

RNTPC Paper No. A/YL-KTS/794
For Consideration by the Rural and
New Town Planning Committee
on 17.8.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/794

<u>Applicant</u>	: Mr. Cheung Ka Ming
<u>Site</u>	: Lot 688 S.B in D.D. 106, Shek Kong Airfield Road, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 2,510 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<u>Application</u>	: Temporary Open Storage of Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of vehicles and vehicle parts with ancillary office for a period of 3 years. The Site is currently used for the applied use without valid planning permission. (**Plans A-2 to A-4b**)
- 1.2 Part of the Site is the subject of 6 previous applications (No. A/YL-KTS/125, 151, 161, 170, 206 and 274) submitted by different applicant as the current application for various temporary open storage and workshop uses. All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) from 1998 to 2003. The last application No. A/YL-KTS/274 was revoked on 31.5.2003 due to non-compliance with planning conditions.
- 1.3 According to the applicant, there are 9 one-storey structures within the Site with a total floor area of about 559 m² for office, storage and car parking uses. A

total of 8 private car parking spaces and 2 light goods vehicles loading and unloading spaces are provided within the Site. The applicant stated that only light goods vehicle below 5.5 tonnes would be used to transport vehicle parts and no dismantling of car, car repairing, car washing and paint spraying activities will be carried out at the Site. The operation hours are between 9 a.m. and 6 p.m. from Mondays to Saturdays and there is no operation on Sundays and public holidays. The Site is accessible via Shek Kong Airfield Road. There are two ingress/egress points at the north and west of the Site. The site layout plan submitted by the applicant is shown in **Drawing A-1**.

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

- (a) Application form with supplementary information received on 3.7.2018 **(Appendix I)**
- (b) Further information (FI) received on 30.7.2018 in response to departmental comment **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
- (c) FI received on 1.8.2018 in response to departmental comment **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
- (d) FI received on 2.8.2018 in response to departmental comment **(Appendix Ic)**
(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 supplementary information in **Appendix I**. They can be summarized as follows:

- (a) The development is far from residential area and does not involve large machineries. Therefore, it will not generate noise impact on the neighborhood.
- (b) The applied use has been existed at the Site since 1990 until present. There is a similar application approved in the vicinity along Shek Kong Airfield Road and approval of the application would not set a precedent. The applied use is compatible with the surrounding land uses such as open storage for vehicles and the temporary nature of the applied use does not jeopardize the long-term planning intention of “R(D)” zone.

- (c) Drainage facilities will be provided and trees will be planted at the Site. No adverse impact is anticipated.

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. 31) by posting site notice at the Site and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Site falls within Category 3 area under the Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E) promulgated by the Town Planning Board on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

The Site is currently not the subject of any active enforcement action. If there are suspected unauthorized development found at the Site, investigation will be conducted. Should there be sufficient evidence to prove that the said use is an unauthorized development under the Town Planning Ordinance (the Ordinance), appropriate enforcement action will be instigated.

6. **Previous Applications**

- 6.1 Part of the Site is the subject of 6 previous applications (No. A/YL-KTS/125, 151, 161, 170, 206 and 274) for various temporary open storage with or without ancillary workshop uses. Details of the previous applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**. The applications, all submitted by different applicants as the current application, were approved by the Committee on 19.6.1998, 22.1.1999, 12.3.1999, 16.7.1999, 17.9.2001 and 31.5.2003 respectively mainly for the reasons that the development would not frustrate the long-term planned developments in the area; the development was not incompatible with the surrounding areas; the development conforms the Town Planning Board’s Guidelines No. 13 for “Application for Open Storage and Port Back-up Uses under s.16 of the Town Planning Ordinance”; previous planning approval had been granted; the development would alleviate the acute

shortage of open storage land in the area; concerned departments had no adverse comments and no local objection to the application had been received; and the approval of application would not set an undesirable precedent for similar applications. However, planning applications No. A/YL-KTS/206 and 274 were revoked on 17.9.2001 and 31.5.2003 due to non-compliance with planning conditions related to landscape, drainage and/or environmental mitigation aspects.

