

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/92

<u>Applicant</u>	:	Take Keen Limited represented by Fotton ELA Architects Limited
<u>Site</u>	:	Lot 542 S.A RP in D.D. 92, Castle Peak Road, Kwu Tung, Sheung Shui, New Territories
<u>Site Area</u>	:	About 1,374m ²
<u>Land Status</u>	:	Old Schedule Lot held under the Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kwu Tung North Outline Zoning Plan No. S/KTN/2
<u>Zonings</u>	:	“Agriculture” (“AGR”) (about 99.1%) and “Other Specified Uses” annotated “Amenity Area” (“OU(A)”) (about 0.9%)
<u>Application</u>	:	Temporary Warehouses, Open Storage of Metal and Steel, Scrap Metal and Materials, Construction Materials and Miscellaneous Objects, and an 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 warehouses, open storage of metal and steel, scrap metals and materials, construction materials and miscellaneous objects, and an ancillary office for a period of 3 years. The Site falls mainly within “AGR” zone on the approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2. According to the Notes of the OZP, temporary use not exceeding a period of 3 years in “AGR” zone requires permission of the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use without valid planning permission (**Plan A-2**).
- 1.2 The Site is the subject of 8 previous applications which were all approved by the Rural and New Town Planning Committee (the Committee) or the Board. The last application A/KTN/59 submitted by the current applicant for the same use was approved by the Committee on 3.5.2019 and lapsed on 4.5.2022. All approval conditions have been complied with. The current application is largely the same as the previous application with an additional canopy (**Plan A-1**).

1.3 According to the applicant's submission, the applied development comprises 7 structures with a total floor area of about 412.8 m² and maximum building height of 2-7.6m (1-storey) for warehouse, storage, site office, and toilet use. No parking space is provided on site but a loading/unloading area for medium goods vehicles is provided within the Site. The Site is accessible from its south via a local track from Castle Peak Road – Kwu Tung. The operation hour of the development is from 8:00 a.m. to 5:30 p.m., from Mondays to Saturdays, with no operation on Sundays and public holidays. The submitted layout plan is at **Drawing A-1**, A sectional plan, floor plans, and Fire Services Installations (FSI) proposals submitted by the applicant are at **Appendices I and Ia**.

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

Application Form with attachments received on 14.7.2022 (Appendix I)

Supplementary Information (SI) dated 18.7.2022 (Appendix Ia)

Further Information (FI) dated 31.8.2022[#] (Appendix Ib)

[#]accepted and exempted from publication

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I** as summarized below:

- (a) The applicant wishes to continue the operation in the Site for 3 more years. The operation hours will remain unchanged.
- (b) All approval conditions of the previous application (A/KTN/59) have been complied with. The applicant will continue to maintain the existing landscaping, drainage, and FSI facilities up to standard as previously approved.
- (c) The applicant does not apply for a renewal because the applicant overlooked the deadline and could not prepare the submission in time due to COVID-19. This application is virtually identical to the previous application except that some trees fell by typhoon were replaced, and there is one more canopy.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) is relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. **Background**

The Site is currently not a subject of any active enforcement case.

6. **Previous Applications**

- 6.1 The Site involves 8 previous applications for warehouses/ open storage and all were approved by the Committee/ the Board. Application details are summarized at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 The first 2 previous applications (Applications No. IDPA/NE-KTN/4 and A/DPA/NE-KTN/7) were approved in 1991 and 1992 before the current zonings.
- 6.3 The remaining 6 previous applications (No. A/NE-KTN/135, 152, 158 and A/KTN/17, 25, 59) fell within the current “AGR” and “OU(A)” zones. They were all approved between 2009 and 2019 mainly on the grounds that the developments generally complied with the then TPB PG-No.13E and were not incompatible with the surrounding land uses, there were previously approved schemes, concerned departments had no adverse comments, and their concerns could be addressed by imposing approval conditions. The planning permission of the last application No. A/KTN/59 approved on 3.5.2019 lapsed on 4.5.2022 and all planning conditions have been complied with.
- 6.4 Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with a similar layout, but with an additional canopy, resulting in floor area increase from about 406.8m² to 412.8m² (+1.5%).

7. **Similar Applications**

There is no similar application within the “AGR” zone in the vicinity of the Site in the past 5 years.

8. **The Site and Its Surrounding Areas** (Plans A-1, A-2, aerial photo on **Plan A-3**, and site photos on **Plan A-4**)

- 8.1 The Site is:
 - (a) currently used for the applied use without valid planning permission;
 - (b) formed and fenced off; and
 - (c) accessible via a local track connecting Castle Peak Road – Kwu Tung Section.
- 8.2 The surrounding areas have the following characteristics:
 - (a) to the north are some vacant land with domestic structures;

- (b) to the east and west close to Castle Peak Road are a site office, workshops, showroom for Koi, a shop, open storage yards, and a domestic structure; and
- (c) to the south is Castle Peak Road – Kwu Tung and Fanling Highway

9. Planning Intention

- 9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. It is stated in the Explanatory Statement (ES) of the OZP that the subject “AGR” site at the southern portion of Long Valley is predominantly dry active agricultural land intermixed with abandoned farmland/grassland, fruit trees and is to allow the continuation of the existing farming practices and to provide a buffer for the Long Valley to its north.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.
- 10.2 The following government departments do not support/ have concerns on the application.

