

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

APPLICATION NO. A/YL-KTS/924

<u>Applicant</u>	:	Mr. CHAN Sau Yu
<u>Site</u>	:	Lots 476 RP (Part) and 477 in D.D. 106, Kam Sheung Road, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 3,000 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>	:	“Other Specified Uses” annotated “Rural Use” (“OU(RU)”) [Maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]
<u>Application</u>	:	Renewal of Planning Approval for Temporary Open Storage of Vehicles, Metal, Plastic Pipes, Machinery, Vehicle Parts and Construction Materials 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 vehicles, metal, plastic pipes, machinery, vehicles parts and construction materials for a period of 3 years. The Site is zoned “OU(RU)” on the approved Kam Tin South OZP No. S/YL-KTS/15 (**Plan A-1a**). According to the Notes of OZP, temporary use or development not exceeding a period of three years, notwithstanding that the use or development is not provided for in terms of the OZP, requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with planning permission under application No. A/YL-KTS/822 valid until 13.7.2022 (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of eight previous planning applications for similar / same temporary open storage uses (details at paragraph 6 below). The current application is the same as the last approved application No. A/YL-KTS/822 submitted by the same applicant in terms of the applied use, site

area/boundary, site layout, major development parameters and car parking spaces. All the approval conditions had been complied with.

- 1.3 According to the applicant, a domestic structure of not more than 3 storeys (not more than 7.3m high) with a total floor area of about 163m² and 6 non-domestic structures of not more than 2 storeys (not more than 4.8m high) with a total floor area of about 415m² are erected on the Site for godown, storeroom, office, toilet and switch room uses. The operation hours are from 8:30 a.m. to 7:00 p.m. on Mondays to Saturdays, with no operation on Sundays and public holidays. 10 private car parking spaces and 5 light goods vehicle parking spaces, with no fixed location, are provided within the Site. The Site is accessible via Kam Sheung Road. 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 information (**Appendix I**) received on 3.5.2022 and 4.5.2022
 - (b) Further information (FI) received on 21.6.2022 (**Appendix Ia**)

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** and **Ia**. They can be summarized as follows:

- (a) The planning approval will expire on 13.7.2022 and the applicant would like to continue the operation of the development at the Site.
- (b) The applicant has complied with the approval conditions imposed by the Board under the previous planning application No. A/YL-KTS/822 and will continue to maintain the fire service installations and drainage facilities implemented on-site.

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 obtaining consent from the other owners. 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. 13F) promulgated by the Board on

27.3.2020 is relevant to the application. The Site falls within the Category 3 areas under the TPB PG-No. 13F. Relevant extract of the Guidelines is attached at **Appendix II**.

- 4.2 The Town Planning Board Guidelines for “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. Relevant extract of the Guidelines is attached at **Appendix III**.

5. **Background**

The Site is not subject to any planning enforcement action.

6. **Previous Applications**

- 6.1 The Site is involved in eight previous applications for similar / same temporary open storage uses. All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between May 1997 and June 2019. The main reasons of approval include that the applications were in line with the relevant Town Planning Board Guidelines on application for open storage and port back-up uses in that previous approvals had been granted and the developments were not incompatible with the surrounding land uses; concerned departments had no adverse comment on the applications and the concern of DEP and/or local objection could be addressed by appropriate approval conditions. However, planning permission for Application No. A/YL-KTS/179 was revoked in July 2000 due to non-compliance with approval condition relating to provision of drainage facilities.
- 6.2 Compared with the last approved application No. A/YL-KTS/822, the current application submitted by the same applicant is the same as the last application in terms of the applied use, site area / boundary, site layout and major development parameters. The applicant has complied with all the approval conditions and the planning permission is valid until 13.7.2022.
- 6.3 Details of the previous applications are summarized at **Appendix IV** and the locations are shown on **Plan A-1b**.

7. **Similar Applications**

- 7.1 There are 10 similar applications for various temporary open storage uses including renewal of the planning approvals granted by the Committee in the same “OU(RU)” zone in the past 5 years. All applications were approved with conditions by the Committee between February 2017 and March 2021 for similar reasons as stated in paragraph 6.1 above. However, application No. A/YL-KTS/751 was revoked in September 2019 due to non-compliance with approval conditions.

