

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-TKLN/31**

- Applicant** : Mr. YIP Wah Ching represented by Ying Shing (Hopewell) Engineering Company Limited
- Site** : Lots 488, 489, 490, 491, 495, 497, 572 S.A, 573, 574, 575, 576 and 577 in D.D. 80 and Adjoining Government Land, Lin Ma Hang Road, Ta Kwu Ling North, New Territories
- Site Area** : About 9,017 m<sup>2</sup> (including about 279 m<sup>2</sup> of Government land)
- Land Lease** : (a) Block Government Lease (demised for agricultural use) (about 96.9% of the Site)  
(b) Government land (about 3.1% of the Site)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Logistics Warehouse for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary logistics warehouse for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “REC” on the approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2. According to the covering Notes of the OZP, temporary use not exceeding a period of three years within “REC” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for in terms of the Plan. The Site is currently formed and partly hard paved (**Plans A-4a and A-4b**).
- 1.2 According to the applicant, the proposed development involves two 1-storey structures of not more than 10 m in height with a total floor area of about 5,000 m<sup>2</sup> for logistics warehouse at the eastern part of the Site (**Drawing A-1**). The western part of the Site would be used for internal access road. One loading/unloading space for heavy goods vehicle is proposed at the southeastern part of the Site (**Drawing A-1**). The Site is accessible from Lin Ma Hang Road via a local road (**Plan A-2**). The proposed development will open all day long from Mondays to Fridays and there will be no

operation on Saturdays, Sundays and public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the Application Form with attachments received on 17.1.2020 (**Appendix I**).

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Section 9 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) since the Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP) will open soon, the applicant would like to capture the development opportunities to convert the Site into logistics warehouse so as to relive pressure on logistic industry;
- (b) the Site is currently vacant and abandoned, the proposed development would maximise the utilization of the land resources; and
- (c) the proposed development could create job opportunities for villagers and local residents.

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

The applicant is one of the “current land owners” 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. 31A) by taking reasonable steps to obtain the consent of or give notification to the owners including sending a notice to the Sheung Shui District Rural Committee and posting site notice. For the adjoining Government land, TPB PG-No.31A is not applicable. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Background**

The Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD) advises that the Site is currently not subject to planning enforcement action. It is noted that the Site was formed and partly paved. Should there be sufficient evidence to prove that the use on the Site constitutes an unauthorised development under the Town Planning Ordinance, enforcement action would be taken.

## **5. Previous Application**

The Site is not the subject of any previous application.

## **6. Similar Application**

- 6.1. There is one similar application (No. A/NE-TKLN/29) for proposed temporary warehouse

and open storage of containers for a period of three years to the immediate south of the Site within the “REC” zone. The application was rejected by the Committee on 17.1.2020 mainly on the grounds that the proposed development was not in line with the planning intention of “REC” zone; the applicant failed to demonstrate in the submission that the proposed development would not cause adverse traffic impact on the surrounding areas; and setting of undesirable precedent.

**7. 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 to A-4c)**

7.1 The Site:

- (a) is formed and partly hard paved; and
- (b) is accessible from Lin Ma Hang Road via a local road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north is the boundary patrol road and Shenzhen River. The Site is situated at a boundary location with the Shenzhen Municipal City to its north across the Shenzhen River;
- (b) to its southwest are the rejected application No. A/NE-TKLN/29 for proposed temporary warehouse and open storage of containers and some warehouses and vacant/ domestic structures; and
- (c) to its further south and beyond are Lin Ma Hang Road, some unused land and some burial urns within the “Green Belt” zone.

**8. Planning Intention**

The planning intention of the “REC” zone is intended primarily for low-density 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.

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

- (a) the Site comprises Lots Nos. 488, 489, 490, 491, 495, 497, 572 S.A, 573, 574, 575, 576 and 577 in D.D. 80 and adjoining Government Land (GL). The lots

are old Schedule lots held under the Block Government lease (demised for agriculture use) without any guaranteed right of access. The applicant should make his own arrangement, and there is no guarantee that any adjoining GL will be allowed for the vehicular access of the proposed use;

- (b) the existing structures on Site were erected without approval from his office and are not acceptable under the leases concerned. His office reserves the right to take enforcement actions against the unauthorised structures;
- (c) the GL adjoining the lots is being occupied without approval from his office. His office reserves the right to take land control actions against the unauthorized occupation of GL; and
- (d) should the application be approved, the owner(s) of the lot(s) concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) to cover all the actual occupation area. The applications for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

