

RNTPC Paper No. A/YL-KTS/751B
For Consideration by the Rural and
New Town Planning Committee
on 2.3.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/751

- Applicant** : Hong Kong Chuo Ying Co. Ltd.
- Site** : Lots 401(Part), 404(Part), 405 RP(Part), 406 RP, 408 RP(Part), 409 and 410(Part) in D.D. 106, Pat Heung, Yuen Long, New Territories
- Site Area** : About 1,486 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14
[Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/13 at the time of submission of application]
- Zoning** : “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) [Maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]
[Same zoning and development restrictions on the approved Kam Tin South OZP No. S/YL-KTS/13 and the draft Kam Tin South OZP No. S/YL-KTS/14]
- Application** : Temporary Open Storage of Freezer Vehicles, Air-conditioned Compartments and Spare Parts of Cooling Machinery Components for Vehicles for Sale, and Installation and Maintenance Workshop for Freezer Vehicles 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 freezer vehicles, air-conditioned compartments and spare parts of cooling machinery components for vehicles for sale, and installation and maintenance workshop for freezer vehicles for a period of 3 years. The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is the subject of 9 previous applications (No. A/YL-KTS/136, 204, 220, 298, 333, 371, 427, 485 and 558) 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) or the Town Planning Board (the Board) on review from 1998 to 2012. The last two applications No. A/YL-KTS/485 and 558 submitted by the same applicant as the current application for the same use for a period of 3 years were approved with conditions by the Board on review and the Committee for 18 months on 30.4.2010 and 18.5.2012 respectively. However, the planning approvals were revoked on 15.3.2011 and 18.11.2012 respectively due to non-compliance with planning conditions.
- 1.3 According to the applicant, there are six structures within the Site with a total floor area of about 599 m² and building height ranging from 2.5 m to 7.5 m for office, storage, hanger and workshop uses. A total of 2 car parking spaces for freezer vehicles and 1 private car parking space are provided within the Site. The applicant stated that there will be no heavy vehicle and paint spraying activities 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 a local track connecting to Kam Sheung Road. The ingress/egress point is provided at the north of the Site. The layout plan, drainage proposal, fire service installations (FSIs) proposal and landscape proposal as submitted by the applicant are shown in **Drawings A-1a to A-4**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information **(Appendix I)** received on 28.7.2017
 - (b) Further information (FI) received on 6.9.2017 **(Appendix Ia)** providing justification to the application and a landscape proposal
(accepted and exempted from publication and recounting requirements)
 - (c) FI received on 17.11.2017 in response to departmental **(Appendix Ib)**

comments
*(accepted and exempted from publication and
 recounting requirements)*

- (d) FI received on 29.1.2018 in response to departmental comments
*(accepted and exempted from publication and
 recounting requirements)* **(Appendix Ic)**
- (e) FI received on 9.2.2018 in response to departmental comments
*(accepted and exempted from publication and
 recounting requirements)* **(Appendix Id)**
- (f) FI received on 21.2.2018 providing justifications to support the application
*(accepted and exempted from publication and
 recounting requirements)* **(Appendix Ie)**
- (g) FI received on 26.2.2018 providing justifications to support the application
*(accepted and exempted from publication and
 recounting requirements)* **(Appendix If)**

1.5 As requested by the applicant, the Committee agreed to defer consideration of the application on 22.9.2017 and 22.12.2017 to allow time for the applicant to prepare FI to address the departmental comments. After the deferral request, the applicant submitted further information to support the application.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form in **Appendix I** and the FI in **Appendices Ia to If**. They can be summarized as follows:

- (a) The main business of the applicant is for sale of compartments of freezer vehicles and the components of cooling machinery for vehicles. The staff and the installation works of the components of cooling machinery should be protected against wind, rain or strong sunshine. Therefore, a covered workshop is included in the current application.
- (b) Since the applied development is small in scale and at a remote location, it was difficult to find a qualified contractor for the FSIs and drainage works. The applicant has finally found a qualified contractor for the works. The applicant

would comply with the relevant approval conditions should the application be approved. Relevant fire, drainage and landscape proposals are also submitted in the current application. The applicant also explained the delay of applying for planning approval since the last revoked application was due to misunderstanding between the applicant and land owner.

