

TOWN PLANNING BOARD

TPB Paper No. 10944

**For Consideration by
the Town Planning Board on 1.12.2023**

**REVIEW OF APPLICATION NO. A/NE-MKT/27
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Temporary Open Storage of Construction Machinery
and Warehouse for Storage of Machinery Parts
with Ancillary Office for a Period of Three Years in "Recreation" Zone**

Lot 751 S.B RP in D.D. 82, Ping Che Road, Man Kam To, New Territories

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1. Background

- 1.1 On 24.5.2023, the applicant, 英盛（合和）工程有限公司, sought planning permission for a proposed temporary open storage of construction machinery and warehouse for storage of machinery parts with ancillary office for a period of three years at the application site (the Site) under s.16 of the pre-amended Town Planning Ordinance (the pre-amended Ordinance). The Site falls within an area zoned “Recreation” (“REC”) on the approved Man Kam To Outline Zoning Plan (OZP) No. S/NE-MKT/4 (**Plan R-1**).
- 1.2 On 14.7.2023, the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
- (a) the proposed development was not in line with the planning intention of the “REC” zone which was primarily for recreational developments for the use of the general public. It encouraged the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
 - (b) the proposed development did not comply with 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) in that no previous approval had been granted to the Site and there were adverse departmental comments and local objections; and
 - (c) the applicant failed to demonstrate in the submission that the proposed development would not generate adverse traffic, drainage and landscape impacts on the surrounding areas.
- 1.3 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/NE-MKT/27 (**Annex A**)
 - (b) Extract of minutes of the RNTPC meeting held on 14.7.2023 (**Annex B**)

(c) Secretary of Town Planning Board's letter dated 28.7.2023 (Annex C)

2. Application for Review

On 1.8.2023, the applicant applied under s.17(1) of the pre-amended Ordinance for a review of the Committee's decision to reject the application (**Annex D**). On 1.9.2023, the applicant submitted written representation in support of the review application (**Annex E**).

3. Justifications from the Applicant

The justifications put forth by the applicant in support of the review application are detailed in the submission at **Annex E**, as summarized below:

- (a) there are similar applications approved in the vicinity of the Site. Similar applications for warehouse and open storage uses were approved in the Lau Fau Shan and Ta Kwu Ling areas (Applications No. A/NE-LFS/478 and A/NE-TKL/734); and
- (b) the applicant has consulted the residents nearby and they have provided positive feedback to the proposed development.

4. The Section 16 Application

The Site and its Surrounding Areas (Plans R-1 to R-4)

- 4.1 The situation of the Site and its surrounding areas at the time of the consideration of the s.16 application by the Committee were set out in paragraphs 8.1 and 8.2 of **Annex A**. Since then, there has been no material change in the planning circumstances except that the Site has been changed from partly formed (**Plan R-3**) to entirely hard paved (**Plans R-4a and R-4b**).
- 4.2 The Site is:
 - (a) hard paved and currently vacant; and
 - (b) accessible via Ping Che Road to the east.
- 4.3 The surrounding areas are characterized by temporary domestic structures, storage yards, active/fallow agricultural land, tree clusters, a refuse collection point and a vehicle park. Ta Kwu Ling Police Station and Ta Kwu Ling Fire Station (cum Ta Kwu Ling Ambulance Depot) are located to the north and further northeast of the Site respectively (**Plan R-1**). To the east across Ping Che Road is the village proper of Kan Tau Wai.

Planning Intention

- 4.4 The planning intention of the "REC" zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

Town Planning Board Guidelines

- 4.5 TPB PG-No. 13G promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 3 areas under TPB PG-No.13G. The relevant extracts of the Guidelines are at Appendix II of **Annex A**.

Previous Application

- 4.6 The Site is not the subject of any previous application.

Similar Application

- 4.7 There is no similar application for the same use within the same “REC” zone in the Man Kam To area for the past five years.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant government departments are stated in paragraph 10 and Appendix III of **Annex A**.
- 5.2 For the review application, the relevant government departments have been further consulted and they maintained their previous comments on the application. Besides, Director of Environmental Protection (DEP) and Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) have provided updated comments on the review application, which are summarized as follows

Environment

5.2.1 Comments of the DEP:

- does not support the application from environmental perspective as there are sensitive receivers in the vicinity of the Site (the closest one is about 1m away) and the proposed use involves the use of heavy vehicles. As such, environmental nuisance is expected.

