

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

APPLICATION NO. A/YL-KTN/906

<u>Applicant</u>	:	Ko Kee Metal & Building Materials Limited represented by BMI Appraisals Limited
<u>Site</u>	:	Lots 126 S.B and 126 RP in D.D.110, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 2,969.7m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	:	“Agricultural” (“AGR”)
<u>Application</u>	:	Renewal of Planning Approval for Temporary Open Storage of Construction Materials with Ancillary Office and Storage 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 materials with ancillary office and storage for a period of 3 years. The Site falls within an area zoned “AGR” on the Kam Tin North OZP. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission under application No. A/YL-KTN/706 until 20.5.2023.
- 1.2 The Site is involved in five previous applications (detailed in paragraph 6 below) submitted by the same applicant for the same applied use. The current application is the same as the last approved application No. A/YL-KTN/706 in terms of use, site area/boundary, layout and major development parameters. All the approval conditions have been complied with.
- 1.3 According to the applicant, the Site is occupied by three 1-storey structures with building heights of 5m to 6m and total floor area of about 371m² for ancillary office and storage use. Three parking spaces for private car, two for medium goods vehicle and one loading/unloading bay are provided. The operation hours are from 8:00 a.m. to 7:00 p.m. from Mondays to Saturdays and there is no operation on

Sundays and statutory holidays. The Site is accessible from Kam Tai Road via a local track. The layout plan, drainage plan and fire services installation plan submitted by the applicant are at **Drawings A-1 to A-3**.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form with planning statement received on 3.4.2023 **(Appendix I)**
- (b) Further Information (FI) received on 5.5.2023* **(Appendix Ia)**
- (c) FI received on 10.5.2023* **(Appendix Ib)**

** exempted from publication and recounting requirements*

2 Justifications from the Applicant

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

- (a) The planning application is not in conflict with the planning intention. After the expiry of the permission, the “AGR” zone could still be implemented by any interested parties. The temporary nature of the applied use allows flexibility without pre-empting the long term development potential and permanent land use of the Site.
- (b) Many farming areas within Pat Heung, Shek Kong and Kam Tin have been abandoned or converted into semi-industrial use and open storage. The applied use is compatible with the surrounding land use.
- (c) The application is in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses as favourable consideration can be given for the Site within Category 3 areas and covered by previous planning approvals. The applicant has complied with all the approval conditions under the previous application.
- (d) No heavy vehicles will transport materials to the Site. The materials stored at the Site mostly remain stagnant. No significant adverse drainage, traffic, landscape and environmental impacts are anticipated and approval of the application would not create undesirable precedent. The applicant will make effort to comply with the approval conditions should planning permission be granted.

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

The applicant is one of the “current land owners” and has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by notifying the other current land owner by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4 Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No.13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site is within Category 3 areas under TPB PG-No.13G¹. The relevant extract of the Guidelines is attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to this application. The relevant assessment criteria are attached at **Appendix III**.

5 Background

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

6 Previous Applications

- 6.1 The Site is the subject of five previous applications (No. A/YL-KTN/343, 363, 441, 559 and 706) submitted by the same applicant for the same applied use as the current application. Application No. A/YL-KTN/343 covering a larger site area was approved with conditions by the Committee in 2010 on the considerations that the original site of the development was resumed for the Guangzhou-Shenzhen-Hong Kong Express Rail Link project and only the application site was identified suitable for continuous operation of the business; the development was not incompatible with the surrounding land uses; and the concerns of the relevant government departments could be addressed by appropriate approval conditions. Application No. A/YL-KTN/363, 441, 559 and 706 were approved with conditions by the Committee between 2011 and 2020 on similar considerations as mentioned above; temporary approval of the applications would not frustrate the long-term planning intention; and the applications were generally in line with the relevant Town Planning Board Guidelines for Application for Open Storage and Port back-up Uses. The planning permission under application No. A/YL-KTN/343 was revoked in 2011 due to non-compliance with approval conditions.
- 6.2 Compared with the last approved application No. A/YL-KTN/706, the current application is the same in terms of the applied use, site area/boundary, layout and major development parameters. All the approval conditions are complied with and the application is valid until 20.5.2023.
- 6.3 Details of the applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1**.

7 Similar Applications

- 7.1 There are six similar applications (including renewal of temporary planning approval granted by the Board) involving four sites for various temporary open

¹ The Site also fell within Category 3 areas in the previous TPB PG-No. 13F which was in force when the last previous application was approved.

storage uses within the same “AGR” zone in the vicinity of the Site in the past five years. All applications were approved with conditions by the Committee between 2019 and 2023 on similar considerations as stated in paragraph 6.2 above. The planning permissions under application No. A/YL-KTN/654 was revoked due to non-compliance with approval conditions.