## **Traffic**

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

- (a) he does not support the application from traffic engineering point of view. The applicant should provide the following information/ measures for his consideration:
  - (i) the applicant should advise the traffic generation and attraction from and to the site and the traffic impact to the nearby road links and junctions;
  - (ii) the applicant shall justify the adequacy of the parking spaces so provided by relating to the number of vehicles visiting the subject site;
  - (iii) the vehicular access should be no less than 7.3m wide;
  - (iv) the applicant shall demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the subject site and manoeuvring within the subject site, preferably using the swept path analysis;
  - (v) The applicant shall advise the management/control measures to be implemented to ensure no queuing of vehicles outside the subject site; and
  - (vi) The applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety;

## **Environment**

### 9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as the temporary development is expected to generate traffic of heavy vehicles and there are domestic structures in the vicinity of the Site with the closest one located about 72 m to the southwest of the Site (**Plan A-2**);
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”;
- (c) the applicant should also be reminded of his obligation to strictly comply with all environmental protection/ pollution control ordinances, in particular Water Pollution Control Ordinance and Waste Disposal Ordinance, to prevent any pollution of nearby watercourse during construction and operation stages of the proposal; and
- (d) there is no environmental complaints against the Site in the past three years..

## **Landscape**

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

- (a) she has some reservations on the application from the landscape planning perspective;
- (b) based on the aerial photos of 2017 to 2018, the Site is situated in an area of uplands and hillsides landscape character, comprises clusters of trees and densely vegetated woodland in an area zoned “Green Belt” (“GB”) in close proximity to the north and south of the Site (**Plan A-2**);
- (c) the Site was observed to be densely vegetated in 2017. However, based on aerial photo of 2018 (**Plan A-3**) and her recent site record, majority of the Site was hard paved, existing vegetation within and surrounding the Site had been removed, and site formation works had been conducted. Adverse landscape impact has taken place prior to planning application. The construction of two logistic warehouses would further affect the existing vegetation in the eastern portion of the Site, causing further adverse landscape impact on the environment;
- (d) no similar application had previously been approved by the Board within the same “REC” zone, the proposed development is considered incompatible with the landscape character surrounding the Site. The proposed development, if approved, would set an undesirable precedent of landscape character alteration, and would encourage more similar development within the area. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment; and

- (e) since there is no major public frontage along the site boundary, it is considered not necessary to impose a landscape condition should the Board approve the application, as the effect on enhancing the quality of public realm is not apparent.

### **Agriculture**

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

- she has no comment on the application from nature conservation point of view as the Site is disturbed in nature.

### **Drainage**

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

- (a) he has reservation on the application from public drainage viewpoint. The applicant should provide the following information/ measures for his consideration:
  - (i) the applicant requires assessing and identifying the potential drainage impacts of the proposed development and demonstrate in the submission with the implementation of necessary mitigation measures that it would not cause an unacceptable increase in the risk of flooding in areas upstream of, adjacent to or downstream of the development;
  - (ii) the applicant should show the existing discharge location to which the applicant proposed to discharge the stormwater from the Site for our information;
  - (iii) the applicant should check and demonstrate that the existing drainage channel downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the proposed development. The applicant should also demonstrate that the flow from the Site will not overload the existing drainage system;
  - (iv) the applicant should ensure and show in his submission that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drain, channels and watercourses on or in the vicinity of the Site any time during or after the works. Catchment areas and the flow direction should also be provided for his reference; and
  - (v) the applicant is required to provide sectional views of the proposed development showing clearly any walls would be erected or kerbs

would be laid along the boundary of the house, the proposed and existing drainage facilities, flow direction, the existing ground level of the adjacent lands and the formation level of the Site for his consideration.

### **Building Matters**

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

- (a) he has no objection to the application;
- (b) there is no record of approval by the Building Authority (BA) for the existing buildings/ structures existing at the Site and BD is not in a position to offer comments on their suitability for the proposed use; and
- (c) there is also no record of submission of the proposed building/ structure to the BA for approval. For any new proposed buildings, his advisory comments under Buildings Ordinance (BO) are at **Appendix IV**.

### **Fire Safety**

9.1.8 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 (FSIs) being provided to satisfaction of his department;
- (b) the applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is 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.

### **Water Supply**

9.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

### **Project Interface**

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

- (a) he has reservation on the application;
- (b) based on the information submitted, the Site would encroach onto the project limit of the PWP Item No. 854TH “Widening of Eastern Section of Lin Ma Hang Road (LMHR) between Tsung Yuen Ha and Lin Ma Hang” undertaken by his department; and
- (c) the construction works for PWP Item No. 863TH “Widening of Western Section of LMHR between Ping Yuen River and Ping Che Road” has commenced in February 2020 and is anticipated to be completed by end of 2023. Whilst the proposed development may attract traffic travelling along the Western Section of the LMHR, the applicant should advise if it will cause any adverse traffic impact to the section of LMHR.

