

RNTPC Paper No. A/YL-KTN/880A
For Consideration by
the Rural and New Town
Planning Committee
on 5.5.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/880

<u>Applicant</u>	:	Freewind Limited represented by Aikon Development Consultancy Limited
<u>Site</u>	:	Lots 697 (Part), 698, 699, 700 RP (Part), 701 RP and 704 in D.D. 107 and Adjoining Government Land, Fung Kat Heung, Yuen Long, New Territories
<u>Site Area</u>	:	About 2,523m ² (including about 23m ² of Government land (about 0.9%))
<u>Land Status</u>	:	(i) Block Government Lease (demised for agricultural use) (about 91.1% of the Site) (ii) Government Land (about 0.9% of the Site)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9 at the time of submission Draft Kam Tin North OZP No. S/YL-KTN/10 currently in force [The zoning and development restrictions for the Site remain unchanged on the current draft OZP No. S/YL-KTN/10]
<u>Zonings</u>	:	“Industrial (Group D)” (“I(D)”) (about 84%) [maximum plot ratio of 1.6, maximum site coverage of 80% and maximum building height of 13m] “Agriculture” (“AGR”) (about 16%)
<u>Application</u>	:	Proposed Temporary Cold Storage for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary cold storage for a period of 3 years. The Site falls within the “I(D)” and “AGR” zones on the Kam Tin North OZP. While ‘Industrial Use’ is a

Column 1 use within the “I(D)” zone and is always permitted, the proposed 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). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is formed, paved and deposited with construction materials.

- 1.2 According to the applicant, the proposed development involves three 1-storey structures (with building height of not more than 13m and a total floor area of about 1,498m²) within the Site for warehouse (cold storage) (about 1,394m²), transformer room (about 72m²), and switch room (about 32m²) uses¹. All electrical and mechanical machinery for the proposed temporary cold storage will be fully enclosed within the proposed structures on-site. Solar panels will be installed on the rooftops of the warehouses for mainly self-sufficiency purpose. About 210m² (or about 8% of the Site) will be paved by concrete by not more than 1m in depth (with the existing levels of the site ranging from about +18.04mPD to +19.3mPD) for site formation and emergency vehicular access. Two private car parking spaces (including one accessible parking space), one motorcycle parking space, two loading/unloading (L/UL) bays for heavy goods vehicles and one L/UL bay for light goods vehicle will be provided at the Site. The operation hours will be 7:00a.m. to 7:00p.m. from Monday to Saturday. No operation will be carried out on Sunday and public holidays. The Site is accessible from Mei Fung Road via a local track. The layout plan and proposed land filling plan submitted by the applicant are at **Drawings A-1** and **A-2**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with plans and supplementary **(Appendix I)** information received on 23.12.2022 and 3.1.2023 respectively
 - (b) Further Information (FI) received on 29.3.2023 **(Appendix Ia)**
(exempted from publication and recount requirements)
 - (c) FI received on 21.4.2023 **(Appendix Ib)**
(exempted from publication and recount requirements)
 - (d) FI received on 2.5.2023 **(Appendix Ic)**
(exempted from publication and recount requirements)
- 1.4 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed on 17.2.2023 to defer making a decision on the application for preparation of FI to address the departmental comments.

¹ According to the layout submitted by the applicant, the cold storage warehouse, which is regarded as ‘Industrial Use’ falls entirely within the “I(D)” zone and is always permitted. While the ancillary switch room and transformer room fall within the adjacent “AGR” zone which require planning permission.

2. Justifications from the Applicant

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

- (a) The cold storage makes full use of the industrial automation equipment and new technology to avoid safety risk, facilitate remote monitoring, optimize energy consumption and maximize density using high-density storage scheme and ensure cost-effectiveness. It is in line with the Government's direction to building a smart city.
- (b) Solar Photovoltaic system (SPV) will be installed at the rooftop of the cold storage building to provide clean source of energy for electricity supply. Excess energy generated by the SPV system could be fed-in to the CLP electricity grid to facilitate the development of sustainable and green renewable energy.
- (c) The recent pandemic has drastically changed the mode of consumption and way of living globally and locally, which leads to rising demand for cold storage facilities. The proposed development is considered indispensable to meet the rising demand for local cold chain facilities.
- (d) The "AGR" portion of the Site is located at the fringe and only occupies a small area for transformer room, a switch room and road. It would not pose major visual damage to the rural integrity of the area and is considered not in conflict with the planning intention of the "AGR" zone.
- (e) The proposed use is compatible with the surrounding area which are predominantly semi-rural in character. The proposed use can unleash the development potential of the under-utilized land resources by providing paved vehicular access connecting Mei Fund Road.
- (f) The proposed development would not induce adverse impacts on health, traffic, drainage, landscape, visual and traffic.

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

The applicant is one of the "current land owners" of the Site and has complied with the requirement 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 sending registered mail to the other owners. Detailed information would be deposited at the meeting for Member's inspection. For the Government land portion, the "Owner's Consent/Notification" Requirements are not applicable.

4. Background

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

5. Previous Application

The Site is not involved in any previous application.