- (c) While an approval period of 18 months was given to the two previous applications, the applicant applies for an approval period of 3 years in the current application. The applicant states that the applied use will not cause significant environmental impact and nuisance on the surrounding as most of the workshop activities will be performed within the structures to reduce noise and no paint spraying activities will be carried out. Also, the closest residential dwellings are located across the nullah and there are other open storage uses separating the Site with residential dwellings in the vicinity. The applicant has not received any environmental complaint in the last. The applicant would follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) and he would minimize any nuisance generated from the applied use.

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 sending notice to the land owner by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 Town Planning Board Guidelines No. 38 for Designation of “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) Zone and Application For Development Within “OU(RU)”) Zone under Section 16 of The Town Planning Ordinance is relevant to the application. The relevant assessment criteria are summarized as follows:

Application for development within “OU(RU)” zone would need to demonstrate that the proposed development is in line with the planning intention of the zone and will not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings and will not overstrain the capacity of existing and planned infrastructure such as transport, drainage, sewerage and water supply in the area. Each development proposal will be assessed on its individual merits, with particular reference to its sustainability in ecological, environmental and infrastructural terms.

- 4.2 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. The Site was previously covered by planning permission for the same use. Since the previous planning permission has been revoked, the current use is subject to investigation.

6. **Previous Applications**

- 6.1 The Site is the subject of 9 previous applications (No. A/YL-KTS/136, 204, 220, 298, 333, 371, 427, 485 and 558) for various temporary open storage and workshop uses. All the applications were approved by the Committee or the Board on review under the then “Undetermined” (“U”)¹ zone or the “OU(RU)” zone (Application Nos. A/YL-KTS/427, 485 and 558). Details of the previous applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Applications No. A/YL-KTS/136 and 204 for open storage of vehicles/spare parts and construction machinery and/or bamboo covering a larger site were approved with conditions by the Committee on 25.9.1998 and 3.3.2000 for 2 and 3 years respectively. However, the planning approval for application No. A/YL-KTS/204 was revoked on 3.12.2000 due to non-compliance with approval conditions.
- 6.3 Application No. AYL-KTS/220 for temporary open storage of vehicles/spare parts, construction machinery and bamboo and container trailer park covering a larger site was approved with conditions by the Committee on 28.7.2000 for 3 years on the grounds that planning approvals for temporary open storage use had already been granted before and there was no change in planning circumstances pertaining to the site since the granting of the previous approvals. Subsequently, approval conditions relating to fencing, landscaping and drainage facilities had been complied with.
- 6.4 Applications No. A/YL-KTS/298 and 333 for temporary open storage of container trailers for sale, vehicles/spare parts and construction materials covering a larger site were approved by the Committee on 15.8.2003 and 28.1.2005 for 18 months and 1 year instead of 3 years and 18 months sought

¹ The Site was zoned “U” on the first draft Kam Tin South OZP No. S/YL-KTS/1 gazetted on 17.6.1994 and has been rezoned to the current “OU(RU)” zone under the draft Kam Tin South OZP No. S/YL-KTS/10 gazetted on 22.9.2006. The OZP was approved on 26.6.2007 and the “OU(RU)” zone has remained unchanged.

respectively on the similar grounds that the developments were generally in line with the Town Planning Board Guideline on ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ in that they were not incompatible with the surrounding land uses which were mixed with open storage yards; previous planning approvals for open storage use had been given and conditions were complied with; and relevant Government departments had no major adverse comment on the applications. Shorter approval periods were granted to the 2 applications to monitor the situation as part of the site fell within the works limit of the drainage project for “Yuen Long, Kam Tin, Ngau Tam Mei and Tin Shui Wai Drainage Improvement Stage 1, Phase 2B” which was scheduled to be constructed in 2006. Approval conditions relating to implementation of landscaping proposals, solid boundary wall and vehicle queuing space arrangement were complied with during the approval period of Application No. A/YL-KTS/298, and those relating to the maintenance of the landscape planting, drainage facilities and solid boundary wall were also complied with during the approval period of Application No. A/YL-KTS/333.

