

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/486

- Applicants** : Empire Famous Limited and Right East Consultants Limited represented by KJL Limited
- Site** : Lots 1623 S.B, 1624 S.A to S.I, 1624 RP, 1626, 1628, 1629 and 1631 to 1637, 1666 S.C RP in D.D. 100 and adjoining Government Land, Ying Pun, Kwu Tung South, New Territories
- Site Area** : 16,710.2m² (about) (including about 3,232.6m² of Government land (19.6%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
- Zoning** : “Recreation” (“REC”)
- Application** : Temporary Godown with Ancillary Office and Staff Quarters Use for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for temporary godown with ancillary office and staff quarters for a period of 3 years. The Site falls within an area zoned “REC” on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16. According to the Notes of the OZP, the applied temporary use not exceeding a period of three years requires permission from the Town Planning Board (the Board). The Site is hard paved and used as temporary godown with ancillary office and staff quarters without valid planning permission.
- 1.2 The Site involves 7 previous applications. The first was for ancillary waste water treatment plant. The remaining six were for temporary godown use with or without staff quarters which were submitted by one of the current applicants (i.e. Empire Famous Limited). The 7 previous applications were all approved by the Rural and New Town Planning Committee (the Committee) of the Board between 1996 and

2017. The current application is for the same use as the last application No. A/NE-KTS/449 with staff quarters which covered a slightly smaller site. All approval conditions of the last application had been complied with and the planning permission lapsed on 10.5.2020.

- 1.3 According to the applicants, there are six 1 to 2-storey godowns ranging from 3.9m to 11.2m high and an ancillary 2-storey office of about 6.2m high on the Site. In addition, there are three single-storey ancillary staff quarters of about 4m high in the north-eastern part of the Site (**Drawing A-1**). The godowns are for non-dangerous goods such as electronic parts, soft drinks, laundry-drying racks, turfing materials, construction materials and machinery. The non-domestic and domestic floor areas are 8,170m² and 316m² respectively and the site coverage is 44.02%. A total of 8 spaces for parking private car and 20 loading/unloading (medium goods vehicles) are on the Site. While the current site is larger than the last approved application (+ 916m²), the layout and development scale of the applied development are almost the same as the last approved scheme under A/NE-KTS/449. The layout plan is at **Drawing A-1**.
- 1.4 The Site is accessible from Fan Kam Road via a village road. A 7.3m wide ingress/egress is proposed at the south-western tip of the Site. There is a section of existing local road at the western part of the Site. Besides, a section of existing public footpath at the south-western part of the Site serving an adjoining development will be slightly realigned and remain for public use (**Drawing A-2**). 68 existing trees will be retained, and 9 new trees would be planted in the Site to replace the dead trees. The operation hours are from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays. No heavy goods vehicles, including container tractors/trailers, will be used for transportation of goods.
- 1.5 In support of the application, the applicants have submitted the following documents:
- (a) Application Form with a letter of 24.3.2020 received on 3.4.2020 (**Appendix I**)
 - (b) Supplementary Planning Statement (**Appendix Ia**)
 - (c) Further Information of 15.5.2020* (**Appendix Ib**)
 - (d) Further Information of 20.5.2020* (**Appendix Ic**)
- * Exempted from publication

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Supplementary Planning Statement at **Appendix Ia** and further information at **Appendices Ib and Ic**. They are summarized as follows:

- (a) The applied temporary godown use for a period of 3 years would not frustrate the long-term planning intention of the “REC” zone.

- (b) The applied use is not incompatible with the surrounding land uses.
- (c) As compared to the last approved application No. A/NE-KTS/449, the site area is enlarged to include additional land in the south-western portion to provide a proper and safe vehicular access arrangement to the Site and to align with the boundary of Short Term Tenancy (STT) No. 522. The current application aims to continue the temporary godown use under A/NE-KTS/449.
- (d) The 7.3m wide ingress/egress with setback of the existing footpath is proposed to avoid the overhang of vehicles encroaching upon the footpath and to improve pedestrian safety.
- (e) The applied use will not cause any adverse impact in terms of traffic, landscape and tree preservation, water supply for firefighting, and drainage. Approval of the application would not set an undesirable precedent for similar applications.
- (f) The Site is the subject of 7 previously approved applications for the similar godown use. All were submitted by one of the current applicants. The applicant has complied with all approval conditions under A/NE-KTS/449.