Environment

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

- (a) She does not support the application as the applied use will attract heavy vehicle traffic and there are residential premises within 100m of the Site. Environmental nuisance to nearby residents is anticipated.
- (b) Should the application be approved, the applicant is advised to follow the environmental mitigation measures as recommended in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the potential environmental impacts on the adjacent area.
- (c) There is no environmental complaint case related to the Site for the past 3 years.

Agriculture

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

The Site falls mainly within the “AGR” zone and is occupied by some structures. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

Future Development

10.2.3 Comments of the Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD):

- (a) The Site partially falls within the area of the Kwu Tung North New Development Area (KTN NDA) Remaining Phase.
- (b) The construction works for the remaining phase of KTN NDA is aimed to commence in 2024 and the period of application should be ended on or before end 2023.

11. Public Comments Received During Statutory Publication Period

- 11.1 The application was published for public inspection. During the statutory public inspection period, a total of 2 public comments (**Appendix VI**) from individuals were received. 1 commenter indicates no comment whilst another commenter objects to the application on the grounds that warehouses in rural area would cause traffic congestion, pollution and increase fire risk, affecting the safety of villagers and quality of life.

12. Planning Considerations and Assessments

- 12.1 The Site falls mainly within an area zoned “AGR”. The subject “AGR” site at the southern portion of Long Valley is predominantly dry active agricultural land intermixed with abandoned farmland/grassland, fruit trees and is to allow the continuation of the existing farming practices and to provide a buffer for the Long Valley. The applied use is not in line with the planning intention of the “AGR” zoning. DAFC does not support the application as the Site has potential for agricultural rehabilitation for open-field cultivation, greenhouses, plant nurseries, etc. Nevertheless, as the application is temporary in nature, it is considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “AGR” zone. The Site partly falls within the area of the Remaining Phase of the KTN NDA Project, and the

construction works for which is tentatively scheduled for commencement in 2024. Should the application be approved, an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government project is recommended.

- 12.2 The applied use is not incompatible with the surrounding land uses which comprise mainly open storage yards, workshops, vacant land, farmland and scattered domestic structures (**Plan A-2**).

- 12.3 The Site falls within the KTN NDA. For application in NDAs, the following considerations under the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions.

- 12.4 Although DEP does not support the application as the applied use involves the use of heavy vehicles and there are residential dwellings close to the Site, DEP has not received any complaints about the Site in the past 3 years. To address DEP's concern and mitigate any potential environmental impacts, approval conditions restricting operation hours is recommended in paragraph 13.2 below. Should the application be approved, the applicant will be advised to follow the environmental mitigation measures as recommended in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" in order to minimise the potential environmental impacts on the adjacent area. Other concerned departments, including Commissioner for Transport, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD), Director of Fire Services (D of FS), and Chief Town Planner/Urban Design and Landscape, Planning Department have no adverse comments on the application. Suggested approval conditions by concerned departments are recommended in paragraphs 13.2 below.

- 12.5 The Site is the subject of 8 previous applications which were all approved. The last application No. A/KTN/59 for the same applied use was approved on 3.5.2019 for a period of 3 years. All approval conditions have been complied with and the application lapsed on 4.5.2022. The current application is slightly different from the last application as stated in paragraph 6.4. Approval for the current application is in line with the TPB PG-No.13F and the previous decision of the Committee.

- 12.6 There are 2 public comments, of which 1 objects to the application (as stated in paragraph 11). Relevant government departments' comments and planning considerations above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments, the Planning Department considers that the development under application 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 9.9.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:30 p.m. and 8:00 a.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 workshop activity is allowed on the Site at any time during the planning approval period;
- (d) the submission of proposal for 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 9.3.2023;
- (e) in relation to (d) above, the implementation of proposal for 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 9.6.2023;
- (f) 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 9.3.2023;
- (g) in relation to (f) above, the implementation of drainage proposal with 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.6.2023;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) if any of the above planning conditions (a), (b), (c) or (h) is not complied with during the planning approval period, the approved hereby given shall cease to have effect and shall be revoked without further notice; and
- (j) if any of the above planning conditions (d), (e), (f) or (g) 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.
- (k) upon expiry of the planning permission, the reinstatement of the 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 V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection is suggested for Members' reference:
- (a) the proposed use is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification for a departure from the planning intention even on a temporary basis.
 - (b) the applicant fails to demonstrate that the development would not generate adverse environmental impact on the surrounding areas.

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 attachments received on 14.7.2022
Appendix Ia	Supplementary Information (SI) dated 18.7.2022
Appendix Ib	Further Information (FI) dated 31.8.2022
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Proposed layout plan
Plan A-1	Location plan
Plan A-2	Site plan

Plan A-3

Aerial photo

Plan A-4

Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**