- 6.5 Application No. A/YL-KTS/371 for temporary open storage of container trailers for sale, vehicles/spare parts and construction materials for a period of 2 years and Application No. A/YL-KTS/427 for renewal of the planning approval under Application No. A/YL-KTS/371 for a period of 2 years covering a larger site, were approved by the Committee on 16.6.2006 and 6.6.2008 respectively on the consideration that the developments were in line with the TPB PG-No. 13E in that the concerned Government departments had no adverse comment on the applications or their comments could be addressed by imposing appropriate approval conditions, and approval conditions under the previous planning permissions had been complied with. Approval conditions under applications No. A/YL-KTS/371 and A/YL-KTS/427 had been complied with.
- 6.6 Application No. A/YL-KTS/485 for the same applied use (i.e. temporary open storage of freezer vehicles, air-conditioned compartments and spare parts of cooling machinery components for vehicles for sale, and installation and maintenance workshop) submitted by the same applicant of the current application was approved with conditions for 1 year instead of 3 years sought by the Committee on 15.1.2010 on the consideration that the development was not incompatible with the surrounding open storage/workshop uses; the development was generally in line with the TPB PG-No. 13E in that the site was the subject of previous planning approvals and the comments from the concerned Government departments could be addressed by imposing appropriate approval conditions. Shorter approval period was granted to monitor the situation on the site given an installation and maintenance workshop was proposed and to address the concern of the DEP on the possible nuisance generated by the temporary use. Subsequently, the applicant applied for review on the Committee’s decision on granting the approval for 1 year only. On 30.4.2010, the Board agreed on review granting the approval with conditions for a period of 18 months after balancing the factors that longer time was needed for the construction works for the

proposed development and the need to monitor the operation at the site. However, the application was revoked on 15.3.2011 due to non-compliance with approval conditions on submission and implementation of landscape, drainage and FSIs proposals. Application No. A/YL-KTS/558 for the same use submitted by the same applicant was approved for a period of 18 months instead of 3 years sought on 18.5.2012 on similar considerations to A/YL-KTS/485. However, the application was revoked on 18.11.2012 due to non-compliance with approval conditions on submission of landscape, drainage and FSIs proposal.

- 6.8 Compared with applications No. A/YL-KTS/485 and 558 for the same applied use submitted by the same applicant of the current application, the current application has the same site area/boundary and similar layout.

7. Similar Applications

- 7.1 There are 33 similar applications (No. A/YL-KTS/444, 467, 470, 479, 493, 496, 501, 503, 525, 527, 531, 541, 567, 569, 572, 575, 586, 589, 602, 603, 616, 630, 635, 641, 653, 664, 669, 706, 708, 719, 731, 740 and 757) for various types of open storage uses with/without workshop within the same “OU(RU)” zone. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.
- 7.2 All the similar applications, except applications No. A/YL-KTS/525, 572, 589, 616 and 664 for various types of open storage with/without workshop on temporary basis were approved by the Committee on similar considerations that previous approvals were granted for the sites or the approval conditions under the previous approval had been complied with; the proposed uses were not incompatible with the surrounding land uses or did not contradict with the planning intention; relevant approval conditions could be imposed to minimize environmental impact; there were no adverse comments from relevant departments; and the departmental or public concerns could be addressed by appropriate approval conditions. However, applications No. A/YL-KTS/444, 470, 479, 493, 501, 503, 531, 541, 569, 586 and 630 were revoked on 4.8.2009, 7.2.2010, 4.10.2010, 22.4.2011, 10.12.2010, 31.7.2012, 15.2.2012, 5.1.2013, 16.2.2013, 21.7.2013 and 26.12.2014 respectively due to non-compliance with approval conditions.
- 7.3 Applications No. A/YL-KTS/525, 572, 589, 616 and 664 covering 3 sites for various types of open storage with/without workshop on temporary basis were rejected by the Committee and the Board on review between 2011 and 2015. They were rejected mainly due to the development was not in line with the planning intention of the “OU(RU)” zone; the continuation of the development would jeopardize the planning intention of the “OU(RU)” zone as a proposed residential development near the site had been approved and/or there are agricultural activities near and in the vicinity of the site; the development is not

compatible with the existing and future residential land uses in the vicinity; the applicant failed to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas; the development did not comply with TPB PG-No. 13E in that the applicant failed to demonstrate efforts in compliance with the approval conditions and/or there is no previous approval for open storage use granted at the site and/or the development would cause adverse environment, drainage, traffic and landscape impacts; there were adverse departmental comment and public objections; the approval of application will set an undesirable precedent for similar applications within this part of the zone.