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

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

4. Background

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

5. Previous Applications

- 5.1 The Site, in part or in whole, is the subject of 7 previous applications, of which the last 6 applications were for the same godown use submitted by one of the current applicants (i.e. Empire Famous Limited). The seven applications were all approved by the Committee between 1996 and 2017. Details of the applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2a**.
- 5.2 Application No. A/NE-KTS/41 at a smaller site for a proposed ancillary waste water treatment plant for the then existing paper factory was approved in 1996 on the consideration of bringing environmental improvements to the surrounding areas, especially the stream and agricultural land nearby.
- 5.3 Six applications (No. A/NE-KTS/225, 240, 261, 305, 362 and 449) for temporary godown use with or without ancillary staff quarters on the Site were approved with

conditions between 2006 and 2017 for temporary periods of 3 years mainly on the considerations that the use was not incompatible with the surrounding uses, temporary approval would not jeopardize the long-term planning intention of the site, adverse environmental impacts were unlikely, there were no local objections/pollution complaint, and previous approval had been granted (for the renewal cases). Two applications (No. A/NE-KTS/225 and 240) were revoked due to non-compliance with approval conditions. For the last application submitted by one of the current applicants, all approval conditions had been complied with.

6. Similar Application

There is no similar application for temporary godown use within the same “REC” zone.

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

7.1 The Site is:

- (a) partly fenced;
- (b) mainly used as temporary godown use with ancillary office and staff quarters; and
- (c) accessible via a village road leading to Fan Kam Road.

7.2 The surrounding area is predominantly rural in nature and mainly occupied by warehouse, storage yards, workshop and domestic structures, of which some are suspected unauthorised developments subject to planning enforcement action:

- (a) to the north across a village road and to the east are some domestic structures, a storage and active agricultural land;
- (b) to the south are a nullah, an open storage yard of construction material, a machinery workshop, some domestic structures, fallow agricultural land and vacant land; and
- (c) to the west are a warehouse, storage yards, a vehicle repair workshop, a storage approved under Application No. A/NE-KTS/452, a warehouse approved under Application No. A/NE-KTS/472 and some domestic structures.

8. Planning Intention

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.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) the lots are Old Schedule agricultural lots held under the Block Government Lease without any guarantee of right of access. The applicants should make their own arrangement. The Government shall accept no responsibility in such arrangements and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the applied use;
- (b) all the lots except Lots No. 1623 S.B and 1666 S.C RP in D.D. 100 are covered by Short Term Waiver (STW) No. 799 for the purpose of a paper factory with a total permitted roofed-over area and height of the structures not exceeding 5,952.48m² and 7.62m respectively;
- (c) most of the Government land within the Site is either covered by (i) STT No. 522 for the purpose of a paper factory with a total roofed-over area and height of the structures not exceeding 1,311.28m² and 7.62m respectively; or (ii) STT No. NX 1799 for the purpose of access and open space;
- (d) the existing structures on the Government land which is neither covered by any STT No. 522 nor STT No. NX 1799 were built without approval from his office. His office reserves the right to take land control actions against the structures concerned;
- (e) the planning statement (**Appendix Ia**) indicates that the applicants propose to widen the vehicular access on the Government land at the southern side of proposed STT No. NX 1799. The proposed widening works would give rise to the clearance of the Government properties and the crops/trees growing thereon. If the planning application is approved, the applicants should seek advice/consent from the Government departments concerned; and
- (f) if the application is approved, the owners of the lots concerned shall apply to his office for modification of the existing STW and STT

