

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/786

<u>Applicant</u>	:	Harvest Hill (Hong Kong) Limited represented by Ever United Planning and Development Limited
<u>Site</u>	:	Lots 470 (Part), 471, 472 (Part), 473 (Part), 474 (Part), 475 (Part), 483 (Part), 1643 (Part), 1644 (Part), 1645 RP (Part) and 1646 (Part) in D.D. 107, Fung Kat Heung, Yuen Long, N.T.
<u>Site Area</u>	:	About 2,280m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zonings</u>	:	“Agriculture” (“AGR”) (about 93%) “Industrial (Group D)” (“I(D)”) (about 7%) [maximum plot ratio of 1.6, maximum site coverage of 80% and maximum building height of 13m]
<u>Application</u>	:	Proposed Temporary Warehouse for Storage of Tail Lift for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of tail lift for a period of 3 years. The Site falls within the “AGR” and “I(D)” zones on the Kam Tin North OZP (**Plan A-1a**). While ‘Warehouse (other than Dangerous Goods Godown)’ is a Column 1 use within the “I(D)” zone and is always permitted, the applied use is neither a Column 1 nor Column 2 use under the “AGR” 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 hard-paved and used for retail of tail lift without planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of 5 previous applications (No. A/DPA/YL-KTN/12 and 15, and A/YL-KTN/397, 637 and 656) for extension to existing buildings;

extension to existing factory and office buildings; temporary back-up warehouses; and temporary shop and services (retail of tail lift) uses respectively. The last two applications (No. A/YL-KTN/637 and 656), both for temporary shop and services (retail of tail lift) and submitted by the same applicant as the current application, were approved with conditions by the Rural and New Town Planning Committee (the Committee) in January and August 2019 respectively. However, both planning permissions were revoked in 2021 due to non-compliance with approval conditions as detailed in paragraph 5.2 below.

- 1.3 The applicant stated that he has operated the business of tail lift selling at the Site for a number of years and the Site is well-managed. Nevertheless, as the applicant needs to keep a certain amount of stock within the Site owing to business operation need, a fresh application for the applied temporary warehouse use is necessary. According to the applicant, the proposed development involves the erection of three 1 to 2-storey enclosed structures (with building height ranging from 5m to 8.5m) and a total floor area of not more than 1,770.5m² (with plot ratio of 0.78) for warehouse for storage of tail lifts, and ancillary site office and toilet uses. There will be no retail activity of retail lift at the Site. Two private car parking spaces and three loading/unloading spaces for light goods vehicles will be provided at the Site. The operation hours will be from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. The Site is accessible from San Tam Road via a local access. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary planning (**Appendix I**) statement received on 17.8.2021
 - (b) Further Information (FI) dated 28.9.2021 in response to (**Appendix Ia**) departmental comments
[exempted from publication requirement]
 - (c) Further Information (FI) dated 6.10.2021 and 7.10.2021 (**Appendix Ib**) in response to departmental comments
[exempted from publication requirement]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary planning statement and FIs in **Appendices I to Ib**. They can be summarized as follows:

- (a) The Site has been used by the applicant for tail lift selling business for some years. Owing to business operation need to sustain his business, the applicant needs to change the Site to warehouse use for storage of the stock of tail lifts.

- (b) 'Warehouse' use is always permitted in the "I(D)" zone portion of the Site. There are also many warehouses and rural industrial uses in the vicinity of the Site. The proposed development is in general compatible with the surrounding developments. Approval of the applied use on a temporary basis would not jeopardize the long term planning intention of the "AGR" zone.
- (c) The proposed development, with its Site situated within Category 2 areas, is generally in line with the Town Planning Board Guidelines for application for open storage and port back-up uses (TPB PG-No. 13F)¹.
- (d) The Site is the subject of two previous applications (No. A/YL-KTN/637 and 656) for temporary shop and services (retail of tail lift) approved by the Committee since 2019. It is not a new development on green site.
- (e) The proposed development would not generate adverse traffic, environmental and drainage impacts to the surrounding areas. There will be no workshop activities and no dangerous goods stored at the Site. To minimize possible environmental nuisances generated by the proposed development, some environmental measures are proposed in accordance with the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites'.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and publishing a notice of the application once in two Chinese and one English local newspapers. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is currently subject to an on-going planning enforcement action involving parking of vehicles and storage use. The current use found on-site may constitute an Unauthorised Development (UD) under the Town Planning Ordinance. Should there be sufficient evidence to prove an UD on site, enforcement action would be instigated.