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

8.1 The Site is:

- (a) paved, fenced off and used as the applied use without valid planning permission; and
- (b) accessible via a local track connecting to Kam Sheung Road on the west.

8.2 The surrounding areas are mainly rural in character predominated by mixed with open storage/storage yards, workshop, warehouse, parking of vehicles, residential structures/dwellings and vacant/unused land. Some of the open storages/storage yards, warehouse and workshop are suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its immediate north is parking of vehicles, unused/vacant land; and further north are open storage yards and warehouse;
- (b) to its south and west across a nullah are vacant/unused land and residential structures/dwellings (the nearest is about 40m away);
- (c) to its immediate east are vacant/unused land and open storage yard; and
- (d) two open storage yards, located to the north and south respectively, are covered by planning permission (Applications No. A/YK-KTS/757 and 719).

9. Planning Intention

The planning intention of the “OU(RU)” is for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the

Board, with a view to upgrading or improving the area or providing support to the local communities.

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 Old Schedule Agricultural Lots 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 Kam Sheung Road via Government land (GL) and private land. His office provides no maintenance works for the GL involved and does not any guarantees right-of-way.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed 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 of the landlord at its sole discretion and there is no guarantee that such application(s) 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 LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.

- (b) Should the application be approved, 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.
- (c) 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). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) His department is not and shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Kam Sheung 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 southwest of the Site (with the nearest about 40m 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 Site was involved in 9 previous applications which he had no objection to the previous application No. A/YL-KTS/558 for the same use from landscape planning perspective. The surrounding area is rural in character occupied with open storages, workshops and tree groups. The applied use is considered not incompatible with the landscape setting.
- (c) According to the site photos taken on 8.8.2017, the applied use is already in place. Compared with the aerial photo dated 3.8.2015, there is no significant change to the surrounding landscape since the application was last approved. Based on Section 8 of the application, no existing tree will be affected and the proposed layout is the same as the previous application. It is observed from the photos in submitted FI that the existing trees are in fair condition. Further significant impact on existing landscape arising from the proposed use is not anticipated.
- (d) Having reviewed site area and proposed layout, there is absence of space available for further landscape improvement. Should the application be approved, approval condition requiring maintenance of existing trees and landscape planting is recommended for inclusion in the planning approval.
- (e) The applicant shall be reminded of the importance of proper tree care. All store materials within 1m of existing trees should be removed to prevent damage to the trees. Useful information is available for reference in the Pictorial Guide for Tree Maintenance and the Handbook of Tree Management published by the GLTM Section, DEVB.

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.
- (c) Detailed comments on submitted drainage proposal are at **Appendix V**.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the applied use in the application.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.

- (f) 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):

As the Site has been paved and disturbed, he has no strong view on the application from nature conservation point of view. Should the application be approved, the applicant is advised to adopt good site practices and implement water pollution control measures as necessary in order to avoid affecting the nearby watercourse.

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 VI**) 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.

- (e) His detailed comments on the submitted FSIs proposals are at **Appendix V**.

Water Supply

10.1.10 Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (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

10.1.11 Comments of the Project Manager (New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD):

- (a) The Site falls within one of the potential housing sites identified in the Land Use Review for Kam Tin South and Pat Heung.
- (b) The application should be considered in view of the housing developments at Kam Tin South, the existing infrastructure, the uses permitted under the prevailing OZP, the prevailing land administration policy and the associated Ordinance.

District Officer's Comments

10.1.12 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) Director of Electrical and Mechanical Services (DEMS); and
- (b) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 8.8.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 29.8.2017, one public comment was received from an individual (**Appendix VII**). The commenter objects to the application mainly on the grounds that the refrigeration units contain toxic chemicals, storage of such items would affect the quality of the soil and render it unsafe for recreational or rural uses; the applied use should move into custom built industrial estates with appropriate facilities and equipment to deal with toxic elements; the development is not in line with the planning intention of “OU(RU)” zone and this brownfield use should be rejected and the land use should be compatible with the emergence of a residential node.

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 freezer vehicles, air-conditioned compartments and spare parts of cooling machinery components for vehicles for sale, and installation and maintenance workshop for freezer vehicles for a period of 3 years. The applied use is not in line with the planning intention of the “OU(RU)” zone, which is intended for the preservation of the character of the rural area, and uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities. 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 “OU(RU)” zone on the OZP.

