

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/769

- Applicant** : Great Rise Development Limited represented by KTA Planning Limited
- Site** : Lots 778 (Part), 783 (Part) and 784 (Part) in D.D. 77 and Adjoining Government Land (GL) , Ping Che, New Territories
- Site Area** : About 3,466m² (including GL of about 61m² or 1.8% of the Site)
- 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) “Open Storage” (“OS”) (about 2,899m² or 84% of the Site)
(ii) “Agriculture” (“AGR”) (about 567m² or 16% of the Site)
- Application** : Temporary Vehicle Repair Workshop for Lorry, Coach and Container Vehicle with Ancillary Office and Electricity Transformer Station for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary vehicle repair workshop for lorry, coach and container vehicle with ancillary office and electricity transformer station at the application site (the Site) which falls within an area zoned “OS” and “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Vehicle Repair Workshop’ is a Column 1 use within the “OS” zone which is always permitted, whereas ‘Container Vehicle Repair Yard’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). While these uses are neither Column 1 or Column 2 uses within the “AGR” zone, according to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Board. The Site is being used as the applied use with valid planning permission.
- 1.2 The Site is accessible via a local track leading to Ping Che Road (**Plan A-2**). According to the applicant, the applied use involves ten one-to-two-storey structures of not more than 7.4m in height with a total floor area of not more than 1,815m² for vehicle repair workshop, site offices, guard rooms, store room, toilet, electricity transformer station, pump room and water tank uses. Six private car parking spaces are provided in the Site. Six repair bays and two waiting spaces for lorry, coach and container vehicle are provided within a temporary structure (i.e. structure No. 8 as shown on **Drawing A-1**). The operation hours are between 9:00 a.m. and 6:15 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 The Site is the subject of 11 previous applications for various open storage and workshop uses submitted by the same applicant of the current application, which were all approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between 1997 and 2021. The last application No. A/NE-TKL/684 for renewal of planning approval for the same applied use as the current application was approved with conditions by the Committee on 24.9.2021 with the planning approval valid until 19.10.2024. All approval conditions under the last previous application have been complied with.
- 1.4 The applicant explains that the boundaries of Lots 778 and 783 in D.D. 77 have been adjusted by the Lands Department (LandsD) since 2022, causing the site boundary of the last application encroached onto Lot 778 in D.D. 77. The applicant therefore submitted the current application to rationalise the site boundary, and also seizes the opportunity to update the size of the structures at the Site and to exclude a piece of GL which was included in the last application¹ (**Plan A-1**). Compared with the last approved application, the applied use in the current application remains the same with minor changes in the site area, layout and development parameters. A comparison of the major development parameters between the current and the last application is set out below:

Major Development Parameters	Last Approved Application (A/NE-TKL/684) (a)	Current Application (A/NE-TKL/769) (b)	Difference (b) – (a)
Proposed Use	Renewal of Planning Approval for Temporary Vehicle Repair Workshop for Lorry, Coach and Container Vehicle with Ancillary Office & Electricity Transformer Station for a Period of Three Years until 19.10.2024	Temporary Vehicle Repair Workshop for Lorry, Coach and Container Vehicle with Ancillary Office and Electricity Transformer Station for a Period of Three Years	-
Site	Lots 783 and 784 in D.D. 77 and Adjoining GL	Lots 778 (Part), 783 (Part) and 784 (Part) in D.D. 77 and Adjoining GL	Addition of Lot 778 (Part), and exclusion of part of Lots 783 and 784
Site Area (about)	3,577m ² (including GL of 210m ²)	3,466m ² (including GL of 61m ²)	-111m ² (or about -3%) (-GL of 149m ² or about -71%)
Total Floor Area	1,998m ²	1,815m ²	-183m ² (or about -9%)
No. of Structures	9	10	+1

¹ In the layout plan under the last application, six private car parking spaces were provided at the GL included in the application site. The applicant considers that the GL portion is not required to accommodate the car parking spaces, therefore it is excluded from the current application.

Major Development Parameters	Last Approved Application (A/NE-TKL/684) (a)	Current Application (A/NE-TKL/769) (b)	Difference (b) – (a)
No. of Storeys	1-2	1-2	-
Building Height	3-6.5m	Not more than 7.4m	+0.9m
No. of Private Car Parking Spaces	6	6	-
No. of Repair Bays for Lorry, Coach and Container Vehicle	6	6	-
No. of Waiting Spaces for Lorry, Coach and Container Vehicle	2	2	-

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

- (a) Application Form with attachments received on 26.7.2024 **(Appendix I)**
- (b) Further Information (FI) received on 10.9.2024[^] **(Appendix Ia)**
- (c) FI received on 12.9.2024[^] **(Appendix Ib)**

