

RNTPC Paper No. A/YL-KTS/886
For Consideration by the Rural and
New Town Planning Committee
on 28.5.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/886

<u>Applicant</u>	: H N L Development Company Limited represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lot 496 S.B RP in D.D.109, Shek Kong Airfield Road, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 1,020 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>	: Proposed Temporary Open Storage and Warehouse (Construction Machinery and Construction Materials) 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 open storage and warehouse (construction machinery and construction materials) for a period of 3 years. The Site is zoned “R(D)” on the Kam Tin South OZP and the proposed 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 vacant (**Plans A-2 and A-4**).

- 1.2 The Site is subject to a previous application submitted by a different applicant for temporary open storage and warehouse, which was rejected by the Board on review in 2013.
- 1.3 According to the applicant, the development involves 4 one to two-storey (not exceeding 8.5m) structures with a total floor area of about 280m² for warehouse, site office, toilet and electricity meter room. One private car parking space and one light goods vehicles loading and unloading spaces will be provided within the Site. The applicant stated that no vehicles more than 5.5 tonnes would enter into/exit from the Site. No dangerous goods will be stored at the Site and no workshop activity will be carried out at the Site. The operation hours are between 9 a.m. and 7 p.m. from Mondays to 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 A comparison of the major development parameters of the current application and the last rejected application is given in the following table:

Major Development Parameters	Last Rejected Application No. A/YL-KTS/599 (a)	Current Application (b)	Differences (b) – (a)
Site Area (m ²)(about)	1,060	1,020	-40(-3.8 %)
Applied Use	Temporary Warehouse and Ancillary Office and Open Storage (Power Generator, Machinery and Parts) for a Period of 3 Years	Proposed Temporary Open Storage and Warehouse (Construction Machinery and Construction Materials) for a Period of 3 Years	Similar Use
Total Floor Area (m ²)	667	280	-387(-58%)
No. of Structure(s)	4	4	No change
Maximum Building Height (m)	7.32 / 2 storeys	8.5 / 2 storeys	+1.18(+16.1%)
No. of parking and Loading/Unloading Spaces	2 for private car, 1 for van and 1 for light goods vehicle	1 for private car and 1 for light goods vehicle	Deletion of parking space for van and one parking space for private car

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

- (a) Application form with plans received on 30.3.2021 **(Appendix I)**
- (b) Further information (FI) received on 21.5.2021 in response to departmental comments **(Appendix Ia)**
(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 and FIs in **Appendices I to Ia**. They can be summarized as follows:

- (a) The proposed development is under “Category 2 areas” in the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13F) and sympathetic consideration could be given if no adverse comment is received. The development is a temporary use and would not jeopardize the long-term planning intention. It is not incompatible with the surrounding environment. The proposed development would benefit the open storage industry in the area because there is acute demand for open storage in Kam Tin area.
- (b) The construction machinery and materials to be stored at the Site is not large in size. No significant adverse traffic, environmental and drainage impact is anticipated.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Member’s inspection.

4. Town Planning Board Guidelines

- 4.1 The Site falls within Category 2 area under TPB PG-No. 13F promulgated by the Board on 27.3.2020. The relevant extract of the Guidelines is attached at **Appendix II**.
- 4.2 The Site previously fell within Category 3 areas under the then TPB PG-No. 13E. The Site and its adjoining area was reclassified to Category 2 areas under TPB PG-No. 13F, taking into account the “Study on Existing Profile and Operations of Brownfield Sites in the New Territories – Feasibility Study” completed by the

Planning Department (PlanD) in 2020. The area is mostly occupied by brownfield uses which had existed when the first statutory plan was gazetted and/or with approved s.16 applications for temporary brownfield uses, and the area is accessible via Kam Shui North Road.

5. **Background**

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

6. **Previous Application**

The Site is the subject of a previous application (No. A/YL-KTS/599) for temporary warehouse and ancillary office and open storage (power generator, machinery and parts) submitted by a different applicant. The application was rejected by the Board on review in 2013 on the grounds that the development was not in line with the planning intention of the “R(D)” zone; the application did not comply with the then TPB PG-No. 13E in that there was no previous approval granted at the Site; the applicant failed to demonstrate that the development would not generate adverse landscape and drainage impacts on the surrounding areas; and approval of the application would set an undesirable precedent for similar applications within the “R(D)” zone. Detailed of the previous application is summarized in **Appendix III** and its location is shown on **Plan A-1**.