covering all the actual occupation area. The STW and STT applications will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW and STT applications are approved, their commencement dates would be backdated to the first date of occupation or a date as deemed appropriate by his office, 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 has no in principle objection to the application which is very similar to the previously approved development with enhancement in traffic safety;
- (b) the widening of the site access is to enhance vehicles manoeuvring entering and leaving the Site and it can be fine-tuned at the later stage;
- (c) particular comments on the traffic improvement measures:
 - (i) for the proposed footpath at the south-eastern corner of the Site, a minimum footpath width of 1.5m should be maintained;
 - (ii) convex mirror should not be relied in the traffic safety measures;
- (d) should approval be given by the Board, approval conditions requiring the submission and implementation of the proposal on traffic improvement measures to enhance pedestrian safety is recommended;
- (e) for land administration issues and implementation of the proposed improvement works, the applicants should seek comments from the responsible parties; and
- (f) the vehicular access between the Site and Fan Kam Road is not managed by his department. The applicants should seek comment from the responsible parties.

Environment

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

- (a) in accordance with the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites", he does not support the application as there are sensitive receivers of domestic uses in the vicinity of the Site, with the nearest one located at a

distance of about 5m to the south of the Site (**Plan A-2a**) and environmental nuisance is expected; and

- (b) there is no environmental complaint received by DEP in the past three years.

Landscape Aspect

9.1.4 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 planning perspective;
- (b) with reference to aerial photo of 2019, no significant change in the landscape character is found in the area. The Site is surrounded by cluster of village houses, scattered tree groups, farmland, temporary structures and open storage use. Further, the Site is dominated by temporary structures and some open storages. The applied use is not incompatible with the surrounding environment. The tree survey of 25.2.2020 with tree photo records (**Appendix Ia**) shows that the condition of implemented tree planting works is generally fair and all existing trees are proposed to be retained except 9 trees were removed due to typhoon damage. According to the planning statement (**Appendix Ia**), 9 new tree planting i.e. *Bauhinia purpurea* is proposed at the original location/tree pit. Further significant impact to the existing landscape character and resources arising from the applied use is not anticipated;
- (c) should approval be given by the Board, approval condition requiring maintenance of all existing trees within the Site is recommended; and
- (d) his detailed advisory comments are at **Appendix III**.

Drainage

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

- (a) he has no objection to the application from drainage point of view;
- (b) the drainage upgrading project mentioned in the further information (**Appendix Ib**) was completed by Home Affairs Department (HAD) instead of DSD;
- (c) should approval be given by the Board, the following approval conditions are recommended:

- (i) the submission of a record of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services; and
- (ii) the existing drainage facilities should be properly maintained and rectified if found inadequate/ineffective during operation at all times during the planning approval period.

Building Matters

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

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

Nature Conservation

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

as the Site has been used for the same purpose for some time, he has no comment on the application from nature conservation point of view.

Fire Safety

9.1.8 Comments of the Director of Fire Services (DFS):

- (a) he has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of Director of Fire Services;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicants are advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. His detailed advisory comments are at **Appendix III**; and
- (c) 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.

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;
- (b) existing water mains are inside the Site and will be affected. The applicants are required to either divert or protect the water mains found on the Site; and
- (c) his detailed advisory comments are at **Appendix III**.

District Officer's Comments

9.1.10 Comments of the District Officer/North (DO/N), HAD;

he has consulted the locals from 28.4.2020 to 5.5.2020. The North District Council (NDC) member of the subject Constituency supports the proposal. The Chairman of the Sheung Shui District Rural Committee (SSDRC) and the Resident Representative (RR) of Ying Pun have no comment.

9.2 The following government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Commissioner of Police (C of P);
- (c) Director of Leisure and Cultural Services (DLCS); and
- (d) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

10. Public Comments Received During Statutory Publication Period

On 14.4.2020, the application was published for public inspection. During the three-week statutory publication period, no comment was received.

