

RNTPC Paper No. A/YL-KTS/880
For Consideration by the Rural and
New Town Planning Committee
on 16.4.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/880

<u>Applicant</u>	: Mr. Cheung Ka Ming
<u>Site</u>	: Lot 688 S.B in D.D. 106, Shek Kong Airfield Road, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 2,510 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<u>Application</u>	: Temporary Open Storage of Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of vehicles and vehicle parts with ancillary office for a period of 3 years. The Site is zoned “R(D)” on the Kam Tin South 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 or development not exceeding a period of three 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 without planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is subject to 7 previous applications for various temporary open storage uses. All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1998 and 2018. The last application No. A/YL-KTS/794 submitted by the same applicant for the same

use as the current application was approved in 2018 but the planning permission was revoked on 17.1.2021 due to non-compliance with approval condition in relation to the implementation of drainage proposal.

- 1.3 According to the applicant, there are 9 one-storey structures within the Site with a total floor area of about 667 m² for office, storage and car parking uses. A total of 8 private car parking spaces and 4 light goods vehicles loading and unloading spaces are provided within the Site. The applicant stated that no vehicles more than 5.5 tonnes would enter into/go out from the Site and no dismantling of car, car washing and paint spraying activities will be carried out at the Site. The operation hours are between 9 a.m. and 6 p.m. from Mondays to Friday and 10 a.m. to 6 p.m. on Saturdays. There is no operation on Sundays and public holidays. The Site is accessible via Shek Kong Airfield Road. The site layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.4 Compared with the last approved application (No. A/YL-KTS/794), the current application is submitted by the same applicant for the same use, with the same site area and similar layout except increase in total floor area (+108m²/+19%) and two more loading/unloading bay for light goods vehicles.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information received on 22.2.2021 **(Appendix I)**
 - (b) Further information (FI) received on 31.3.2021 in response to departmental comments **(Appendix Ia)**
(exempted from publication requirement)
 - (c) FI received on 7.4.2021 and 8.4.2021 in response to departmental comments **(Appendix Ib)**
(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 supplementary information and FIs in **Appendices I to Ib**. They can be summarized as follows:

- (a) The Site was subject to a previous planning application for the same use approved in 2018. The submission and implementation of fire service installations (FSIs) proposal and submission of drainage proposal under the relevant approval conditions were accepted by concerned departments. The applicant had made effort to liaise with the Drainage Services Department and Lands Department on the

implementation of drainage proposal but due to technical issue, the works was not completed by the deadline.

- (b) The site layout is the same as the last approved application. FSIs and drainage proposals are submitted in support of the application.

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

The applicant is not a “current land owner” but 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 posting site notice at the Site and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Site falls within Category 2 area under 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. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to any active planning enforcement action. Should there be sufficient evidence to prove that the current operation on the Site constitutes an unauthorized development under the Town Planning Ordinance, enforcement action will be taken.

6. Previous Applications

- 6.1 The Site is the subject of 7 previous applications (No. A/YL-KTS/125, 151, 161, 170, 206, 274 and 794) for various temporary open storage with or without workshop uses. Details of the previous applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 All applications were approved with conditions by the Committee between 1998 and 2018 mainly for the reasons that the development would not frustrate the long-term planning intention; the development was not incompatible with the surrounding areas; the development conformed with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses”; previous planning approval had been granted; the concerned departments generally had no

adverse comments; and the environmental concern could be addressed by approval conditions. However, planning permission of applications No. A/YL-KTS/206, 274 and 794 were revoked in 2001, 2003 and 2021 due to non-compliance with planning conditions. For the last application (No. A/YL-KTS/794) submitted by the same applicant for the same use as the current application, while the applicant complied with approval conditions on submission and implementation of FSIs proposal and submission of drainage proposal, the planning permission was revoked on 17.1.2021 due to non-compliance with the condition on implementation of drainage proposal.

7. Similar Applications

- 7.1 There are 19 similar applications for various temporary open storage uses within the same and adjoining "R(D)" zones on the OZP since the promulgation of TPB PG-No.13E on 17.10.2008. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.
- 7.2 17 applications were approved with conditions by the Committee between 2009 and 2020 for similar reasons as stated in paragraph 6.2 above. However, planning permission of two applications were revoked due to non-compliance with planning conditions.
- 7.3 Applications No. A/YL-KTS/536 and 599 for temporary car breaking workshop and open storage of vehicles and vehicles parts with ancillary office and temporary warehouse and ancillary office and open storage (power generator, machinery and parts) respectively were rejected by the Committee in 2011 and by the Board on review in 2013 on the grounds that the developments were not in line with the planning intention of the "R(D)" zone; the applications did not comply with the TPB PG-No. 13E in that there was no previous approval for workshop and open storage use granted at the application sites and there were adverse departmental comment and local objections against the applications; and the approvals of the applications would set an undesirable precedent.

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

- 8.1 The Site is:
 - (a) used for the applied use without planning permission; and
 - (b) accessible via Shek Kong Airfield Road.
- 8.2 The surrounding areas are rural in character intermixed with open storage yards, warehouse, workshop, residential structures/dwellings, Shek Kong Barracks and unused land:

- (a) to its north across Shek Kong Airfield Road is the Shek Kong Barracks;
- (b) to its west are warehouse, open storage yard and workshop;
- (c) to its east are open storage yards, residential structures/dwellings (the nearest is about 30m away) and unused land; and
- (d) to its south are unused land, Kam Shui North Road and Kam Tin River.