[^]accepted and exempted from publication and recounting requirements

2. **Justifications from the Applicant**

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

- (a) the Site is suitably located to respond the demand for repair services for cross-border vehicles in Ping Che and Sha Tau Kok areas;
- (b) the temporary use would not jeopardise the planning intention of the “AGR” zone as only a small portion of the Site falls within “AGR” zone and chance of rehabilitation for cultivation and other agricultural purposes in that portion is low;
- (c) the temporary use is not in conflict with the long-term planning of the Northern Metropolis as there is no solid program for the planned New Territories North New Town;
- (d) all approval conditions of the last approved application No. A/NE-TKL/684 have been complied with. Traffic management measures had been proposed under the previously approved application, and the existing fire extinguishers, drainage facilities and existing trees at the Site are maintained. The applicant will submit Short Term Tenancy (STT) and modification of Short Term Waiver (STW) to LandsD upon approval of the planning application; and

- (e) no complaints on the operation at the Site have been received.

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

The applicant is one of the current land owners of the Site and 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 notifying all the other current land owners. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” requirements are not applicable.

4. **Town Planning Board Guidelines**

Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13G) promulgated on 14.4.2023 are relevant to the application. The Site falls within Category 1 (about 84%) and Category 3 (about 16%) areas under the TPB PG-No. 13G. The relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

The Site is not subject to any planning enforcement action.

6. **Previous Applications**

- 6.1 The Site is the subject of 11 previous applications (No. A/NE-TKL/46, 89, 127, 149, 242, 293, 345, 376, 481, 602 and 684) for various workshop and open storage uses submitted by the same applicant of the current application. All applications were approved with conditions by the Committee between 1997 and 2021 mainly on the considerations that the developments generally complied with relevant Town Planning Board Guidelines; the developments were not incompatible with the surrounding land uses; and no major adverse departmental comments were received and concerns of the relevant government departments could be addressed through implementation of approval conditions.
- 6.2 The last application No. A/NE-TKL/684 for the same applied use as the current application was approved with conditions by the Committee on 24.9.2021. Compared with the last approved application, the development parameters including site area, total floor area, number of structures, etc. have been slightly changed under the current application as detailed in paragraph 1.4 above. All approval conditions under the last application have been complied with and the planning permission is valid until 19.10.2024.
- 6.3 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 two similar applications (No. A/NE-TKL/662 and 751) involving the same site for renewal of planning approval for temporary container vehicle repair yard within another “OS” zone to the further south of the Site in the past five years. These applications were approved with conditions by the Committee in 2021 and 2024 respectively mainly on the considerations that the applications were generally in line with relevant Town Planning Board Guidelines; the developments were compatible with the surrounding areas; there were approval of similar applications; no major adverse departmental comments were received and concerns of the relevant government departments could be addressed through implementation of approval conditions.
- 7.2. There was no similar application for the applied use in the same “AGR” zone in the vicinity of the Site in the past five years.
- 7.3. 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) used for the applied use with valid planning permission;
 - (b) fenced-off, hard-paved, and occupied by temporary structure; and
 - (c) accessible via a local track leading to Ping Che Road.
- 8.2 The surrounding areas are of rural character comprising mainly temporary structures, vehicle repair workshops, warehouses, religious institutions, vacant land, active and fallow agricultural land and tree clusters. Some domestic structures are located to the north and east of the Site with the nearest one being about 30m away (**Plan A-2**).

9. Planning Intentions

- 9.1 The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses which cannot be accommodated in conventional godown premises.
- 9.2 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.

10. Comments from Relevant Government Departments

- 10.1. Apart from the government departments as set out in paragraph 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 objection to the application:

Land Administration

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

- (a) 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 GL is granted to the Site;
- (b) the Site is already being used for the uses under application;
- (c) Lots 783 and 784 are covered by STW No. 1242 for the purpose of workshop and open storage of building materials and construction machine accessories. The use and the total site coverage of the existing structures erected on site had far exceeded the 1,010m² permitted under the STW. Her office reserves the rights to take enforcement action for the breach of STW;
- (d) the following irregularity covered by the planning application has been detected by her office:

Unlawful occupation of GL adjoining the said private lots covered by the planning application

no consent is given for inclusion of GL (about 61m² mentioned in the application form) in the Site. The applicant should be reminded that any occupation of GL without Government's prior approval is an offence under Cap. 28. Her office reserves the rights to take necessary land control action against the illegal occupation of GL not covered by the planning application without further notice;

- (e) the following irregularity not covered by the planning application has been detected by her office:

Unauthorised structures within Lot 778 in D.D. 77 not covered by the planning application

there are unauthorised structures within the said private lot not covered by the subject planning application. The lot owner should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (f) the lot owners shall either (i) remove the unauthorised structures not covered by the subject planning application immediately; or (ii) include the unauthorised structures in the 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 her office for modification of the STW and a STT to permit the structures erected/to be

erected and the occupation of the GL. The applications for STW and STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and STT, if approved, will be subject to such terms and conditions including the payment of back-dated waiver fee/rent from the first date the erection of unauthorised structures and occupation of GL 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 and land control action for any unlawful occupation of GL. Besides, given the proposed use is temporary in nature, only erection of temporary structure will be considered; and

- (g) unless and until the unauthorised structures not covered by the planning application are duly rectified by the lot owners or entirely included in the planning application, her office objects to the application which must be brought to the attention of the Board when they consider the application.

