

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-PK/137

<u>Applicants</u>	Messrs. Hau Chi Chung, Hau Kim Fung and Hau Chun Sing represented by Chuo Wang Development Consultant Limited
<u>Site</u>	Various Lots in D.D. 91, Ping Kong, Sheung Shui, New Territories
<u>Site Area</u>	About 3,687 m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
<u>Zoning</u>	“Village Type Development” (“V”)
<u>Application</u>	Proposed Temporary Warehouse for Storage of Solar Panel Parts and Associated Documents for a Period of 3 Years

1. The Proposal

- 1.1 On 15.8.2019, the applicants sought planning permission for proposed temporary warehouse for storage of solar panel parts and associated documents for a period of three years at the application site (the Site) (**Plan A-1**). The Site is zoned “V” on the approved Ping Kong OZP No. S/NE-PK/11. According to the Notes of the OZP, temporary use not exceeding a period of 3 years in the “V” zone requires permission of the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is partly paved and largely vacant, with a converted container at the eastern boundary.
- 1.2 The Site is situated at the southern fringe of Ping Kong Village and accessible via Ping Kong Road (**Plan A-2**). The applicants apply to put 46 converted containers (total cover area of 617.32m²) for storage use and 20 ancillary parking spaces (5m x 2.5m each) for private cars/light goods vehicles at the Site. The plans showing the proposed site layout and the existing access are at **Drawings A-1 and A-2** respectively. According to the applicants’ submission, no open storage and workshop activity will be undertaken within the Site. The 20 ancillary parking spaces will serve the warehouse operation and for parking of 13 company vehicles and additional vehicles in future. The operation hours of the Site will be from 10:30 a.m. to 12:00 noon and from 3:00 p.m. to 4:30 p.m. for carrying out loading and unloading activities, with no operation on Saturdays and Sundays. It is estimated that loading/unloading activities would only be twice per week.
- 1.3 In support of the application, the applicants have submitted the following documents:

- (a) Application form with attachments received on 15.8.2019 (Appendix I)
- (b) Supplementary information received on 21.8.2019 (Appendix Ia)
- (c) Further information received on 26.9.2019 providing response to departmental comments and clarification on operation details of the proposed development (Appendix Ib)
(accepted and exempted from publication and recounting requirements)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in Part 9 of the application form at **Appendices I and Ia** and **Appendix Ib**. They can be summarised as follows:

- (a) the Site comprises private land owned by the applicants. They are participating in solar panel installation works in rural area and need space for storing solar panel parts, electric wire and other parts as well as the associated documents;
- (b) converted containers will be used as they can be easily removed from the Site. Besides, the items to be stored would not generate wastewater, waste and noise pollution to surrounding areas;
- (c) the Site is currently vacant with growing weed. Putting the Site for appropriate use could help to improve the surrounding environment;
- (d) the Site is accessible from Ping Kong Road and has sufficient space for vehicle manoeuvring and the use of emergency vehicles. 20 parking spaces for private cars and light goods vehicle will be provided within the Site to serve the warehouse operation and for parking of 13 company vehicles and additional vehicles in future. It is estimated that loading/unloading activities would only be twice per week. No heavy vehicles would be used; and
- (e) no excavation/filling of land and felling of tree would be required, hence the proposed use would not generate adverse environmental impact. The applicants would also ensure that drainage and landscaping works would be carried out.

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

The applicants are the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department, the Site is not subject to any active enforcement case. Should there be evidence to form an opinion of unauthorized development under the Town Planning Ordinance at the Site, enforcement action would be instigated as appropriate.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is no similar application for temporary warehouse or storage use in the “V” zone in the vicinity of the Site in Ping Kong area.

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

7.1 The Site is:

- (a) situated at the southern fringe of Ping Kong Village. An existing stream is located to the immediate east and south of the Site;
- (b) partly paved with the southern part covered by weed. Except with a converted container at the eastern boundary, the Site is largely vacant; and
- (c) accessible from Ping Kong Road.