7. Similar Applications

- 7.1 There are a total of 17 similar applications (No. A/YL-KTS/461, 463, 482, 528, 536, 563, 584, 594, 599, 611, 637, 655, 665, 684, 730, 763 and 776) for various temporary open storage and workshop uses in the vicinity of the Site within the same and adjoining “R(D)” zones on the OZP since the promulgation of TPB PG-No.13E on 17.10.2008. All the similar applications, except two applications (No. A/YL-KTS/536 and 599), were approved with conditions by the Committee. Details of these applications are summarized in **Appendix IV** whilst the locations of the application sites are shown on **Plan A-1a**.
- 7.2 Applications No. A/YL-KTS/461, 463, 482, 528, 563, 584, 594, 611, 637, 655, 665, 684, 730, 763 and 776 for various temporary open storage uses with or without ancillary office/workshop or renewal of planning permission of various temporary open storage uses were approved with conditions by the Committee on 27.3.2009, 8.5.2009, 18.12.2009, 1.4.2011, 18.5.2012, 7.12.2012, 8.2.2013, 25.10.2013, 4.4.2014, 2.1.2015, 22.5.2015, 18.12.2015, 3.3.2017, 22.12.2017 and 16.3.2018 respectively on similar considerations that the developments were not incompatible with the surrounding land uses; approval of the application on a temporary basis would not frustrate the planning intention of “R(D)” zone; developments were generally in line with TPB PG-No. 13E in that previous planning approval for similar open storage uses had been granted and/or the relevant departments had no adverse comment and Director of Environmental Protection’s concern could be addressed by appropriate approval conditions. However, planning application No. A/YL-KTS/611 was revoked on 25.1.2014 due to non-compliance with planning condition.
- 7.3 Applications No. A/YL-KTS/536 and 599 for temporary car breaking workshop and open storage of vehicles and vehicles parts with ancillary office and temporary warehouse and ancillary office and open storage (power generator, machinery and parts) use respectively were rejected by the Committee on 20.5.2011 and 24.5.2013 respectively on the same grounds that the developments were not in line with the planning intention of the "R(D)" zone; the applications did not comply with the Town Planning Board PG-No. 13E in that there was no previous approval for workshop and open storage use granted at the application sites and there were adverse departmental comment and local objections against

the applications; and the approvals of the applications would also set an undesirable precedent.

8. The Site and Its Surrounding Areas (Plans A-1a to Plan A-4b)

8.1 The Site is:

- (a) used for the applied use without valid planning permission; and
- (b) accessible via Shek Kong Airfield Road.

8.2 The surrounding areas are mainly rural in character predominated by open storage yards, workshop, warehouse, residential structures/dwellings and unused land. Some of the uses are unauthorized development subject to enforcement action:

- (a) to its north across Shek Kong Airfield Road is the Shek Kong Barracks;
- (b) to its west are warehouse and workshop;
- (c) to its east are residential structures/dwellings (the nearest is about 30m away) and unused land/vacant structure; and
- (d) to its immediate south are unused land and Kam Tin River.

9. Planning Intention

The planning intention of the “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

10. Comments from Relevant Government Departments

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

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an 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.
- (b) The Site is accessible to Shek Kong Airfield Road via Government land (GL). His office provides no maintenance works for the GL involved and does not any guarantee right-of-way over the GL to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no comment on the application from the traffic engineering perspective.
- (b) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD).
- (c) The land status of the local access road should be checked with LandsD. Moreover, relevant management and maintenance authorities on using the road for accessing the Site should be consulted.
- (d) Should the application be approved, an approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.

10.1.3 Comments of the Chief Highway Engineer/North Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department does not and will not maintain any access connecting the Site and Shek Kong Airfield Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint received in the past 3 years.
- (b) In accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP), he does not support the application as there are sensitive receivers, i.e. residential dwellings/structures located to the east of the Site (with the nearest about 30m away) (**Plan A-2**) and in the vicinity of the Site, and environmental nuisance is expected.
- (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirement in the latest COP issued by DEP.

Landscape

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

- (a) He has no objection to the application from the landscape perspective.
- (b) The surrounding area is in rural landscape character composed of village houses, open storages and tree groups. The applied use is considered not incompatible with existing landscape setting.
- (c) According to the site inspection taken on 18.7.2018, existing trees (*Ficus longifolia* 長葉榕 and *Leucaena leucocephala* 銀合歡) in poor and good condition are found within the Site. According to the proposed layout plan, the proposed layout is in direct conflict with the *Leucaena leucocephala* and tree felling is necessary. In

view that *Leucaena leucocephala* is invasive species which grows vigorously and forms dense thickets that prevent natural succession of native species in the surrounding area, he has no objection to clear up all *Leucaena leucocephala* within the Site. Further significant impact on existing landscape arising from the applied use is not anticipated.

- (d) Should the Board approve the application, the approval condition on maintenance of existing trees and landscape plantings to satisfactory condition during the approval period should be applied in the planning permission.

