

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-KTS/527**

- 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** : 16,710.2m<sup>2</sup> (about) (including about 3,232.6m<sup>2</sup> of Government land (GL) (about 19.3% of the Site)
- Lease** : Block Government Lease (demised for agricultural use) (about 80.7% of the Site)
- Plan** : Approved Kwu Tung South (KTS) Outline Zoning Plan (OZP) No. S/NE-KTS/18 at the time of submission of the application
- Draft KTS OZP No. S/NE-KTS/19 currently in force [the zoning and development restrictions of the application site remain unchanged]
- 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 draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/19. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires permission from the Town Planning Board (the Board). The Site is hard paved and being used as temporary godown with ancillary office and staff quarters without valid planning permission.

- 1.2 According to the applicants' submission, the proposal comprises a total of 14 structures including six 1 to 2-storey godowns ranging from 3.9m to 11.2m high, one ancillary office, and three single-storey ancillary staff quarters of about 4m high, two fire facilities, one sub-station and one temporary container workshop, which has been used as a handyman working area and no industrial workshop activities will be carried out. The non-domestic and domestic floor areas are 8,170m<sup>2</sup> and 316m<sup>2</sup> respectively and the site coverage is 45.9%. The godowns are for storage of non-dangerous goods. The operation hours are from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays. There would be no operation on Sundays and public holidays. A total of eight private car parking spaces and 20 loading/unloading spaces for medium goods vehicles are provided within the Site. No heavy goods vehicles, including container tractors/trailers, will be used for transportation of goods. The Site is accessible from Fan Kam Road via a village road with an ingress/egress point at its south-western tip. The existing 78 trees within the Site will be retained. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site involves eight previous applications (details at paragraph 5 below). The current application is for the same use as the last application No. A/NE-KTS/486 with the same site area/boundary, while the development scale are largely the same except that the site coverage of the current application has slightly increased (from 44.02% to 45.9%). All approval conditions of the last application had been complied with and the planning permission lapsed on 30.5.2023.
- 1.4 In support of the application, the applicants have submitted the following documents:
- |   |               |
|---|---------------|
| (a) Application Form received on 21.4.2023          | (Appendix I)  |
| (b) Supplementary Planning Statement                | (Appendix Ia) |
| (c) Further Information (FI) received on 29.6.2023* | (Appendix Ib) |
| (d) FI received on 16.8.2023*                       | (Appendix Ic) |
| (e) FI received on 22.8.2023*                       | (Appendix Id) |
- \* accepted exempted from publication and recounting*
- 1.5 On 9.6.2023, the Committee agreed to the applicants' request to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

## 2. **Justifications from the Applicants**

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

- (a) The applied use on a temporary basis 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) The Site is the subject of seven previous approved application for the similar temporary godown use. The applicant aims to continue the temporary godown use with similar development parameters under the last approved application No. A/NE-KTS/486. All approval conditions of the last application had been complied with.
- (d) The applied use would 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.

### 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, involves eight previous approved applications. Apart from the first application (No. A/NE-KTS/41) was for ancillary waste water treatment plant, which is not relevant to the current application, the remaining seven applications (No. A/NE-KTS/225, 240, 261, 305, 362 and 449) were for temporary godown use with or without staff quarters, with six applications submitted by one of the current applicants (i.e. Empire Famous Limited) and the remaining one was submitted by the same applicants. These seven previous applications were all approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between 2006 and 2020, mainly on the considerations that the use was not incompatible with the surrounding uses; temporary approval would not jeopardise the long-term planning intention; adverse environmental impacts were unlikely, there were no local objections/pollution complaint; and previous approvals had been granted. Two applications (No. A/NE-KTS/225 and 240) were revoked due to non-compliance with approval conditions. Details of these applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

## **6. Similar Applications**

There were three similar applications (No. A/NE-KTS/493, 514 and 520) for temporary warehouse use within the same “REC” zone, which were all approved by the Committee in the past five years, mainly on the considerations 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. However, the planning permission for one of the applications was subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

## **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 Plan A-4a to A-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 areas have the following characteristics:**

- (a) predominantly rural in nature with domestic structures surrounding the site;
- (b) to the south are an open storage yard of construction material, a machinery workshop, an office, fallow agricultural land and vacant land; and
- (c) to the west are storage yards and warehouses.

## **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 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 III and IV** 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 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-2a**) and environmental nuisance is expected;
- (b) no environmental complaint concerning the Site received in the past three years; and
- (c) DEP's other advisory comments are provided in the Recommended Advisory Clauses in **Appendix IV**.

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

On 2.5.2023, the application was published for public inspection. During the first three weeks of the statutory publication period, a total of two public comments from individuals were received including one indicating no comment, and the remaining one objecting to the application mainly on the grounds that the applicant has failed to fulfil the approval conditions of previous application for fire safety which could have impact on public safety; and rolling over of temporary uses should not be permitted.

**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 draft Kwu Tung South OZP No. S/NE-KTS/19 (**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 proposal for recreation activities at the site. 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 a mixture of warehouses, storage yards, workshops 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). However, the Site is fenced off and the applicant clarifies that the godown involves no industrial workshop activities. Besides, there is no record of environmental complaint for the Site in the past 3 years. 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 industrial workshop activities as well as heavy goods vehicles including container tractors/trailers to/from the Site, as recommended in paragraphs 12.2(a) to (d) below. The applicants would also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP in order to minimise any possible environmental nuisances. Other concerned Government departments, including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services, and Chief Town Planner/Urban Design and Landscape, Planning Department have no objection to the application.

- 11.3 Given that seven previous approvals for similar temporary godown use had been granted to majority of the Site since 2006, and the applicants have complied with all approval conditions under application No. A/NE-KTS/486, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.4 Regarding the public comment received objecting to the application as stated in paragraph 10 above, Government departments’ comments in **Appendix III** as well as the planning considerations and assessments in paragraphs 11.1 to 11.3 above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 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 **25.8.2026**. The following conditions of approval 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) no industrial workshop activities shall be carried out on the Site at any time during the planning approval period;
- (e) the existing trees on the Site should be maintained at all times during the planning approval period;
- (f) the existing drainage facilities should be properly maintained and rectified if found inadequate/ineffective during operation at all times during the planning approval period;
- (g) the existing traffic improvement measures to enhance pedestrian safety shall be maintained at all times during the planning approval period;
- (h) 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 25.2.2024;
- (i) in relation to (h) 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 25.5.2024;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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 (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 at **Appendix IV**.

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**

<b>Appendix I</b>	Application Form received on 21.4.2023
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendices Ib to Id</b>	FIs received on 29.6.2023, 16.8.2023 and 22.8.2023
<b>Appendix II</b>	Previous and similar applications
<b>Appendix III</b>	Government department's general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comments
<b>Drawing A-1</b>	Layout plan submitted by the applicant
<b>Plan A-1</b>	Location plan
<b>Plan A-2a and 2b</b>	Site plans
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a and 4b</b>	Site photos

**PLANNING DEPARTMENT  
AUGUST 2023**