

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL  
FOR TEMPORARY USE  
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/762**

<b><u>Applicant</u></b>	: Mr. LEE Wai Tong
<b><u>Site</u></b>	: Lots 629 S.T, 629 S.U, 630 S.B ss.16 and 630 S.B ss.17 in D.D. 110, Shek Kong San Tsuen, Kam Tin Road, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	: 1,960m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Residential (Group D)” (“R(D)”) [Maximum plot ratio of 0.4 and building height of 3 storeys (9m)]
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary open storage of construction machinery, private vehicles and vehicle parts for a period of 3 years. The Site falls within an area zoned “R(D)” on the Kam Tin North OZP and the applied use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the covering Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from 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 with planning permission (**Plan A-2 and A-4**). All the approval conditions of the last approved application (No. A/YL-KTN/601) have been complied with and the planning permission is valid until 5.6.2021.
- 1.2 According to the applicant, four 1- to 2-storey structures with a total floor area of 469.6m<sup>2</sup> and building height of 4.5m for office and storage uses. Six

parking spaces for private cars and one loading/unloading space for medium goods vehicle are provided within the Site. The operation hours are between 9:30 a.m. and 6 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. The Site is accessible from Kam Tin Road. The layout plan submitted by the applicant is shown on **Drawings A-1**.

- 1.3 Compared with the last approved application No. A/YL-KTN/601, the current application submitted by the same applicant is for the same applied use with same site area, layout, number of structures and total floor area.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with supplementary planning statement and plans received on 17.3.2021. **(Appendix I)**
  - (b) Further information (FI) received on 4.5.2021 in response to departmental comments *(exempted from publication requirement)* **(Appendix Ia)**
  - (c) FI received on 5.5.2021 in response to departmental comments *(exempted from publication requirement)* **(Appendix Ib)**

## **2. Justifications from the Applicant**

The justifications put forth by the applicant are detailed in **Appendix I**. They can be summarized as follows:

- (a) There is no change to the land use, covered area and number of structures at the Site. All planning conditions and advisory clauses in the previous approved application No. A/YL-KTN/601 had been complied with.
- (b) Appropriate measures had been adopted to minimize the environmental impact and all the mitigation measures were well maintained. There was also no complaint from the government departments or the neighbourhood.
- (c) Approval of the renewal application would allow the applicant to maintain a small business in this difficult economic environment.

## **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 Member’s inspection.

#### **4. Town Planning Board Guidelines**

- 4.1 The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are extracted below:
- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
  - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
  - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
  - (d) whether the approval period sought is reasonable; and
  - (e) any other relevant considerations.
- 4.2 The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 are relevant to the application. The Site falls within the Category 3 areas under TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

#### **5. Background**

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

#### **6. Previous Applications**

- 6.1 The Site is the subject of ten previous applications for temporary open storage of construction machinery, private vehicles and/or vehicle parts. Except application No. A/YL-KTN/42, all the applications were approved with conditions for a period of 1 to 3 years by the Committee. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-KTN/42 for temporary open storage of private vehicles and vehicle parts for a period of 12 months covering the north-western part of the Site and the adjoining lot in the west was rejected by the Committee in 1997 on the grounds that the development was not in line with the planning intention of the “R(D)” zone; the development was not compatible with the adjacent village houses; and the approval of the

application would set an undesirable precedent for similar applications leading to further degradation of the environment of the area.

- 6.3 The other nine applications for temporary open storage of construction machinery, private vehicles and/or vehicle parts were approved by the Committee between 1998 and 2018 for similar reasons that approval of the application would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; the development was in line with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ in that previous planning approvals had been granted; and the departmental comments could be addressed by appropriate approval conditions. For the last approved application No. A/YL-KTN/601, all the approval conditions have been complied with and the planning permission is valid until 5.6.2021.