- 12.3 The applied use is not incompatible with the surrounding area which is mainly rural in character predominated by open storage/ storage yards, workshops, warehouse, parking of vehicles, residential structures/ dwellings and vacant/ unused land. There are also previous applications for the same applied use at the Site and similar applications for various open storage uses in the same “OU(RU)” zone approved with conditions by the Committee or by the Board.
- 12.4 The application is generally in line with TPB PG-No. 13E in that the Site is the subject of previous planning approvals for the applied uses (Applications No. A/YL-KTS/485 and 558) and relevant departments consulted have no adverse comment on the current application except DEP. As previous approvals have been granted and there is no major change in the planning circumstances since the last planning approval, 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 southwest of the Site (with the nearest about 40m 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, paint spraying activities and vehicle types 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 The last two approvals at the Site for the same applied use submitted by the same applicant of the current application (Applications No. A/YL-KTS/485 and 558) were revoked on 15.3.2011 and 18.11.2012 respectively due to non-compliance with the approval conditions in relation to the submission and implementation of landscape, drainage and FSIs proposals. The applicant submitted all these proposals in the current application to demonstrate that the applied uses would not generate adverse impacts on the surrounding areas and stated that effort would be made to comply with the approval conditions. Concerned departments also have no adverse comment on the application. Hence, sympathetic consideration could be given to the current application. Shorter compliance periods are recommended to monitor the progress of compliance should the Committee decide to approve the current application. Moreover, the applicant would be advised that should he fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 12.7 For the last two applications for the same applied use (Application No. A/YL-KTS/485 and 558), a shorter approval period of 18 months instead of 3 years sought was granted by the Committee/ the Board on review taking into account the time required for carrying out the construction works of the proposed development and the need to monitor the site given an installation and maintenance workshop was proposed. The applicant applied for a temporary approval for 3 years in the current application and justified that significant nuisance and environmental impact is not expected as most of the workshop activities will be carried out within the structures and no paint spraying activities will be carried out. The residential dwellings are separated from the Site by a nullah or other open storage uses and the applicant will follow the COP issued by EPD. In view of this, and noting that there was no environmental complaint received by DEP in the past three years, it is considered that approval period of 3 years could be granted to the current application.
- 12.8 One public comment objecting to the application was received from an individual as stated in paragraph 11. In this regard, the planning considerations and assessments as mentioned above are 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 freezer vehicles, air-conditioned compartments and spare parts of cooling machinery components for vehicles for sale, and installation and maintenance workshop for freezer vehicles 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 2.3.2021. The following conditions of approval with shorter compliance periods 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 paint spraying activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no heavy goods vehicles exceeding 24 tonnes, including container

tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site 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) existing trees and landscape planting on the Site shall be maintained at all times during the approval period;
- (g) the submission of drainage proposal 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 2.6.2018;
- (h) in relation to (g) above, the implementation of the drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.9.2018;
- (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 13.4.2018;
- (k) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 2.6.2018;
- (l) in relation to (k) above, the provision of fire service installations 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 2.9.2018;
- (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 VIII**.

- 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 "OU(RU)" zone, which is for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities. 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

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| Appendix I | Application form with supplementary information received on 28.7.2017 |
| Appendix Ia | FI received on 6.9.2017 providing justification to the application together with a landscape proposal |
| Appendix Ib | FI received on 17.11.2017 in response to departmental comments |
| Appendix Ic | FI received on 29.1.2018 in response to departmental comments |
| Appendix Id | FI received on 9.2.2018 in response to departmental comments |

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| Appendix Ie | FI received 21.2.2018 providing justifications to support the application |
| Appendix If | FI received 26.2.2018 providing justifications to support the application |
| 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 “OU(RU)” zone on the Kam Tin South OZP |
| Appendix V | Detailed comments of CE/MN of DSD and D of FS |
| Appendix VI | Good Practice Guidelines for Open Storage Sites |
| Appendix VII | Public comment received during the statutory publication period |
| Appendix VIII | Advisory Clauses |
| Drawing A-1a and A-1b | Site Location and Layout Plans |
| Drawing A-2 | Drainage Proposal |
| Drawing A-3 | Fire Service Installations Proposal |
| Drawing A-4 | Landscape Proposal |
| 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-4 | Site Photos |

**PLANNING DEPARTMENT
MARCH 2018**