

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/767

- Applicant** : Mr. CHOW Wai Kong represented by Metro Planning & Development Company Limited
- Site** : Lot 554 S.A ss.2 (Part) in D.D. 77, Ta Kwu Ling, New Territories
- Site Area** : About 980m²
- 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
- Zonings** : (i) "Agriculture" ("AGR") (about 870m² or 89% of the Site)
(ii) "Industrial (Group D)" ("I(D)") (about 110m² or 11% of the Site)
- Application** : Temporary Warehouse for Storage of Metal for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of metal for a period of three years and associated filling of land at the application site (the Site) which falls within an area zoned "AGR" and "I(D)" on the OZP (**Plan A-1**). According to the Notes of the OZP, 'Warehouse (other than Dangerous Goods Godown)' is a Column 1 use within the "I(D)" zone which is always permitted. 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 occupied by a temporary vacant structure.
- 1.2 The Site is abutting Ng Chow South Road (**Plan A-2**). According to the applicant, the applied use involves two single to two-storey structures of not more than 8m in height with a total floor area of not more than 810m² for warehouse, site office, electricity meter room and toilet uses (**Drawing A-1**). No workshop activities would be carried out within the Site. Two private carparking spaces and one loading/unloading space for light goods vehicle will be provided at the Site. The applicant also applies for regularisation of filling of land of the entire Site with concrete of about 0.2m in depth for site formation purpose (**Drawing A-2**). The operation hours are between 9:00 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 The Site is the subject of two previously approved applications (No. A/NE-TKL/685 and

702). The last application No. A/NE-TKL/702 submitted by the same applicant as the current application for the same applied use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 26.8.2022. The planning approval was subsequently revoked on 26.5.2024 due to non-compliance with the approval condition relating to the implementation of the proposal for fire service installations (FSIs) and water supplies for firefighting. Compared with the last approved planning application, there is a minor change in the internal layout of the temporary structure while the development parameters remain unchanged.

1.4 In support of the application, the applicant has submitted the following documents:

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|-----|---|----------------------|
| (a) | Application Form with attachments received on 25.6.2024 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 26.6.2024 | (Appendix Ia) |
| (c) | Further Information (FI) received on 7.7.2024^ | (Appendix Ib) |
| (d) | FI received on 2.8.2024^ | (Appendix Ic) |

^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** and summarised below:

- (a) the previous application No. A/NE-TKL/702 was to facilitate the relocation of the applicant's business in Ma Tso Lung which was affected by the Government's New Town development project;
- (b) the applied use is temporary in nature and would not jeopardize the planning intention of the "AGR" zone in the long run, and it is as-of-right within the "I(D)" zone;
- (c) there are compatible uses within the "I(D)" zone adjoining the Site and the applied use is not incompatible with the surrounding environment;
- (d) there is a similar planning application No. A/NE-TKL/687 approved in the "AGR" zone on the same OZP;
- (e) the applicant has complied with all the approval conditions under the previous application No. A/NE-TKL/702 except the condition on the implementation of FSIs proposal as water connection to the FSIs by the Water Supplies Department (WSD) was pending; and
- (f) the applicant submitted drainage and FSIs proposals in support of the application. Insignificant or minimal traffic, environmental and drainage impacts are anticipated. The applicant will follow the mitigation measures and requirements in the revised "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (COP).

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner" of the Site. 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 the subject of two previously approved applications (No. A/NE-TKL/685 and 702). Application No. A/NE-TKL/702 was approved with conditions by the Committee on 26.8.2022 on considerations that the application was given policy support by the Secretary for Development (SDEV) to facilitate the relocation of the applicant's business affected by the Kwu Tung North New Development Area; no major adverse departmental comments or concerns of the relevant government departments could be addressed through imposition of approval conditions. The applicant has complied with the approval conditions on submission and implementation of drainage and run-in/out proposals and submission of FSIs proposal. However, the planning approval was revoked on 26.5.2024 due to non-compliance with approval condition on implementation of FSIs proposal.
- 5.2 Application No. A/NE-TKL/685 for proposed temporary animal boarding establishment (dog kennel) approved on 28.1.2022 is not relevant to the current application.
- 5.3 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application in the same "AGR" zone in the vicinity of the Site.

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

- 7.1 The Site is:
- (a) fenced-off, hard-paved and occupied by a vacant temporary structure; and
 - (b) abutting Ng Chow South Road.
- 7.2 The surrounding areas are of rural character comprising mainly temporary structures, open storage yards, car repair workshops and warehouse within the "I(D)" zone to the west; a car park, an elderly centre, open spaces and domestic structures to the east and south; and vacant land to the north.

8. Planning Intentions

- 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.

- 8.3 The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flat factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government department 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 III** and **IV** respectively.
- 9.2 The following government department does not support the application:

Agriculture

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

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

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

On 2.7.2024, 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 approval conditions under the previous application No. A/NE-TKL/702 were not complied with and the Site has already been filled.

11. Planning Considerations and Assessments

- 11.1. The application is for temporary warehouse for storage of metal for a period of three years and associated filling of land at the Site zoned “AGR” (about 89%) and “I(D)” (about 11%) on the OZP. While the applied use is always permitted within the “I(D)” zone, it is not in line with the planning intention of the “AGR” zone. DAFC does not support the application from the agricultural perspective as the Site possess potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.
- 11.2. The application involves regularisation of filling of land at the whole Site with concrete of about 0.2m in depth for site formation purpose. 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, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) has no objection to the application from public drainage viewpoint, while the Director of Environmental Protection (DEP) has no objection to the filling of land from environmental perspective.

- 11.3. The Site is situated in an area of rural character comprising mainly temporary structures, open storage yards, car repairing workshops, warehouses, car park, open spaces and domestic structures. The Chief Town Planning/Urban Design & Landscape of Planning Department considers that the applied use is not incompatible with the landscape character surrounding the Site. She has no objection to the application from landscape planning perspective and advises that further significant adverse impact on the existing landscape resources within the Site is not anticipated.
- 11.4. The Site abuts Ng Chow South Road. DEP has no objection to the application and advises that the applicant should follow the latest COP to minimise any potential environmental impact. Other relevant government departments consulted, including the Commissioner for Transport, Director of Fire Services and Chief Engineer/Construction of WSD have no objection to/no comment on the application from traffic, fire safety and water supply perspectives.
- 11.5. The Site is the subject of a previously approved application No. A/NE-TKL/702 for proposed temporary warehouse for storage of metal and filling of land submitted by the same applicant. The planning approval was revoked on 26.5.2024 due to non-compliance with the approval condition relating to the implementation of the FSIs proposal. The applicant explained that water connection to the FSIs by WSD was pending, hence the approval condition could not be complied with. The applicant submitted a FSIs proposal in the current application and D of FS has no in-principle objection to the application. Should the Committee decide to approve the application, the applicant will be advised that should they fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 11.6. 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 16.8.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a condition record of the existing drainage facilities within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.11.2024;

- (b) the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (c) 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 16.2.2025;
- (d) in relation to (c) 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 16.5.2025;
- (e) 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;
- (f) if any of the above planning condition (a), (c) or (d) 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
- (g) upon expiry of the planning permission, the reinstatement of the “AGR” portion 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 IV**.

- 12.3. Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members’ reference:

the applied 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 applicant.

14. Attachments

Appendix I	Application Form with Attachments received on 25.6.2024
Appendix Ia	SI received on 26.6.2024
Appendix Ib	FI received on 7.7.2024
Appendix Ic	FI received on 2.8.2024
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Filling of Land Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2024**