- 7.2 Details of the similar applications are summarised at **Appendix IV** and the locations are shown on **Plan A-1**.

8 The Site and Its Surrounding Areas (Plans A-2 to A-4b)

- 8.1 The Site is:

- (a) paved, fenced and currently used for the applied use with planning permission under application No. A/YL-KTN/706; and
- (b) accessible from Kam Tai Road via a local track.

- 8.2 The surrounding areas have the following characteristics:

- (a) to the north are open storages/storage yards and vacant land with scattered residential structures;
- (b) to the east are residential structure, vacant land and grassland;
- (c) to the south are Kam Tin North River and Kam Tai Road. Vacant land and grassland are to the further south. To the further southeast is a residential development (Seasons Villas); and
- (d) to the west are vacant land and residential structure.

9 Planning Intention

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.

10 Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comments on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices V** and **VI** respectively.

11 Public Comment Received During the Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, no public comment was received.

12 Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission for temporary open storage of construction materials with ancillary office and storage at the Site zoned “AGR”. The planning intention of the “AGR” zone 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. Although the applied use is not in line with the planning intention of the “AGR” zone, the Director of Agriculture, Fisheries and Conservation has no strong view on the application. It is considered that approval of the application on a temporary basis for a period 3 years would not frustrate the long-term planning intention of the “AGR” zone.
- 12.2 The development is considered not incompatible with the surrounding land uses which are mixed with open storages/storage yards, residential structures, grassland and vacant land. The Site is physically separated from the residential development Seasons Villas by Kam Tin North River and Kam Tai Road. The Chief Town Planner/Urban Design and Landscape of Planning Department (CTP/UD&L, PlanD) considers that further significant adverse landscape impact arising from the continuous use is not anticipated and has no objection from landscape planning perspective.
- 12.3 The Site falls within Category 3 areas under TPB PG-No. 13G. The following considerations in the Guidelines are relevant:
- Category 3 areas: 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/or relevant technical assessments/proposals have been included in the fresh applications, if required, to demonstrate that the proposed uses would not general adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the developments and local residents can be addressed through the implementation of approval conditions.
- 12.4 The application is generally in line with TPB PG-No. 13G and 34D in that previous approvals for the same use were granted since 2010 and all the approval conditions under the last approved application (No. A/YL-KTN/706) have been complied with. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of use, site area/boundary, layout and major development parameters. Relevant departments consulted, including the Commissioner for Transport (C for T), the Director of Environmental Protection, the Chief Engineer/Mainland North of Drainage Services Department and the Director of Fire Services, have no objection to or no adverse comments on the renewal application. As there is no major change in the planning circumstances since the last approval, sympathetic consideration could be given to the current application.
- 12.5 To address the technical requirements of concerned government departments and to minimise any potential environmental nuisances, appropriate approval conditions

are recommended in paragraph 13.2 below and 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' issued by the Environmental Protection Department.

- 12.6 There are six similar applications involving four sites for various temporary open storage uses within the same "AGR" zone as detailed in paragraph 7 above. Approval of the current application is in line with the Committee's previous decisions.

13 Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the applied use could be tolerated for a further 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 21.5.2023 until 20.5.2026. 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 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and statutory holidays, as proposed by the applicant, 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 are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (e) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the Site should be kept in a clean and tidy condition and the materials stored at the Site should be covered up at all times during the planning approval period;

- (h) the submission of records 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 21.8.2023;
- (i) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (j) if any of the above planning condition (a), (b), (c), (d), (e), (f), (g) or (i) 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 (h) 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 the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

[The above approval conditions are the same as those under the previous approved application No. A/YL-KTN/706, except deletion of those on landscape and traffic aspects based on the comments of CTP/UD&L, PlanD and C for T.]

Advisory clauses

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

13.3 There is no strong reason to recommend rejection of 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

Appendix I	Application form with planning statement received on 3.4.2023
Appendix Ia	FI received on 5.5.2023
Appendix Ib	FI received on 10.5.2023
Appendix II	Relevant extract of TPB PG-No. 13G
Appendix III	Relevant extract of TPB PG-No. 34D
Appendix IV	Previous and similar applications
Appendix V	General departmental comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Layout plan
Drawing A-2	Drainage plan
Drawing A-3	Fire services installation plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
MAY 2023**