11. Planning Considerations and Assessments

11.1 The application is for temporary godown with ancillary office and staff quarters for a period of 3 years. The Site falls within an area zoned "REC" on the approved Kwu Tung South OZP No. S/NE-KTS/16 (**Plan A-1**). The applied use is not in line with

the planning intention of “REC” zone, which is intended primarily for recreational developments for the use of the general public. However, there is no known programme or intention to use the Site for recreation activities. Hence, the approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “REC” zone.

- 11.2 The applied use is considered not entirely incompatible with the surrounding land uses, which are predominantly warehouse, storage yards, workshop and domestic structures in the vicinity (**Plan A-2a**). DEP does not support the application as there are sensitive receivers of domestic uses in the vicinity of the Site (with the nearest one at a distance of about 5m to the south of the Site) (**Plan A-2a**). However, there is no record of environmental complaint for the Site in the past 3 years. Besides, the Site is fenced off and there are no existing domestic structure on both sides of the vehicular access connecting the Site and Fan Kam Road (**Plan A-2a**). The concern of DEP on possible environmental nuisance to surrounding areas could be addressed through the incorporation of approval conditions restricting the operating hours of the development, and prohibiting heavy goods vehicles including container tractors/trailers to/from the Site, as recommended in paragraphs 12.2(a) to (c). Besides, the applicants would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP in order to minimize any possible environmental nuisances. C for T has no in principle objection to the application which is very similar to the previously approved development with enhancement in traffic safety. Approval conditions relating to pedestrian safety measures as recommended by TD are included in paragraphs 12.2 (g) and (h). Other relevant Government departments consulted including D of FS and CTP/UD&L, PlanD have no adverse comment on or no objection to the application.
- 11.3 The Site is involved in seven previously approved applications. Amongst which, six for similar temporary godown use on majority of the Site have been granted since 2006 as stated in paragraph 5. The last application No. A/NE-KTS/449 lapsed on 10.5.2020 and all approval conditions have been complied with. Approval of the current application is in line with the previous decisions of the Board.
- 11.4 No public comment was received during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the local views mentioned in paragraph 9.1.10, the Planning Department considers that the temporary godown with ancillary office and staff quarters could be tolerated for a period of 3 years.
- 12.2 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 **29.5.2023**. The following approval conditions and advisory clauses are also suggested for

Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (c) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicants, are allowed to/from the Site at any time during the planning approval period;
- (d) the existing trees on the Site should be maintained at all times during the planning approval period;
- (e) the existing drainage facilities should be properly maintained and rectified if found inadequate/ineffective during operation at all times during the planning approval period;
- (f) the submission of a record of the existing drainage facilities on the Site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 29.8.2020;
- (g) the submission of a proposal on traffic improvement measures to enhance pedestrian safety within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 29.11.2020;
- (h) in relation to (g) above, the implementation of the proposal on traffic improvement 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 28.2.2021;
- (i) the submission of fire service installations and water supplies for fire fighting proposals 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 29.11.2020;
- (j) in relation to (i) above, the implementation of fire service installations and water supplies for fire fighting proposals 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 28.2.2021;
- (k) 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

- (l) if any of the above planning conditions (f), (g), (h), (i) or (j) 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

Advisory clauses

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

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the applied use is not in line with the planning intention of the "REC" zone in the Kwu Tung South area which is primarily for recreational developments for the use of the general public and to encourage the development of active and/or passive recreation and tourism/eco-tourism. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.; and
- (b) the applicants have failed to demonstrate that the development would not generate adverse environmental impact on the surrounding areas.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 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.

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

14. Attachments

Appendix I	Application Form with a letter of 24.3.2020 received on 3.4.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Further Information of 15.5.2020
Appendix Ic	Further Information of 20.5.2020
Appendix II	Previous Applications

Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Traffic Improvement Measure Proposal
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Private Lots in the Site and near the Ingress/Egress
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
MAY 2020**