5. Previous Applications

- 5.1 Part of the Site is involved in five previous applications (No. A/DPA/YL-KTN/12 and 15, and A/YL-KTN/397, 637 and 656) for extension to existing buildings; extension to existing factory and office buildings; temporary back-up warehouses; and temporary shop and services (retail of tail lift) uses. Among them, 3 were approved and 2 were rejected. Details of the

¹ As the application is for temporary warehouse use, which is neither an open storage nor a port back-up use, TPB PG-No. 13F is not applicable to this application.

previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.

- 5.2 The two most recent applications No. A/YL-KTN/637 and 656, with their sites covering part of the application site under the current application, for temporary shop and services (retail of tail lift) were submitted by the same applicant as the current application. Both were approved by the Committee in January and August 2019 respectively mainly on the considerations that the Site was located at the fringe of the “AGR” zone partly adjoined by “I(D)” zone; relevant departments in general had no adverse comments; and departmental concerns and/or public comments could be addressed by approval conditions. However, the planning permissions for Applications No. A/YL-KTN/637 and 656 were revoked in April and August 2021 due to non-compliance with the approval conditions on the submission and implementation of drainage proposals and fire service installations proposals and/or implementation of landscape proposal.

6. Similar Applications

There are six similar applications (No. A/YL-KTN/320, 379, 398, 509, 565 and 709) for temporary warehouse uses involving one site within the same “AGR” zone in the vicinity of the Site. They were all approved with conditions by the Committee between 2009 and 2020 on similar considerations that temporary approval would not frustrate the long-term planning intention; the proposed developments were not incompatible with the surrounding area; and no adverse comments from concerned departments on the applications. Details of the similar applications are summarized in **Appendix III** and their locations are shown on **Plan A-1a**.

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

- 7.1 The Site is:

- (a) currently hard-paved and used for retail of tail lift; and
- (b) accessible via a local track leading from San Tam Road.

- 7.2 The surrounding areas are rural in character intermixed with warehouses, open storage yards, parking of vehicles, site offices and unused land:

- (a) to its immediate north and west are warehouses;
- (b) to its south and southwest are site office, parking of vehicles, and parking and open storage of container vehicles and trailers (the site was approved for temporary shop and services (retail of construction materials) under a valid application No. A/YL-KTN/688); and
- (c) to its east and south, across a local track, are open storage yards (the sites of which were approved for temporary shop and services (retail of forklift) and temporary shop and services (sale of truck mounted crane

and miniature excavator) under two valid planning applications No. A/YL-KTN/678 and 689 respectively) and unused land. To its further south, across a local track, is parking and open storage of vehicles in “V” zone.

8. Planning Intentions

- 8.1 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.
- 8.2 The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flattened factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 9.1.1 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) Should planning approval be given to the planning application, the lots owner(s) will need to apply to his office to permit the structures to be erected or regularise 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 as the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

9.1.2 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 the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and San Tam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint related to the Site in the past 3 years.
- (b) The applicant shall be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP.

Agriculture and Nature Conservation

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

- (a) The Site falls within the "AGR" and "I(D)" zones and currently comprises part of the warehouse and cemented vacant land. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water

source are available. As the Site can be used for agricultural rehabilitation, the application is not supported from agricultural point of view.

- (b) As the Site has been paved, he has no comment on the planning application from nature conservation perspective.

Landscape

9.1.6 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 planning perspective.
- (b) Based on aerial photo of 2021, the surrounding landscape setting comprises temporary structures, car parks and scattered tree groups. Considering that parts of the Site have been approved for shop and services (under Applications No. A/YL-KTN/637 and 656) and similar use could be found in proximity, the proposed use is considered not incompatible with the surrounding landscape character.
- (c) According to our site visit conducted on 31.8.2021, 5 existing trees as reported in the submitted planning statement are outside the site boundary. Given that no vegetation is found within the Site, impact on the landscape resource is not anticipated.

Fire Safety

9.1.7 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.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority.

