

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/NE-TKL/775

<u>Applicant</u>	: Cheung Shing Machinery Engineering Co. Ltd
<u>Site</u>	: Lot 2195 RP (Part) in D.D. 76 and adjoining Government Land (GL), Kwan Tei North Village, Fanling, New Territories
<u>Site Area</u>	: About 709.14m ² (including about 89m ² of GL or 12.6% of the Site)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zonings</u>	: (i) “Open Storage” (“OS”) (about 363.08m ² or 51.2% of the Site) (ii) Area shown as ‘Road’ (about 346.06m ² or 48.8% of the Site)
<u>Application</u>	: Renewal of Planning Approval for Temporary Storage of Metal Hardware with Ancillary Workshop for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission for temporary storage of metal hardware with ancillary workshop at the application site (the Site) (**Plan A-1**). The Site falls within an area partly zoned “OS” and partly shown as ‘Road’ on the OZP. While the applied use is always permitted within the “OS” zone, such use in area shown as ‘Road’ requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission until 29.10.2024.
- 1.2 The Site is accessible via a local track branching off from Ping Che Road (**Plan A-2**). According to the submission, the applied use consists of four one to two-storey structures with a total floor area of about 448.74m² and building heights ranging from 2.5m to 6.8m for storage of construction metals and machinery parts, ancillary workshop, office, staff common room and toilet uses. The uncovered area is mainly for the manoeuvring of vehicles and loading/unloading area. Only private cars and light goods vehicles will enter/exit the Site. The operation hours are between 8:30 a.m. and 5:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The applicant also submitted records of drainage facilities, fire service installations and existing trees in support of the application. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 The Site is the subject of four previously approved applications (No. A/NE-TKL/389, 534, 605 and 686) for open storage/storage uses submitted by the same applicant as the current application. The last application No. A/NE-TKL/686 for the same applied use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 29.10.2021 for a period of three years up to 29.10.2024. All the approval conditions had been complied with. Compared with the last previous application, all development parameters including the site layout and development parameters under the current application remain unchanged.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 2.9.2024 (Appendix I)
 - (b) Further Information (FI) received on 15.10.2024* (Appendix Ia)
 - (c) FI received on 18.10.2024* (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 and FIs at **Appendices I to Ib**, as summarised below:

- (a) the Site is the subject of four previously approved applications. There has been no change to the development parameters and site layout when compared with the last previous application No. A/NE-TKL/686; and
- (b) approval conditions under the previously approved applications have been complied with. The applicant will liaise with Lands Department on land matter after planning approval is obtained.

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 obtaining the consent from the other land owners. Detailed information would be deposited at the meeting for Member’s inspection. For the GL within the Site, the requirements under TPB PG-No. 31B are not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34D) is relevant to the application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is currently not subject of any active enforcement action.

6. Previous Applications

- 6.1 The Site is the subject of four previously approved applications (No. A/NE-TKL/389, 534, 605 and 686) submitted by the same applicant as the current application for open storage/storage uses. They were all approved with conditions by the Committee between 2013 and 2021 mainly on the considerations that there was no development programme for the proposed road within part of the application site; the applied use was not incompatible with the surrounding land uses; and the Site was the subject of previous planning approvals.
- 6.2 For the last approved application No. A/NE-TKL/686 for the same use as the current application, all the approval conditions imposed had been complied with and the planning permission is valid until 29.10.2024. Compared with the last approved application, all development parameters and site layout under the current application remain unchanged.
- 6.3 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. Similar Application

- 7.1 There was a similar application (No. A/NE-TKL/606) for renewal of planning approval for temporary warehouse (for storage of tools related to engineering works of overhead cables) and dog kennel in the “OS” zone and area shown as ‘Road’ in the vicinity of the Site in the Ping Che and Ta Kwu Ling area in the past five years. It was approved with conditions by the Committee on 18.1.2019 mainly on the considerations that there was no development programme for the proposed road within part of the application site; the applied use was not incompatible with the surrounding land uses; and it generally complied with the TPB PG-No. 34D. The application was subsequently revoked on 2.8.2021 due to non-compliance with the approval condition on the implementation of drainage proposal.
- 7.2 Details of the similar application are summarised at **Appendix IV** and its location is shown on **Plan A-1**.
- 7.3 There is a similar application (No. A/NE-TKL/776) for temporary warehouse (storage of building design mock-ups with ancillary rural workshop and cold store of vegetable, fruits and foods) for a period of three years straddling “OS” zone and area shown as ‘Road’ in the vicinity of the Site (**Plan A-1**), which will be considered by the Committee at this meeting.

8. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4a and A-4b)

- 8.1 The Site is:
- (a) currently used for the applied use with a valid planning permission;
 - (b) fenced-off and hard-paved; and
 - (c) accessible via a local track leading to Ping Che Road to the east.

- 8.2 The surrounding areas are of rural character comprising mainly open storage yards, warehouses, workshop and temporary domestic structures. A waterworks reserve is situated to the immediate north of the Site (**Plan A-2**). To the east of the Site is a vegetated knoll zoned “Green Belt” (“GB”).