## **7. Similar Applications**

- 7.1 There are seventeen similar applications for various temporary open storage uses within the same “R(D)” zone since the promulgation of the then TPB PG-No. 13E on 17.10.2008. Except application No. A/YL-KTN/345, all the applications were approved with conditions by the Committee. Details of the applications are summarized in **Appendix IV** and the locations of the sites are shown on **Plan A-1**.
- 7.2 Application No. A/YL-KTN/345 was rejected by the Committee in 2010 on the grounds that the development was not in line with the planning intention of the R(D) zone; the application did not comply with the then TPB-PG No. 13E in that no previous approval was granted and there were insufficient information to demonstrate that the developments would not cause adverse traffic, landscape and drainage impacts on the surrounding areas; and the approval of the application would set an undesirable precedent.
- 7.3 The remaining applications were approved with conditions between 2008 and 2021 by the Committee for similar reasons that the proposed developments on a temporary basis would not frustrate the long-term intention of the “R(D)” zone; the developments were not incompatible with the surrounding land uses; and they were in line with the TPB PG No. 13E/F in that previous approvals were granted and there were no adverse departmental comment or the departmental concerns could be addressed by approval conditions.

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

- 8.1 The Site is:
- (a) paved, fenced off and currently used for the applied use with planning permission; and
  - (b) accessible from Kam Tin Road to the south of the Site.

8.2 The surrounding areas are rural in character intermixed with open storage/storage yards, residential structures/dwellings, car service centres, vacant/unused land and the Shek Kong Barracks:

- (a) to its west and northwest are open storage/storage yards, residential structures/dwellings, vacant/unused land and a car service centre;
- (b) to its north are residential structures/dwellings (the nearest less than 10m away). To its east are open storage yards, residential structures/dwellings (the nearest less than 10m away), a car service centre and vacant/unused land; and
- (c) to its south across Kam Tin Road is the Shek Kong Barracks.

## **9. Planning Intention**

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

## **10. Comments from Relevant Government Departments**

10.1 The following Government departments have been consulted and their views on the application are summarized 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) Lots Nos. 629 S.T and 629 S.U in D.D. 110 are covered by a Short Term Waiver (STW) No. 2552 to permit “use ancillary to temporary open storage of construction machinery, private vehicles and vehicle parts”.
- (c) Should the application be given to the planning application, the STW holder(s) will need to apply to his offices for modification of the STW conditions where appropriate, and the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for

regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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 the traffic engineering point of view.
- (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. 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/NT West, Highways Department (CHE/NTW, HyD):

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 concerning the Site received in the past three years.
- (b) In accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application as there are sensitive receivers, i.e. residential dwellings located to the north and east of the Site (the nearest less than 10m away) and in the vicinity (**Plan A-2**), and the development involving the

use of heavy vehicles, thus environmental nuisances are expected.

- (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses”.

### **Landscape**

#### **10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):**

- (a) Compared with aerial photos taken in 2018 and 2020, there is no significant changes to the surrounding landscape setting since the last application was approved. In view of the Site is not located in landscape sensitive zoning and there is no substantial change in the layout of the development, further significant impact on existing landscape resources within the Site arising from the continuous use is not anticipated.
- (b) The applicant should refer to the guidelines promulgated by the Development Bureau (DEVB) on tree management to undertake proper and regular tree maintenance work.
- (c) Should the application be approved, approval condition on maintain all existing trees within the Site in good condition during the planning approval period should be included.

### **Nature Conservation**

#### **10.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):**

He has no comment on the application from nature conservation perspective as previous applications for similar purposes at the Site were approved by the Board in the past and the current application seeks for renewal of the existing use.

### **Drainage**

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

- (a) He has no objection in principle to the development.
- (b) Presumably, the applicant would maintain the same drainage facilities as those implemented under the previous

application No. A/YL-KTN/601. The applicant should inform relevant department if the drainage arrangement is changed.

- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under application No. A/YL-KTN/601 and submission of the records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be included.

### **Fire Safety**

#### 10.1.8 Comments of the Director of Fire Services (D of FS):

He has no in-principle objection to the renewal application subjects to the existing fire service installations (FSIs) implemented on site being maintained in efficient working order at all times.

### **Building Matters**

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

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site and he is not in a position to offer comments on their suitability for the use related to the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Building Ordinance (BO).
- (c) His detailed comments on UBW, provision of access, temporary or licenced structures are at **Appendix VI**.

### **District Officer's Comments**

#### 10.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comment from the locals upon close of consultation and he has no particular comment on the application.