Traffic

5.2.2 Comments of the Commissioner for Transport (C for T):

- (a) the applicant should provide the following information/assessment for his consideration:
 - (i) to substantiate the traffic generation and attraction from and to the Site and the traffic impact on the nearby road links and junctions;
 - (ii) to justify the adequacy of the parking spaces and L/UL spaces so provided by relating to the number of vehicles visiting the Site;

- (iii) to advise the management/control measures to be implemented to ensure no queueing of vehicles to the adjacent Ping Che Road outside the Site; and
- (iv) to advise the provision and management of pedestrian facilities to ensure pedestrian safety at the adjacent Ping Che Road.

5.2.3 Comments of the Commissioner of Police (C of P):

- (a) he has adverse comments on the application;
- (b) the Site is situated near Ta Kwu Ling Police Station and Ta Kwu Ling Fire Station (cum Ta Kwu Ling Ambulance Depot) (**Plan R-1**). Traffic impact arising from the proposed development will likely impede emergency services;
- (c) the Site is situated near the major road junction of the local road networks (i.e. Lin Ma Hang Road and Ping Che Road) connecting Heung Yuen Wai Boundary Control Point (HYW BCP) and Man Kam To Boundary Control Point (MKT BCP) (**Plans R-1 and R-2**) where smooth traffic flow is required; and
- (d) the applicant should consider alternative sites for the proposed uses. Should the applicant consider the Site necessary for the proposed development, justifications should be provided.

Drainage

5.2.4 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he does not support the application from public drainage perspective unless the applicant can submit satisfactory drainage proposal to mitigate the flooding susceptibility of the area to his satisfaction; and
- (b) flooding/drainage complaints have been recorded. It is noted that the area adjoining the Site is subject to overland flows and/or regular flooding.

Landscape

5.2.5 Comments of the CTP/UD&L, PlanD:

- (a) she has some reservation on the application from landscape planning perspective;
- (b) the Site is located in an area of rural inland plains landscape character comprising domestic structures, vegetated areas and tree clusters. Open storage yards are observed in the further south of the Site. With reference to the recent site inspection and site photos taken in September 2023, vegetation clearance in the western portion and site formation works were observed since June 2023, and the Site is

currently hard paved and fenced off. A mature native tree, *Celtis sinensis* 朴樹 in poor structural condition with approximately 900mm diameter at breast height is observed at the northeastern site boundary. According to **Drawing A-1** in **Annex A**, the proposed ingress and egress would be in conflict with the concerned tree. Information on the concerned tree, proposed tree treatment and mitigation measures are not provided in the submission. Potential landscape impact on the existing landscape resources within the Site arising from the proposed development cannot be ascertained;

- (c) according to the record, no similar application has been approved by the Board in the vicinity of the Site within the same “REC” zone. There is concern that the proposed development would alter the landscape character and degrade the landscape quality of the “REC” zone; and
- (d) the applicant is required to provide basic information on the existing trees within the Site, proposed tree treatment and proposed mitigation measures, if any, for consideration.

5.3 The following government departments maintain their previous views of having no comment/no objection on the review application.

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD); and
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD)

6. Public Comments Received During Statutory Publication Periods

- 6.1 On 11.8.2023 and 15.9.2023, the review application and the written representation were published for public inspection. During the statutory public inspection periods, four public comments were received (**Annex F**), including two from a member of the North District Council (one indicating no comment on the application and another one objecting to the application) and two individuals objecting to the application mainly on the grounds that the proposed use is incompatible with the surrounding environment; it poses fire safety risk to the residents of Ta Kwu Ling; and induce adverse drainage impact and lead to flooding.
- 6.2 Four objecting comments were received at the s.16 application stage as set out in paragraph 11 of **Annex A**.

7. Planning Considerations and Assessments

- 7.1 The application was rejected by the Committee on 14.7.2023 mainly for reasons as stated in paragraph 1.2 above. In support of the review application, the applicant has submitted written representation as summarized in paragraph 3 above. There has been no material change in the planning circumstances since the consideration of the subject application by the Committee, except that the Site has been changed from partly formed to entirely hard paved. The planning consideration and assessments

below are in response to the applicant's justifications provided in the review application.