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding land uses are predominantly rural in character with village houses, temporary structures for domestic use and vacant land;
- (b) to the north is a playground located along Ping Kong Road. To the northeast and northwest are the village clusters of Ping King Village; and
- (c) to the further east is an artificial watercourse and to the south and west are mainly fallow agriculture land.

8. Planning Intention

The planning intention of the “V” zone in the Ping Kong area is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) the Site comprises private lots which are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicants should make its own arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
- (b) there is no Small House application regarding the Site;
- (c) the existing structure on the Site was erected without approval from his office. The aforesaid structure is not acceptable under the lease concerned. His office reserves the right to take enforcement actions against the aforesaid structure; and
- (d) should the application be approved, the applicants shall apply to his office for a Short Term Wavier (STW) to cover all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Traffic

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

he does not support the application as there is insufficient traffic-related information (e.g. swept path analysis) in the submission in support of the application.

9.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) he has no comment on the application; and
- (b) the section of Ping Kong Road adjacent to the Site is not under his department's maintenance purview.

Nature Conservation

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

the Site is partly paved and partly covered by herbaceous plants. Some young trees of common species are found at the eastern boundary of the Site. A natural to semi-natural stream is adjacent to the eastern boundary of the Site and two artificial watercourses are located further east. In view of the site condition, it seems land filling/pavement would be needed for the proposed use, as opposed to the "no excavation and landfilling" claimed by the applicants. While he has no adverse comment on the application, good site practice should be implemented

during both the construction and operation stages in order not to pollute the watercourse nearby.

Environment

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

- (a) it is noted that the Site will not involve the use of heavy goods vehicle nor container truck. The applicants are advised to follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” issued by DEP;
- (b) in view of the nearby watercourses/streams, the applicants are advised to strictly observe all relevant pollution control ordinances, particularly on waste management and disposal, and put in place necessary precautionary/pollution control measures to prevent any pollution of the nearby watercourses/streams as a result of the construction activities. Particular attention should be paid on measures to prevent fly-tipping/unauthorized landfilling activities during construction and operation stages; and
- (c) there is no existing public sewer in the vicinity of the Site at this stage. The applicants shall have to provide their own effective sewage treatment and disposal measures to cater for any sewage arising from the operation of the proposed development, in compliance with the requirement of ProPECC PN 5/93 and Water Pollution Control Ordinance where appropriate, and adopt best management practice to avoid refuse and other pollutants from entering the surface runoff and the nearby streamcourses/streams.

Landscape

9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) as the Site falls within a non-landscape sensitive zone and no significant landscape impact arising from the proposed use is identified, she has no comment on the application; and
- (b) since there is no major public frontage along the site boundary, should the application be approved, it is considered not necessary to impose landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) he has no objection in principle to the application from the public drainage viewpoint; and

- (b) should the application be approved, a condition should be included to request the applicants to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.

Building Matters

9.1.8 Comments of the Chief Building Surveyors/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) before any new building works are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the Buildings Ordinance (BO);
- (b) any temporary shelters or converted containers for storage or other uses are considered as temporary buildings subject to control under Building (Planning) Regulations (B(P)R) Pt. VII;
- (c) the Site shall be provided with means of obtaining access thereto from a street under the B(P)R 5 and emergency vehicular access shall be provided under the B(P)R 41D;
- (d) if the Site is not abutting on a specified street having a width of not less than 4.5m, the development intensity shall be determined by BA under B(P)R19(3) at the building plan submission stage; and
- (e) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at building plan submission stage.