Agriculture

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

- (h) the application is not supported from agricultural perspective; and
- (i) the Site is generally occupied by some vehicles. 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 possesses potential for agricultural rehabilitation.

Environment

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

- (a) according to the “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” (the COP), the application should not be supported as there are residential structures in the vicinity of the Site (nearest domestic structures about 30m to the east 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 latest COP, and comply with all environmental protection/ pollution control ordinances; and
- (c) no environmental complaint against the Site has been received in the past three years.

11. Public Comment Received During Statutory Publication Period

On 2.8.2024, the application was published for public inspection. During the statutory public inspection period, one comment was received from a member of the North District Council

indicating no comment on the application (**Appendix VII**).

12. Planning Considerations and Assessments

- 12.1. The application is for temporary vehicle repair workshop for lorry, coach and container vehicle with ancillary office and electricity transformer station at the Site zoned “OS” (about 84%) and “AGR” (about 16%) on the OZP. The applicant applies the current application mainly to rationalise the site boundary under the last approved application No. A/NE-TKL/684, update the size of the structures at the Site and exclude a piece of GL which was included in the last application. Vehicle repair workshop for lorry and coach is always permitted within “OS” zone, whereas container vehicle repair yard requires planning permission from the Board. It is considered that the applied use is generally in line with the planning intention of the “OS” zone, which is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. The applied 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. It is also intended 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. Nonetheless, taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.
- 12.2. The Site is situated in an area of rural character comprising mainly temporary structures, vehicle repair workshops, warehouses, domestic structures, religious institutions, vacant land, active and fallow agricultural land and tree clusters. The Chief Town Planning/Urban Design & Landscape of Planning Department considers that the applied use is not incompatible with the surrounding environment. She has no objection to the application from landscape planning perspective and advises that significant adverse impact on the landscape character and existing landscape resources within the Site arising from the applied use is not anticipated.
- 12.3. The Site falls within Category 1 (about 84%) and Category 3 (about 16%) areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:
- Category 1 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, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas; and
 - Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and/or relevant technical assessments/proposals have been included in the fresh applications, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding 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.

- 12.4. The application is generally in line with TPB PG-No. 13G in that relevant departments consulted including the Commissioner for Transport, Director of Fire Services and Chief Engineer/Mainland North of Drainage Services Department have no comment on/ no objection to the application or their concerns could be addressed by relevant approval conditions. While DEP considers that the application should not be supported as the applied 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, no complaint at the Site was received in the past three years. The applicant will be advised to follow the environmental mitigation measures as set out in the COP. In response to DLO/N of LandsD's comments regarding occupation of GL and breach of the existing STW, the applicant advises that he will rectify the matter by applying STT and modification of the STW accordingly. The applicant will be advised to liaise with LandsD to deal with the land issues separately under the land administration regime.
- 12.5. The Site is the subject of 11 previous applications for various open storage and workshop uses approved with conditions by the Committee between 1997 and 2021 mainly on the considerations as detailed in paragraph 6.1 above. The last approved application No. A/NE-TKL/684 for the same use submitted by the same applicant was approved with conditions by the Committee on 24.9.2021. The applicant has complied with all approval conditions and the planning permission is valid until 19.10.2024. Compared with the last approved application, the current application mainly involves minor changes in site area, layout and development parameters. The planning circumstances of the current application are similar to those of the previous applications. As such, approval of the current application is in line with the Committee's previous decisions.
- 12.6. There is one public comment received indicating no comment on the application during the statutory public inspection period.

13. Planning Department's Views

- 13.1. Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department considers that the applied 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 20.9.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (b) 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 20.3.2025;

- (c) in relation to (b) 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 20.6.2025;
- (d) if the above planning condition (a) 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;
- (e) if any of the above planning condition (b) or (c) 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
- (f) 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 VI**.

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

the applied 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1. The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2. Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3. Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with Attachments received on 26.7.2024
Appendix Ia	FI received on 10.9.2024
Appendix Ib	FI received on 12.9.2024
Appendix II	Relevant Extracts of TPB PG-No. 13G on Application for Open Storage and Port Back-up Uses
Appendix III	Previous Applications
Appendix IV	Similar Applications

Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendices VIa to VIb	Mains Reserve Plans
Appendix VII	Public Comment
Drawing A-1	Layout 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
SEPTEMBER 2024**