- 7.2 The applicant claims that there are similar applications approved in the vicinity of the Site. It should be noted that there is no similar application for the same use within the same "REC" zone in the vicinity of the Site for the past five years. Regarding the two applications quoted by the applicant, they are located afar from the Site, i.e. one in the Lau Fau Shan area (Application No. A/NE-LFS/478) and the other in the Ta Kwu Ling area (Application No. A/NE-TKL/734). These applications were approved on considerations that they were the subject of previously approved applications; there was no adverse departmental comment on the applications; similar applications were approved by the Committee in the vicinity of the subject sites; and that the application (only for Application No. A/NE-TKL/734) was in line with the TPB PG-No. 13G. As such, the planning considerations of the current review application are not applicable to the approved ones.
- 7.3 The applicant claims that nearby residents have been consulted and provided positive feedback to the proposed development at the Site, but the applicant did not provide any relevant information/evidence in the submission to support this claim.
- 7.4 C for T, C of P, CE/MN of DSD and CTP/UD&L of PlanD maintain their previous views of having adverse comments on the application as the applicant did not submit any information/assessment to address their concerns in the review application. In environmental terms, DEP does not support the application as there are sensitive receivers in the vicinity of the Site and the proposed use involves the use of heavy vehicles.
- 7.5 The Site falls within the "REC" zone which is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission. The proposed development is not in line with the planning intention of the "REC" zone. There is no strong planning justification in the review submission for a departure from the said planning intention, even on a temporary basis.
- 7.6 Regarding the public comments objecting to the review application, the planning considerations and assessments in paragraphs 7.1 to 7.5 above are relevant.

8. Planning Department's Views

- 8.1 Based on the assessments made in paragraph 7, and having taken into account the public comments mentioned in paragraph 6 and given that there has been no major change in the planning circumstances since the consideration of the subject application by the Committee on 14.7.2023, Planning Department maintains its previous views of not supporting the review application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the "REC" zone, which is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission.

There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;

- (b) the proposed development does not comply with TPB PG-No. 13G for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' in that no previous approval has been granted to the Site and there are adverse departmental comments and local objections; and
- (c) the applicant fails to demonstrate in the submission that the proposed development would not generate adverse traffic, drainage, landscape and environmental impacts on the surrounding areas.

8.2 Alternatively, should the Board decide to approve the review application, it is suggested that the permission shall be valid until **1.12.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m., from Mondays to Fridays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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 **1.6.2024**;
- (d) in relation to (c) 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 **1.9.2024**;
- (e) in relation to (d) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (f) the submission of the design of vehicular run-in/out to the Site along Ping Che Road within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **1.6.2024**;
- (g) in relation to (f) above, the provision of the vehicular run-in/out to the Site along Ping Che Road within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **1.9.2024**;
- (h) 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 **12.1.2024**;
- (i) the submission of a fire service installations (FSIs) 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 1.6.2024;

- (j) in relation to (i) above, the implementation of the FSIs 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 1.9.2024;
- (k) the submission of a proposal for traffic management measures within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.6.2024;
- (l) in relation to (k) above, the implementation of the traffic management measures within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.9.2024;
- (m) if any of the above planning condition (a), (b) 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
- (n) if any of the above planning condition (c), (d), (f), (g), (h), (i), (j), (k) or (l) 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

- 8.3 The recommended advisory clauses are attached at **Annex G**.

9. Decision Sought

- 9.1 The Board is invited to consider the application for a review of the Committee's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the review 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.

10. Attachments

Plan R-1	Location plan
Plan R-2	Site Plan
Plan R-3	Aerial Photo
Plans R-4a and R-4b	Site Photos
Annex A	RNTPC Paper No. A/NE-MKT/27
Annex B	Extract of minutes of the RNTPC meeting held on 14.7.2023
Annex C	Secretary of the Town Planning Board's letter dated 28.7.2023
Annex D	Email dated 1.8.2023 from the applicant applying for review
Annex E	Written representation submitted by the applicant in support of the review application
Annex F	Public comments
Annex G	Recommended advisory clauses

**PLANNING DEPARTMENT
DECEMBER 2023**