Fire Safety

9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service installations being provided to the satisfaction of his department; and
- (b) the applicants are reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

9.1.10 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The incumbent North District Council (NDC) Member has no comment on the application and the Chairman of "Association of Ping Kong Area Residents" (丙崗居民福利會) supports the application. The Chairman of Sheung Shui District Rural Committee

(SSDRC), the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Ping Kong Village object to the application mainly on the grounds that the concerned section of Ping Kong Road is narrow and lack of proper maintenance, and the use of heavy goods vehicle would pose risk for villagers and generate pollution to the surrounding areas.

9.2 The following Government departments have no comment on / no objection to the application:

- (a) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 23.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments were received from individuals (**Appendix II**). Except an individual expressing no comment on the application, the remaining three individuals object to the application mainly on the grounds that the case is a suspected 'destroy to build' application with prior removal of vegetation; the access to the Site is narrow; the proposed use will affect the nearby children playground and fung shui well, and will also cause drainage impact; and approval of the application would encourage further excavation of land and tree felling at the adjoining green areas.

11. Planning Considerations and Assessments

11.1 The application is for a proposed temporary warehouse for storage of solar panel parts and associated documents with 20 ancillary parking spaces for a period of three years at the Site zoned "V" on the approved Ping Kong OZP No. S/NE-PK/11. The planning intention of "V" zone is mainly to designate both existing recognized villages and areas of land considered suitable for village expansion, and land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. The proposed development is not in line with the planning intention of the "V" zone, and there is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

11.2 The Site is located at the southern fringe of Ping Kong Village and accessible from Ping Kong Road. Village clusters are located to the northeast and northwest and some fallow farmland is located to the south and west of the Site (**Plans A-2 and A-3**). The proposed development comprising 46 converted containers of about 617.32m² in covered area in total and 2.5m in height is considered not compatible with the surrounding rural characters and residential uses. In addition, C for T does not support the application as there is insufficient traffic-related information in applicants' submission for his assessment. Other concerned departments have no objection to or no adverse comment on the application.

11.3 According to the applicants, the proposed development will provide storage area to support their solar panel installation works in rural area. However, there is no information in the applicants' submission to demonstrate that no land at suitable location is available

for the proposed development. There has not been any planning approval for temporary warehouse or storage use in the same “V” zone before. Approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “V” zone, causing degradation to the environment of the area.

- 11.4 Regarding the local objections to the application conveyed by DO(N), HAD in paragraph 9.1.10 and public comments objecting to the application as detailed in paragraph 10 above, comments of relevant Government departments and the planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “Village Type Development” zone which is primarily intended for the development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. No strong justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis;
- (b) there is insufficient information in the submission to demonstrate that the proposed development would not cause adverse traffic impact on surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

- 12.2 Alternatively, 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 3 years until **4.10.2022**. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no operation between 12:00 noon and 3:00 p.m. as well as 4:30 p.m. and 10:30 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays and Sundays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (c) only private cars and light goods vehicle not exceeding 3.3 tonnes, as proposed by the applicants, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle dismantling, inspection, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicants, shall be carried out on the Site at any time during the planning approval period;

- (e) no open storage, as proposed by the applicants, is allowed on the Site at any time during the planning approval period;
- (f) the provision of periphery fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.4.2020;
- (g) the submission of 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 4.4.2020;
- (h) in relation to (g) 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 4.7.2020;
- (i) the submission of 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 4.4.2020;
- (j) in relation to (i) 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 4.7.2020;
- (k) the submission of traffic proposal to demonstrate that no adverse traffic impact will be caused and sufficient space will be provided within the Site for manoeuvring of vehicles within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 4.4.2020;
- (l) in relation to (k) above, the implementation of the traffic proposal within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 4.7.2020;
- (m) if any of the above planning conditions (a), (b), (c), (d) 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 conditions (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

The recommended advisory clauses are at **Appendix III**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

13.3 Alternatively, 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. Attachments

Appendix I	Application Form with Attachments received on 15.8.2019
Appendix Ia	Supplementary Information received on 21.8.2019
Appendix Ib	Further information received on 26.9.2019
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Existing Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2019**