### **District Officer’s Comments**

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

- he has consulted the locals regarding the application. No comment has been received.

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

- Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

## **10. Public Comments Received During Statutory Publication Period**

On 24.1.2020, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix III**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The remaining two public comments submitted by WWF-HK and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “REC” zone; it is a ‘destroy first, apply later’ case; and the proposed development would set an undesirable precedent for similar uses in the surrounding.

## **11. Planning Considerations and Assessments**

11.1 The application is for a proposed temporary logistics warehouse for a period of three years in an area zoned “REC” on the OZP (**Plan A-1**). The proposed development is not in line with the planning intention of the “REC” zone which is intended primarily for low-density 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 justifications in the submission to merit a departure from the planning intention of the “REC” zone, even on a temporary basis.

- 11.2 The Site is situated in an area of uplands and hillsides landscape character comprising clusters of trees and densely vegetated woodland (**Plans A-2 and A-3**). The Site had been formed and hard paved with existing vegetation within and surrounding the Site had been removed. Adverse landscape impact has taken place prior to planning application. CTP/UD&L, PlanD has some reservations on the application from the landscape planning perspective that the proposed development would cause further adverse landscape impact on the surrounding area and is considered incompatible with the landscape character of the area. The proposed development, if approved, would set an undesirable precedent of landscape character alteration, and would encourage more similar developments in the area. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment.
- 11.3 C for T does not support the application as the applicant has not provided information on the estimated traffic flow, justifications for the proposed parking/ loading and unloading spaces, relevant satisfactory management/ control measures, traffic arrangement and vehicle manoeuvring within the Site and provision and management of pedestrian facilities. Also, CHE/NTE of HyD has reservation on the application and advises that the Site would encroach onto the project limit of the proposed road widening of eastern section of Lin Ma Hang Road (LMHR). While the construction of the road widening of western section of LMHR has commenced in February 2020, the applicant has not provided any information to demonstrate that the proposed development would not cause adverse traffic impact to LMHR. As such, the applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding area.
- 11.4 DSD has reservation on the application and advises that the applicant is required to demonstrate that the proposed development would not cause an unacceptable increase in the risk of flooding in the upstream area, adjacent to or downstream area of the Site. DEP does not support the application as the temporary development is expected to generate traffic of heavy vehicles and there are domestic structures in the vicinity of the Site with the closest one located about 72 m to the southwest of the Site (**Plan A-2**). Other relevant Government departments consulted, including DAFC, D of FS, and CE/C of WSD, have no adverse comment on / no objection to the application.
- 11.5 The Site is the subject of any previous application. There is a similar application (No. A/NE-TKLN/29) to the immediate south of the Site. That application was rejected by the Committee on 17.1.2020 mainly on the grounds that the proposed development was not in line with the planning intention of “REC” zone; the applicant failed to demonstrate in the submission that the proposed development would not cause adverse traffic impact on the surrounding areas; and setting of undesirable precedent. The circumstances of the subject application are similar to that rejected application.
- 11.6 Regarding the adverse public comments as detailed in paragraph 10, the relevant Government departments’ comments and the planning assessment 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, 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 "Recreation" zone which is intended primarily for low-density 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 applicant fails to demonstrate in the submission that the proposed development would not cause adverse traffic and drainage impacts on the surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the same "Recreation" zone. The cumulative effect of approving such 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 6.3.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m. from Mondays to Fridays 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) no workshop activities shall be carried out on the Site at any time during the planning approval period;
- (d) 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 6.9.2020;
- (e) in relation to (d) 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 6.12.2020;
- (f) the submission of proposals for fire service installations and water supplies for firefighting 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 6.9.2020;

- (g) in relation to (f) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 6.12.2020;
- (h) the submission of traffic impact assessment within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.9.2020;
- (i) in relation to (h) above, the implementation of traffic management measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.12.2020;
- (j) if any of the above planning conditions (a), (b) 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
- (k) if any of the above planning conditions (d), (e), (f), (g), (h) or (i) 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 applicant.
- 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**

<b>Appendix I</b>	Application Form with Attachments received on 17.1.2020
<b>Appendix II</b>	Similar s.16 Application within "REC" Zone on the approved Ta Kwu Ling North Outline Zoning Plan No. S/NE-TKLN/2
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan

**Plan A-3**                      Aerial Photo  
**Plans A-4a and A-4b**      Site Photos

**PLANNING DEPARTMENT**  
**MARCH 2020**