Drainage

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

- (a) He has no objection in principle to the development from the public drainage point of view and the applicant's submitted drainage proposal is considered satisfactory.
- (b) Should the application be approved, approval conditions requiring the applicant to implement and maintain the accepted drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.
- (c) There is no public sewer connection available in the vicinity. The applicant shall seek views and comments from the DEP regarding the sewage disposal arrangement of the proposed development.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the BA 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 BO.
- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix V**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

Electricity Safety

9.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no comment on the application from the electricity supply safety aspect.

- (b) However, in the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

His office has not received any locals’ comment on the application and he has no comment on the application.

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

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

10. Public Comments Received During Statutory Publication Period

On 24.8.2021, the application was published for public inspection. During the three-week statutory publication period, four public comments from a Yuen Long District Council Member and individuals were received (**Appendices IV-1 to IV-4**). They object to the application mainly on the grounds that warehouses in rural area will increase traffic flow, environmental pollution and fire hazard risk and affect safety and living standard of the villagers; the two previous applications by the same applicant were revoked, which indicates that the applicant did not show good faith in complying with the approval conditions; and the arable land should be reserved for food production.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of tail lift for a period of 3 years in “AGR” (93%) and “I(D)” (7%) zones. The applied use is a Column 1 use within the “I(D)” zone and is always permitted. Nevertheless, the applied use is neither a Column 1 nor Column 2 use under

the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes, and requires planning approval of the Board. The applied use is not in line with the planning intention of the “AGR” zone. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, it is noted that the Site is located at the fringe of “AGR” zone with portion of the Site within the “I(D)” zone. It is considered that approval of the application on a temporary basis of 3 years would not frustrate the long-term planning intention of the “AGR” zone.

- 11.2 The applied use is considered not incompatible with the surrounding area which is rural in character intermixed with warehouses, open storage yards, site office, parking of vehicles, and unused land.
- 11.3 Relevant departments consulted, including C for T, CTP/UD&L of PlanD, DEP, D of FS and CE/MN of DSD (except DAFC), have no objection to or no adverse comment on the application. To minimize any possible environmental nuisance generated by the development, approval conditions restricting the operation hours, the types of vehicles and prohibiting workshop activities are recommended in paragraphs 12.2 (a) to (d) below. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Moreover, the technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (e) to (i) in paragraph 12.2 below.
- 11.4 The Site has been involved in five previous planning applications since 1992. The latest two applications (No. A/YL-KTN/637 and 656) are for temporary shop and services (retail of tail lift) use and submitted by the same applicant as the current application. They were approved by the Committee between January and August 2019 as detailed in paragraph 5.2 above. The applicant, however, stated that owing to business operation need, a warehouse is needed for storage of tail lifts and hence a fresh application is submitted for the Site, though the two previously approved applications (No. A/YL-KTN/637 and 656) were both revoked in 2021. The applicant undertook to comply with all the approval conditions to be imposed by the Board for the current application. There are six similar applications involving one site for temporary warehouse uses within the same “AGR” zone in the vicinity of the Site, all of which were approved by the Committee between 2009 and 2020 as stated in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Four public comments objecting the application were received during the statutory publication period as mentioned in paragraph 10 above. In this regard, the departmental comments and planning assessments and considerations 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 above, the Planning Department considers that the proposed temporary warehouse for storage of tail lift 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 15.10.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. to 9:00 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 dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time 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) the implementation of the accepted 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 15.7.2022;
- (g) in relation to (f) above, the implemented drainage facilities on the Site 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 15.4.2022;
- (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 15.7.2022;

- (j) if any of the above planning condition (a), (b), (c), (d), (e) 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;
- (k) if any of the above planning condition (f), (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; and
- (l) upon expiry of the planning permission, the reinstatement of the “AGR” portion 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**.

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

the proposed development 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. No strong justification has been given 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 applicant.

14. Attachments

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| Appendix I | Application Form with Planning Statement received on 17.8.2021 |
| Appendix Ia | Further Information received on 28.9.2021 |

Appendix Ib	Further Information received on 6.10.2021 and 7.10.2021
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within the Same “AGR” in the Vicinity of the Site on the Kam Tin North OZP
Appendices IV-1 to IV4	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2021**