

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/517

<u>Applicant</u>	:	Tak Shing Development Investment Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 2219 (Part) and 2220 (Part) in D.D. 92, Kwu Tung South, Sheung Shui, New Territories
<u>Site Area</u>	:	12,156m ² (about)
<u>Lease</u>	:	(i) Lot 2219 - New Grant No. 5724 (for agriculture purpose only) (ii) Lot 2220 - New Grant No. 5725 (for agriculture purpose only)
<u>Plan</u>	:	Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/18
<u>Zoning</u>	:	“Recreation” (“REC”)
<u>Application</u>	:	Proposed Temporary Warehouse (excluding Dangerous Goods Godown) 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 warehouse (excluding dangerous goods godown) with ancillary office 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/18. According to the Notes of the OZP, ‘Warehouse’ is neither a Column 1 nor Column 2 use within “REC” zone. Notwithstanding this, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Town Planning Board (the Board). The Site is paved and currently used for storage/open storage.
- 1.2 According to the applicant, the proposed development comprises one 2-storey structure with a total gross floor area (GFA) of about 17,208m² and building height (BH) of about 15m for warehouse, ancillary office and fire services installations. The operation hours are from 9:00 a.m. to 7:00 p.m. (Mondays to Saturdays), and there

will be no operation on Sundays and public holidays. A total of 10 staff members will be working at the Site and no visitor is anticipated. No workshop activities will be carried out. A total of 5 private car parking spaces and 4 loading/unloading spaces for container vehicles will be provided. The Site is accessible from Kam Tsin Road. An ingress/egress point is proposed at the south-eastern tip of the Site. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 Part of the Site is the subject of a previous application (No. A/NE-KTS/491) submitted by another applicant for the same proposed warehouse use as the current application. The application was rejected by the Rural and New Town Planning Committee (the Committee) of the Board in 2020 for reasons as stated in paragraph 5 below (**Appendix II and Plan A-1a**). Compared with the last rejected application, the current application applies for the same proposed use while having a larger site area and GFA.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 20.10.2022 (**Appendix I**)
 - (b) Further Information (FI) received on 9.2.2023[#] (**Appendix Ia**)
[#]exempted from publication and recounting
- 1.5 On 9.12.2022, the Committee of the Board agreed to the applicant's request to defer making a decision on the application to allow more time for the applicant to prepare FI in support of the application.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia** as summarised below:

- (a) the proposed development is only on a temporary basis and will not frustrate the long-term planning intention of the "REC" zone;
- (b) portion of the Site has been occupied by open storage of construction materials. Since potential environment nuisance may be arisen from the existing open storage use, the proposed development with an enclosed structure for warehouse would minimise nuisance to the nearby environment; and
- (c) the proposed development is not incompatible with the surrounding areas, which will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. The applicant will strictly follow the relevant government code of practices, guidelines and ordinances to minimise possible environmental impacts.

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

The applicant is not the “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. 31A) by taking reasonable steps to give notification to the owner by publishing notices in local newspapers and sending notices to the Sheung Shui Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any planning enforcement action. Subject to further investigation, appropriate enforcement action under the Town Planning Ordinance will be taken by the Planning Authority.

5. Previous Application

Part of the Site is the subject of a previous application (No. A/NE-KTS/491) for temporary warehouse with ancillary office for a period of 3 years, which was rejected by the Committee on 6.11.2020 mainly for the reasons that the proposed development was not in line with the planning intention of the “REC” zone; there was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and the applicant failed to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas. Details of the application are summarised at **Appendix II** and the location is shown on **Plan A-1a**.

6. Similar Applications

While there is no similar application within the same “REC” zone, there are 4 similar applications (No. A/NE-KTS/452, 486, 493 and 514) for temporary warehouse/storage uses within another “REC” zone on the same OZP approved by the Committee between 2018 and 2023, mainly on the grounds that approval of the applications would not jeopardise the long-term planning intention of the “REC” zone; and the developments were considered not incompatible with the surrounding land uses. Details of these similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.

