**.
- 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. DEP considers that the application should not be supported as the proposed use 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. In this regard, the applicants would be advised to follow the environmental mitigation measures set out in the COP in the Recommended Advisory Clauses at **Appendix V**. In response to DLO/N, LandsD's comments regarding the presence of unauthorized structures within the lot covered by the current application, the applicants advise that they will rectify the matter and settle the land issue by applying STW accordingly. The applicants will be advised to liaise with LandsD to deal with the land issues separately under the land administration regime.
- 11.5. The Site is the subject of a previous application No. A/NE-TKL/695 for open storage and warehouse use submitted by the same applicants. The planning approval was revoked on 18.9.2023 due to non-compliance with approval conditions relating to the submission and implementation of drainage and FSI proposals. The applicants indicate that they were not aware of the specified time limit for the compliance with approval conditions. In the current application, proposals for drainage facilities and FSI have been submitted. CE/MN, DSD has no in-principle objection to the application and advises the applicants to take into account his comment on the drainage proposal under the approval condition (set out in paragraph 12.2). The Director of Fire Services also has no in-principle objection to the application.
- 11.6. There were 14 similar applications within the same "AGR" zone in the vicinity of the Site in the past five years, of which 13 applications were approved with conditions by the Committee. Two of the approved applications (No. A/NE-TKL/737 and 757) for temporary warehouse (excluding dangerous goods godown) were approved by the Committee in 2023 and 2024 respectively mainly on considerations that there were no major adverse departmental comments and concerns of the relevant government departments could be addressed through imposition of approval conditions. The planning circumstances of the current application are similar to these approved applications. As such, approval of the current application is in line with the Committee's previous decisions.
- 11.7. For the remaining 11 approved applications, 10 were for proposed temporary open storage use where the previous and current versions of the TPB PG-No. 13G were applicable; and the remaining one was for proposed temporary warehouse to facilitate the relocation of business affected by government project with policy support from the SDEV. The rejected application for proposed temporary open storage was mainly on the grounds of not in line with the then TPB PG-No. 13E as the site was not subject to previous planning



approval. The planning circumstances of these applications are different from the current application.

- 11.8. Regarding the public comments as detailed in paragraph 10 above, 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 public comments in paragraph 10 above, 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 2.8.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

### **Approval Conditions**

- (a) 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 2.2.2025;
- (b) in relation to (a) 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 2.5.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the implementation of traffic management measures, as proposed by the applicants, within 9 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by 2.5.2025;
- (e) in relation to (d) above, the implemented traffic management measures 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 Director of Fire Services or of the Town Planning Board by 13.9.2024;
- (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 2.2.2025;
- (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 2.5.2025;
- (i) if any the above planning condition (c) 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; and

- (j) if any of the above planning condition (a), (b), (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.

#### 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 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**

<b>Appendix I</b>	Application Form with Attachment received on 11.6.2024
<b>Appendix Ia</b>	SI received on 13.6.2024
<b>Appendix Ib</b>	FI received on 22.7.2024
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix Va</b>	Good Practice Guidelines for Open Storage Sites
<b>Appendix VI</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>Plan A-3</b>	Aerial Photo
<b>Plan A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2024**