10.2 The following Government departments have no comment on/no objection to the application:

- (a) Project Manager/West, Civil Engineering and Development Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

## **11. Public Comment Received During Statutory Publication Period**

On 26.3.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment was received from an individual (**Appendix VI**), objecting to the application mainly on the ground the use at the Site should reflect its planning intention.

## **12. Planning Considerations and Assessments**

12.1 The application is for renewal of the planning permission for temporary open storage of construction machinery, private vehicles and vehicle parts for a period of 3 years in the “R(D)” zone. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. The applied use is not in line with the planning intention of the “R(D)” zone. Nevertheless, there is no known programme for permanent development at the Site. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “R(D)” zone.

12.2 The development is considered not incompatible with the surrounding areas which are mainly rural in character and intermixed with open storage yards, residential structures/dwellings and vacant/unused land.

12.3 According to TPB PG-No. 13F, the Site falls within Category 3 areas. The following 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 favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and relevant technical assessments/proposals have been included in the fresh applications, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years.

- 12.4 The application is generally in line with the TPB PG-No. 13F and TPB PG-No. 34C in that previous approval (Application No. A/YL-KTN/601) for the same applied use was granted in 2018 and all the approval conditions have been complied with. There is also no adverse comment from the relevant departments consulted including C of T, CE/MN of DSD and D of FS, except DEP. Also, there is no major change in planning circumstances since the last approval. Compared with the last approved application, the current application is the same in term of use, layout and floor area. Sympathetic consideration could be given to the current application.
- 12.5 While DEP does not support the application as there are sensitive receivers, i.e. residential dwellings/structures located to the north and east (the nearest less than 10m away) and in the vicinity of the Site (**Plan A-2**) and the development involved the use of heavy vehicles thus environmental nuisance is expected, no environmental complaint has been received in the past three years. Also, the Site's access is abutting Kam Tin Road without passing through residential dwellings/structures. To minimize any potential environmental nuisance, approval conditions including restriction of the operation hours and prohibition of any workshop activities are recommended in paragraphs 13.2 (a) to (c) below. The applicant will also be advised to adopt the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by imposing approval conditions (e) to (k) in paragraph 13.2 below.
- 12.6 There are 17 similar applications for various temporary open storage within the same "R(D)" zone. 16 of them were approved with conditions by the Committee between 2008 and 2021 as mentioned in paragraph 7.3 above. The only rejected application was rejected on the grounds including that the application was not in line with the then TPB-PG No. 13E as no previous approval was granted at the Site. Approval of the current application is in line with the Committee's previous decisions on these similar applications.
- 12.7 One public comment was received during the statutory inspection period, objecting to the application as stated in paragraph 11 above. In this regard, relevant Government departments' comments as well as planning assessments and considerations as stated 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 comment mentioned in paragraph 11, the Planning Department considers that the temporary open storage of construction machinery, private vehicles and vehicle parts 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, and be renewed from 6.6.2021 until 5.6.2024. 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 9:30 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (d) no stacking of vehicles or vehicle parts above 2.5m should be carried out on the Site at any time during the planning approval period;
- (e) the existing run-in should be maintained at all times during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) all existing trees on the Site should be maintained in good condition at all times during the planning approval period;
- (h) the existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.9.2021;
- (j) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (j) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if the above planning condition (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.

*[The above approval conditions are similar to those under the last Application No. A/YL-KTN/601, except those on FSIs based on D of FS's comment.]*

#### Advisory Clauses

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

13.3 There is no strong reason to reject the renewal application.

#### **14. Decision Sought**

14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning 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**

<b>Appendix I</b>	Application form with supplementary statement and plans received on 17.3.2021
<b>Appendix Ia</b>	FI received on 4.5.2021
<b>Appendix Ib</b>	FI received on 5.5.2021
<b>Appendix II</b>	Extract of TPB PG-No. 13F
<b>Appendix III</b>	Previous s.16 applications covering the Site
<b>Appendix IV</b>	Similar applications within the same "R(D)" zone on the approved Kam Tin North OZP
<b>Appendix V</b>	Public comment received during the statutory publication period
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan

<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2021**