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

7.1 The Site is:

- (a) fenced, paved and currently used for storage/open storage; and

(b) accessible via Kam Tsin Road.

7.2 The surrounding area is predominantly rural in nature mainly with vegetated woodland, open storage, warehouses and houses/domestic structures:

(a) to the east are storage/open storage use and unused land;

(b) to the south and southeast are domestic structures and vegetated woodland in “Green Belt” (“GB”) zone;

(c) to the west are workshop, storage/open storage and permitted burial grounds; and

(d) to the north are houses.

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.

9. **Comments from Relevant Government Departments**

9.1 Apart from the government department as set out in paragraph 9.2 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.

9.2 The following government department has objection to the application:

Environment

Comments of the Director of Environmental Protection (DEP):

(a) he does not support the application in accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (CoP) as there are sensitive receivers in the vicinity (i.e. the nearest residential dwellings located to the immediate north, west and south of the Site) (**Plan A-2**) and the proposed use involves the use of heavy vehicles¹, and environmental nuisance is expected;

(b) there is one non-substantiated environmental complaint against the Site received by DEP in the past three years; and

¹ According to the CoP, “heavy vehicles” include goods vehicles with permitted gross vehicle weight exceeding 5.5 tonnes and bus.

(c) his advisory comments at **Appendix V**.

10. Public Comments Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory publication period, 2 public comments were received from individuals. One individual objects to the application mainly for the reason that the proposed development has been in operation for years while it was previously rejected by the Committee. Another individual indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary office for a period of 3 years at the Site zoned “REC” on the OZP (**Plan A-1a**). The proposed 2-storey (15m high) enclosed warehouse has a total GFA of 17,208m², occupying about 8,604m² site area (about 70.8% of the total site area). The proposed development 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 development proposal of the Site for recreation uses. 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 proposed use is considered not entirely incompatible with the surrounding area, which are predominantly rural in nature with workshops, open storage yards and some domestic structures (**Plan A-2**).
- 11.3 Concerned government departments consulted, including C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS, have no adverse comment on the application, except DEP from environmental perspective. It is noted that entrance to the warehouse is at the south-eastern corner, away from the domestic dwellings. Besides, majority of the Site are occupied by an enclosed structure to minimise the disturbance. To minimise any potential environmental nuisances and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. In addition, the applicant will be advised to adopt the “CoP” issued by the DEP.
- 11.4 Part of the Site is the subject of a previous application No. A/NE-KTS/491 for temporary warehouse with ancillary office for a period of 3 years as stated in paragraph 5 above. The previous application was rejected by the Committee in 2020 mainly on the reason that insufficient information was provided to demonstrate that the proposed development would not generate adverse traffic impact. However, the applicant of the current application submitted relevant information to ascertain that there will be no significant traffic impacts generated from the subject proposed use. C for T has no adverse comment on the application after considering the submission. Moreover, there are 4 similar applications for temporary warehouse/storage uses within another “REC” zone on the same OZP, all of which were approved by the

Committee between 2018 and 2023 as detailed in paragraph 6 above. Approval of this application is in line with the Committee's previous decisions.

- 11.5 Regarding the public comments on the application as detailed in paragraph 10 above, government departments' comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary warehouse (excluding dangerous goods godown) with ancillary office 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 31.3.2026. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m. daily, 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, as proposed by the applicant, during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the design and provision of vehicular access, parking and loading/unloading spaces and pedestrian facilities within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 30.9.2023;
- (f) the submission of a 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 30.9.2023;
- (g) in relation to (f) above, the implementation of the fire service installations proposal 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 31.12.2023;

- (h) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 30.9.2023;
- (i) in relation to (h) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 31.12.2023;
- (j) if any of the above planning conditions (a), (b), (c) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if any of the above planning conditions (e), (f), (g), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

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

the proposed 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 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.

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 attachments received on 20.10.2022
Appendix Ia	FI received on 9.2.2023
Appendix II	Previous application
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Layout plan
Plans A-1a and 1b	Location plans
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and 4b	Site photos

**PLANNING DEPARTMENT
MARCH 2023**