9. Planning Intention

Area shown as ‘Road’ is intended for road/road improvement works.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 below, other government 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 department has adverse comments on the application:

Land Administration

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

- (a) she objects to the application;
- (b) 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 already being used for the uses under the application. The unauthorised structures and illegal occupation of GL had been stated in the previously approved planning application (No. A/NE-TKL/686) in October 2021, however, no rectification had been carried out as demanded. More unauthorised structures were erected since the last planning application in October 2021;
- (d) no genuine intention and passive follow up by lot owner on applying Short Term Tenancy (STT) and Short Term Waiver (STW) . The planning application only cover 30% (about) of the business operation. Such portioning approach should not be encouraged;
- (e) the following irregularities covered by the planning application have been detected by her office:

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

there are unauthorised 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;

unlawful occupation of GL adjoining the said private lot with unauthorised structures covered by the planning application

the GL within the Site (about 89m²) has been fenced off and illegal occupied without any permission. Any occupation of GL without Government's prior approval is an offence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (f) the following irregularities not covered by the planning application have been detected by her office:

unauthorised structures within the said private lot not covered by the planning application

there are unauthorised structures within/extended from the said private lot not covered by the planning application. 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;

unlawful occupation of GL not covered by the planning application

the GL adjoining the Site has been fenced off and illegal occupied with unauthorised structure without permission. The GL being illegal occupied is not included in the application. 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 without further notice;

- (g) the lot owner shall remove the unauthorised structures and cease the illegal occupation of the GL not covered by the planning application immediately; and subject to the approval of the Board to the planning application which shall have reflected the rectification as required, apply to her office for STW and STT to permit the structures erected/to be erected and occupation of GL. The applications for STW/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/STT, if approved, will be on whole lot basis and will be subject to such terms and conditions including the payment of back-dated waiver fee/rent from the first date the unauthorised structure was erected 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 owner 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 structures will be considered; and
- (h) unless and until the unauthorised structures and the unlawful occupation of GL are duly rectified by the lot owner, it should be taken as her office's objection to the application which must be brought to the attention of the Board when they consider the application.

11. Public Comments Received During Statutory Publication Period

On 10.9.2024, the application was published for public inspection. During the statutory public inspection period, five public comments were received (**Appendix VII**). The Chairman, the Vice-chairman, the First Vice-chairman of the Fanling District Rural Committee express objection to the application due to insufficient information in the application on the applied use as well as concerns on adverse sewerage impacts and environmental nuisance. The remaining two public comments from a member of the North District Council and the Chairman of Lung Shan Area Committee respectively indicate no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary storage of metal hardware with ancillary workshop for a period of three years at the Site partly zoned “OS” (about 51.2%) and partly shown as ‘Road’ (about 48.8%) on the OZP. While the applied use is always permitted within the “OS” zone, such use in area shown as ‘Road’ requires planning permission from the Board. In this regard, the Commissioner for Transport (C for T), Chief Highway Engineer/New Territories East, Highways Department and Project Manager (North), Civil Engineering and Development Department have no adverse comment on the application. Given that the applied use is only on a temporary basis, approval of the application for a period of three years would not frustrate the planning intention of the proposed road designated on the OZP.
- 12.2 The surrounding areas are of rural character mainly comprising open storage yards, warehouses, workshop and temporary domestic structures. The applied use is considered not entirely incompatible with the surrounding land uses.
- 12.3 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. Other relevant departments consulted including the Director of Fire Services and the Chief Engineer/Mainland North, Drainage Services Department have no objection to or no adverse comment on the renewal application. To minimise any possible environmental nuisance, the applicant will be advised to follow the environmental mitigation measures as set out in the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’. Regarding DLO/N of LandsD’s comments on the application, the applicant advises that he will rectify the matter accordingly. The applicant will be advised to liaise with LandsD to address the land matters separately under the land administration regime.
- 12.4 The Site is the subject of four previously approved applications (No. A/NE-TKL/389, 534, 605 and 686), which were all approved with conditions by the Committee between 2013 and 2021. The current proposal is the same as the last approved scheme under application No. A/NE-TKL/686 submitted by the same applicant in terms of applied use, layout and development parameters. All approval conditions under the last approval had been complied with and the planning permission is valid until 29.10.2024.
- 12.5 The application generally complies with the TPB PG-No. 34D in that there has been no material change in planning circumstances since the approval of the last application; all the approval conditions under the last application have been complied with; and the approval period sought which is the same as the last approval granted by the Committee is not unreasonable.

- 12.6 Regarding the adverse public comments mentioned in paragraph 11 above, the government departments' comments and the 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 mentioned in paragraph 11 above, the Planning Department has no objection to the application for a further 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 and be renewed from 30.10.2024 until 29.10.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no medium and heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed for the operation of the Site at any time during the planning approval period;
- (b) the submission of a condition record of the existing drainage facilities within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 30.1.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) if any of the above planning condition (a) or (c) 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
- (e) if the above planning condition (b) 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 VI**.

- 13.3 There is no strong reason to recommend rejection of the application.

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 2.9.2024
Appendix Ia	FI received on 15.10.2024
Appendix Ib	FI received on 18.10.2024
Appendix II	Relevant Extracts of TPB PG-No. 34D on Renewal of Planning Approval and Extension of Time of Compliance with Planning Conditions for Temporary Use or Development
Appendix III	Previous Applications
Appendix IV	Similar Application
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2024**