6. Similar Applications

6.1 There are four similar applications (No. A/YL-KTN/709, 824, 852 and 890), involving 4 sites, for similar temporary warehouse use (or renewal of the planning approval granted by the Committee) within the “AGR” zone in the vicinity of the Site (three of which involves filling of land) in the past 5 years (**Plan A-1**). All applications were approved with conditions by the Committee between June 2020 and March 2023 mainly on the grounds that temporary approval of the applications would not frustrate the long-term planning intention; the applied uses were not incompatible with the surrounding land uses; the developments would unlikely cause significant adverse impacts and/or relevant departments’ technical concerns could be addressed through appropriate approval conditions.

6.2 Details of the similar applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) formed, paved and deposited with construction materials; and
- (b) accessible from a local access branching off Mei Fung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its south are vehicle workshop, open storage/ storage yards, residential structures/ dwellings, animal boarding establishment and vacant land within the “AGR” zone;
- (b) to its immediate west is Mei Fung Road and Water Supplies Department’s water supplies facility. To the further west is shop and services (with planning permission under Application No. A/YL-KTN/734), vacant land (with planning permission for shop and services under Application No. A/YL-KTN/741), residential structures/ dwellings (about 20m) and warehouse; and

- (c) to its north and northeast are storage/open storage yards and factory.

8. Planning Intentions

- 8.1 The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flatted 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.
- 8.2 The planning intention of the “AGR” zone is 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.
- 8.3 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

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 departments have objection to / reservation on the application:

Environment

Comments of the Director of Environmental Protection (DEP):

- (a) there was no environmental complaint concerning the Site received by DEP in the past three years;
- (b) according to the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”), he does not support the application as the development involves the use of heavy vehicles and sensitive receivers, i.e. residential dwellings/structures, are found in the vicinity of the Site (the nearest is about 20m to the south (**Plan A-2**)) and environmental nuisance is expected; and

- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest COP issued by DEP.

Agriculture and Nature Conservation

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

- (a) the Site falls within the “AGR” and “I(D)” zones and is vacant. The agricultural activities are active in the vicinity (**Plan A-2**), and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural rehabilitation such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from agricultural perspective; and
- (b) from nature conservation point of view, DAFC has no comment on the application.

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

The application was published for public inspection. During the statutory publication period, five public comments from individuals were received. Four commenters support the application mainly on the grounds that the application is temporary in nature; the location of the Site is suitable as it is distanced from the residential development; the proposed development would not induce adverse environmental impact; and there is demand for cold storage in Hong Kong. One commenter objects to the application mainly for the reasons that the proposed use will affect his living quality and source of income.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary cold storage for a period of 3 years in “I(D)” (84%) and “AGR”(16%) zones, with filling of land at part of the Site (about 210m²/8%) by not more than 1m in depth. Whilst the proposed use is a Column 1 use within the “I(D)” zone and is always permitted, the proposed 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. Whilst the proposed development is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from the agriculture development perspective, the proposed warehouse for cold storage falls within the “I(D)” zone, with only minor portion of the Site intend for ancillary switch room and transformer room falling within the “AGR” portion (16% of the Site). It is considered that approval of the application on a temporary basis for 3 years

would not frustrate the long-term planning intention of the “AGR” zone. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and DEP have no adverse comment from the drainage and environmental perspectives.

- 11.2 The applied use is considered not incompatible with the surrounding land uses which are rural in character intermixed with warehouses, storage/open storage yards, shop and services, vacant land, a factory and residential dwellings/structures.
- 11.3 Relevant departments consulted, including the Commissioner for Transport, CE/MN of DSD and Director of Fire Services have no objection to or adverse comment on the application. DEP does not support the application as there are existing residential dwellings/structures in the vicinity of the Site (with the nearest about 20m to the south) (**Plan A-2**) and the proposed use involves the use of heavy vehicles, thus environmental nuisance is expected. Nevertheless, the Site is near Sam Tam Road and the vehicular access does not need to pass through residential dwellings/structures and all the electrical and mechanical machinery for the proposed cold storage will be fully enclosed within the proposed structures on-site. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, the applicant will also be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas.
- 11.4 There were four similar applications for temporary warehouse uses within the same “AGR” zone approved between June 2020 and 2023 as stated in paragraph 6 above. Approval of this application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comment received during the statutory publication period objecting to the application as stated in paragraph 10 above, the applicant stated that he has legal right to the use the Site during the rental period and would not affect other private third party. In this regard, the departmental comments and planning considerations and 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 proposed temporary cold storage and filling of land 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 5.5.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 7:00 a.m. from Mondays to Saturdays, 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) 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 5.11.2023;
- (d) in relation to (c) 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 5.2.2024;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (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 5.11.2023;
- (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 5.2.2024;
- (h) if any of the above planning condition (a), (b) or (e) 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;
- (i) if any of the above planning condition (c), (d), (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; and

- (j) upon expiry of the planning permission, the reinstatement of the portion of the Site at the “AGR” zone to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The advisory clauses are in **Appendix IV**.

- 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 to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning 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 for renewal of the planning approval.
- 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

Appendix I	Application form with plans and supplementary information received on 23.12.2022 and 3.1.2023 respectively
Appendix Ia	FI received on 29.3.2023
Appendix Ib	FI received on 21.4.2023
Appendix Ic	FI received on 2.5.2023
Appendix II	Similar Applications

Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2023**