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 summarised as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an Old Schedule Agricultural Lot 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) Within the Site, the private lot is covered by Short Term Waiver (STW) No. 5011 for temporary open storage of vehicles and vehicles parts with ancillary office.
- (c) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. 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 the 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 perspective.
- (b) Should the application be approved, an 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.

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

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Shek Kong Airfield Road.
- (b) 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 3 years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirement in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Landscape

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

- (a) The applicant is reminded that approval of the application does not imply approval of tree works such as pruning, transplanting and felling. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.
- (b) Should the application be approved, approval condition on maintenance of all existing trees within the Site satisfactorily at all times during the planning approval period should be included.
- (c) The applicant is advised to observe relevant guidelines on tree care to maintain the existing tree in good health.

Drainage

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

- (a) He has no in-principle objection to the application from the public drainage point of view and no adverse comment on the submitted drainage proposal.
- (b) Should the application be approved, approval conditions on implementation and maintenance of the agreed drainage proposal for the development to the satisfaction of Director of Drainage Services or of the TPB should be incorporated in the planning permission.
- (c) His detailed comments are at **Appendix VII**.

Building Matters

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

- (a) As there is no record of the 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) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) His detailed comments on UBW, provision of access and temporary licensed structures are at **Appendix VII**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

Nature Conservation

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

- (a) He has no comment on the application from nature conservation point of view noting that its previous application for the same use had been approved by the Board.
- (b) There is an ecological mitigation planting area between the Site and Kam Shui North Road (**Plan A-2**). Should the application be approved, the applicant shall be reminded to adopt necessary measures to avoid damaging the trees and understory vegetation in the mitigation planting area.

Fire Safety

10.1.9 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. Also, good practice guidelines for open storage (**Appendix V**) should be adhered to. His detailed comments on the submitted FSIs proposal is at **Appendix VII**.
- (c) Having considered the nature of the open storage use, approval condition on provision of fire extinguisher(s) within 6 weeks from

the date of planning approval should be included. To address this condition, the applicant should submit a valid fire certificate (FS 251) to his department for approval.

- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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 locals upon close of consultation and he has no particular comment on the application.

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

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

11. Public Comments Received During Statutory Publication Period

On 2.3.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments were received from individuals (**Appendices VI-1 and VI-2**) objecting to the application mainly on the grounds that the proposed development would increase traffic flow and lead to traffic congestion, environmental pollution, fire hazard and affect the villagers' safety and living quality; and the previous planning permission was revoked.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of vehicles and vehicle parts with ancillary office for a period of 3 years at "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. It is also intended 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 long-term development at the Site. Hence, it is considered that temporary approval of the application would not jeopardize the long-term planning intention of the “R(D)” zone.

12.2 The applied use is not incompatible with the surrounding area which is mainly rural in character intermixed with residential structures/ dwellings and unused land.

12.3 The Site falls within Category 2 area under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant.

Category 2 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 departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.4 The application is generally in line with TPB PG-No. 13F in that relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, approval conditions restricting operation hours, vehicle types and workshop activities are recommended in paragraph 13.2(a) to (d). Besides, the applicant will be advised to adopt the relevant mitigation measures and requirements as set out in the latest “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 approval conditions in paragraph 13.2 (e) to (l).

12.5 The Site is subject to 7 previous applications for open storage uses which were all approved by the Committee between 1998 and 2018. The last application (No. A/YL-KTS/794) was for the same applied use submitted by the same applicant. Approval conditions on the submission and implementation of FSIs proposal and submission of drainage proposal have been complied with. However, the planning permission was revoked in 2021 due to non-compliance with approval condition on implementation of drainage proposal. The applicant stated that he had liaised with concerned departments on the implementation works but could not complete the work in time due to technical issues. In the current application, the applicant has submitted drainage and FSIs proposals and CE/MN of DSD and D of FS have no in-principle objection to the application. Compared with the last approved application, the current application is subject to a similar layout and scale. There is no major change in planning circumstance since the last approval. Hence, it is considered that sympathetic consideration could be given to the current application. Shorter compliance periods are recommended to monitor the

progress of compliance of approval conditions should the Committee decide to approve the current application. Moreover, the applicant will be advised that should he fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 12.6 Two public comments objecting to the application were received during the statutory publication period as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as mentioned 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 comments in paragraph 11, the Planning Department considers that the temporary open storage of vehicles and vehicle parts with ancillary office 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 until 16.4.2024. The following conditions of approval with shorter compliance period and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation between 9:00a.m. and 10:00a.m. on Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (e) 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;

- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the maintenance of all existing trees within the Site satisfactorily at all times during the planning approval period;
- (h) the implementation of the accepted drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.10.2021;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.5.2021;
- (k) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.7.2021;
- (l) in relation to (k) above, the implementation of 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 16.10.2021;
- (m) if any of the above planning conditions (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; and
- (n) if any of the above planning conditions (h), (j), (k) or (l) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' consideration:

the development is not in line with the planning intention of the "R(D)" zone which 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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 supplementary information received on 22.2.2021
Appendix Ia	FI received on 31.3.2021
Appendix Ib	FI received on 7.4.2021 and 8.4.2021
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the same and adjoining “R(D)” zones on the Kam Tin South OZP
Appendix V	Good Practice Guidelines for Open Storage Sites
Appendices VI-1 and VI-2	Public comments received during the statutory publication period
Appendix VII	Advisory Clauses
Drawing A-1	Site Layout Plan

Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2021**