Drainage

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

- (a) He has no in-principle objection to the application from the public drainage point of view.
- (b) Should the application be approved, approval conditions on submission of drainage proposal and implementation and maintenance of the drainage proposal for the development to the satisfaction of Director of Drainage Services or of the TPB should be incorporated in the planning permission.

Building Matters

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of his department, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried

out on Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.

- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (e) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Nature Conservation

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

- (a) He has no adverse comment on the application from nature conservation point of view as the Site is at “R(D)” zone and has been paved for some years.
- (b) There is an ecological mitigation planting area between the Site and Kam Shui North Road (**Plan A-2**). Should the application be approved, the applicant should be advised to adopt necessary measures in order to prevent damaging the trees and understory vegetation in the mitigation planting area.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. Also, good practice guidelines for open storage (**Appendix V**) should be adhered to.

- (c) Having considered the nature of the open storage use, approval condition on provision of fire extinguisher(s) within 6 weeks from the date of planning approval is recommended for inclusion in the planning permission. To address this condition, the applicant should submit a valid fire certificate (FS 251) to his department for approval.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

10.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comment from locals upon close of consultation and he has no particular comment on the application.

10.2 The following Government departments have no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (d) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 10.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 31.7.2018, one public comment was received from an individual (**Appendix VI**). The commenter objects to the application mainly on the grounds that the Site should be used for planned use and the applied use is an inefficient land use.

12. Planning Considerations and Assessments

12.1 The Site falls within Category 3 area under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant.

Category 3 areas: within these areas, ‘existing’ and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications would normally not be favorably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals 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.

- 12.2 The application is for temporary open storage of vehicles and vehicle parts with ancillary office for a period of 3 years. The applied use is not in line with the planning intention of the “R(D)” zone, which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. Nevertheless, there is no known programme for long-term development at the Site. Hence, it is considered that approval of the application on temporary period of 3 years would not jeopardize the long-term planning intention of the “R(D)” zone.
- 12.3 The applied use is not incompatible with the surrounding area which is mainly rural in character predominated by open storage/ storage yards, workshop, warehouse, residential structures/ dwellings and unused land. There are also similar applications for various open storage uses in the same and adjoining “R(D)” zones approved with conditions by the Committee between 2009 and 2018.
- 12.4 The application is generally in line with TPB PG-No. 13E in that the Site is the subject of previous planning approvals (No. A/YL-KTS/125, 151, 161, 170, 206 and 274) for various temporary open storage with or without ancillary workshop uses and relevant departments consulted have no adverse comment on the current application except DEP. As such, sympathetic consideration could be given to the current application.
- 12.5 While DEP does not support the application as there are residential dwellings/structures located to the east of the Site (the nearest about 30m away) (**Plan A-2**) and environmental nuisance is expected, there was no environmental complaint received in the past three years. To address the concern of the DEP on the possible nuisance generated by the temporary use, approval conditions restricting operation hours, vehicle types and workshop activities are recommended in paragraph 13.2(a) to (d). Any non-compliance with the approval

conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to adopt the environmental mitigation measures as set out in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. The technical requests of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (e) to (l).

- 12.6 One public comment objecting to the application was received from an individual as stated in paragraph 11. In this regard, temporary approval would not jeopardize the long-term planning intention. The planning considerations and assessments as mentioned above are also relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment in paragraph 11, the Planning Department considers that the temporary open storage of vehicles and vehicle parts with ancillary office use could be tolerated for a period of 3 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 3 years until 17.8.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (f) the maintenance of all existing trees and landscape plantings within the Site to satisfactory condition at all times during the planning approval period;
- (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 17.2.2019;
- (h) in relation to (g) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 17.5.2019;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) 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 28.9.2018;
- (k) 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 17.2.2019;
- (l) in relation to (k) above, the provision of fire service installations 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 17.5.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (i) 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;
- (n) if any of the above planning conditions (g), (h), (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; and
- (o) upon expiry of the planning permission, the reinstatement of the application 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 attached at **Appendix VII**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' consideration:

The development is not in line with the planning intention of the "R(D)" zone which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. No strong planning justification has been given 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 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 supplementary information received on 3.7.2018
Appendix Ia	FI received on 30.7.2018 in response to departmental comments
Appendix Ib	FI received on 1.8.2018 in response to departmental comments
Appendix Ic	FI received on 2.8.2018 in response to departmental comments
Appendix II	Relevant extract of Town Planning Board Guideline for "Application for Open Storage and Port Back-up uses" No. 13E
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the same "R(D)" zone on the Kam Tin South OZP
Appendix V	Good Practice Guidelines for Open Storage Sites

Appendix VI	Public comment received during the statutory publication period
Appendix VII	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2018**