7. **Similar Applications**

- 7.1 There are 12 similar applications for various temporary open storage uses within the same “R(D)” zone to the north of Kam Tin River 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-1**.
- 7.2 All the applications were approved with conditions by the Committee between 2009 and 2021 mainly on the grounds that the development would not frustrate the long-term planning intention; the development was not incompatible with the surrounding areas; the application was generally in line with TPB PG-No. 13E/13F in that previous planning approval had been granted; concerned departments generally had no adverse comments; and the departmental concern could be addressed by approval conditions. However, planning permission of three applications were revoked due to non-compliance with planning conditions.
- 7.3 There is no similar application for warehouse use in the same “R(D)” zone.

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

8.1 The Site is:

- (a) currently vacant and fenced off; and
- (b) accessible via Shek Kong Airfield Road.

8.2 The surrounding areas are rural in character and intermixed with open storage yards, workshop, Shek Kong Barracks, cultivated agricultural land and vacant/unused land:

- (a) to its north across Shek Kong Airfield Road is the Shek Kong Barracks;
- (b) to its east and west are open storage yards, workshop and vacant/unused land; and
- (c) to its immediate south are unused land, Kam Shui North Road and Kam Tin River. To its further south are cultivated agricultural land and vacant/unused land.

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) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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

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.

Drainage

10.1.5 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.
- (b) Should the application be approved, approval conditions on the submission of a revised drainage proposal for the development, and implementation and maintenance of the drainage proposal to the satisfaction of Director of Drainage Services or of the TPB should be incorporated in the planning permission.
- (c) His detailed comments on the submitted drainage proposal are at **Appendix VII**.

Building Matters

10.1.6 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) Before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, the 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 and temporary or licensed structures are at **Appendix VII**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

Nature Conservation

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

Noting that the Site is distributed in nature, he has no comment on the application from conservation perspective

Fire Safety

10.1.8 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 FSI to be installed should be clearly marked on the layout plans. Also, good practice guidelines for open storage (**Appendix V**) should be adhered to.
- (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

10.1.9 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/no objection to 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 9.4.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments were received from individuals (**Appendices VI-a and VI-b**) 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 consideration should be given to develop this stretch of land for warehouse/industrial park instead of inefficient brownfield use.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary open storage and warehouse (construction machinery and construction materials) 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 proposed 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 and intermixed with open storage yards, Shek Kong Barracks, cultivated agricultural land and vacant/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, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (e) to (k).
- 12.5 The Site is subject to a previous application for temporary warehouse and ancillary office and open storage (power generator, machinery and parts) which was rejected by the Board on review in 2013 when the Site fell within Category 3 area under the then TPB PG-No.13E for reason as stated in paragraph 6 above, including that the application did not comply with the then TPB PG-No. 13E. The Site and its adjoining area was reclassified from Category 3 to Category 2 area under the TPB PG-No.13F in 2020, and the current application is considered generally in line with TPB PG-No. 13F as stated in paragraph 12.4 above. There are also 12 similar applications for various temporary open storage uses within the same “R(D)” zones to the North of Kam Tin River and all of them were approved with conditions by the Committee between 2009 and 2021 as mentioned in paragraph 7.2 above.
- 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 mentioned in paragraph 11, the Planning Department considers that the proposed temporary open storage and warehouse (construction machinery and construction materials) 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 28.5.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities 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 submission of 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 28.11.2021;
- (g) the implementation of drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.2.2022;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 9.7.2021;
- (j) the submission 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 28.11.2021;
- (k) in relation to (j) above, the implementation of 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 28.2.2022;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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

- (m) if any of the above planning conditions (f), (g), (i), (j) or (k) 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 proposed 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 plans received on 30.3.2021
Appendix Ia	FI received on 21.5.2021
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous application covering the Site
Appendix IV	Similar applications within the same “R(D)” zone on the Kam Tin South OZP
Appendix V	Good Practice Guidelines for Open Storage Sites
Appendices VI-a and VI-b	Public comments received during the statutory publication period
Appendix VII	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2021**