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

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

- 8.1 The Site is:

- (a) paved, fenced and currently used for the applied use with valid planning permission under application No. A/YL-KTS/822 until 13.7.2022 ; and
- (b) accessible via Kam Sheung Road.

- 8.2 The surrounding areas have the following characteristics:

- (a) to its north are storage / open storage yards and vehicle workshops;
- (b) to its south and west are warehouses, residential dwellings/structures (the nearest about 10m to the south), service depots for drainages (one of which approved under application No. A/YL-KTS/875), fallow agricultural land, storage / open storages yards (two of which with valid planning permissions under application No. A/YL-KTS/865 and 872), vacant land and grass land; and
- (c) to its further east across Kam Sheung Road are warehouse, residential dwellings/structures, parking of vehicles and vacant land (with valid planning permission under application No. A/YL-KTS/864 for proposed temporary shop and services use).

9. Planning Intention

The planning intention of the “OU(RU)” is for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 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 V and VI** respectively.
- 10.2 The following government department has objection to / reservation on the application.

Environment

Comments of the Director of Environmental Protection (DEP):

- (a) in accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Notes” (“COP”), she does not support the application as there are sensitive receivers, i.e. residential dwellings/structures, located in the vicinity (the nearest about 10m to the south) of the Site (**Plan A-2**), and environmental nuisances are expected; and
- (b) there was no environmental complaint received against the Site in the past three years.

11. Public Comments Received During Statutory Publication Period (Appendix VII)

The application was published for public inspection. During the statutory public inspection period, two public comments from the Hong Kong Aviation Club and an individual were received. The commenters object to the application mainly on the grounds that the Site is close to the Shek Kong Airfield runway and the development would adversely affect the safety of the Club’s flight operation; and the applied use may cause adverse traffic and environmental impacts and heighten the fire risk thus affecting the quality of life of nearby residents.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary open storage of vehicles, metal, plastic pipes, machinery, vehicles parts and construction materials for a period of 3 years within the “OU(RU)” zone. The planning intention of the “OU(RU)” zone is for the preservation of the character of the rural area, and uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities. The applied use is not in line with the planning intention of the “OU(RU)” zone. Nevertheless, there is currently no known programme for long-term development at the Site. It is considered that approval of the application on a temporary basis for a further period of three years would not jeopardize the long-term planning intention of the “OU(RU)” zone.
- 12.2 The applied use is considered not incompatible with the surrounding areas, which is mainly rural in character predominated by warehouses, open storage / storage yards, workshops, residential structures/dwellings, parking of vehicles, vacant land and grass land.
- 12.3 The Site falls within Category 3 areas under the TPB PG-No. 13F. 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 the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals (if required) to demonstrate that the proposed uses would not generate 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 departments and local residents can be addressed through the implementation of approval conditions.

- 12.4 The application is considered generally in line with the TPB PG-No. 13F and 34D in that previous approvals for similar / same temporary open storage uses were granted since 1997 and all approval conditions under the last approved application (No. A/YL-KTS/822) had been complied with. The current application submitted by the same applicant is the same as the last approved application in terms of applied use, site boundary / area and major development parameters. Relevant departments consulted, except DEP, have no adverse comment on the application. As previous approvals have been granted and there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current renewal application for a further period of 3 years.
- 12.5 While DEP does not support the application as there are sensitive receivers, i.e. residential dwellings/structures located at about 10m to the south (**Plan A-2**) and environmental nuisance is expected, no environmental complaint concerning the Site was received in the past three years. Other relevant departments consulted, including C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS, have no adverse comment on the application. To minimize the possible environmental nuisances generated by the development and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of temporary Uses and Open Storage Uses” issued by DEP.
- 12.6 The Site is the subject of eight approved previous applications for similar / same temporary open storage uses between 1997 and 2019. Besides, there are 10 similar applications for various temporary open storage uses within the same “OU(RU)” zone in the vicinity of the Site approved by the Committee in the past five years. Approval of the current renewal application is in line with the Committee’s previous decisions.
- 12.7 Two public comments were received during the statutory publication period, objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as stated 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 above, the Planning Department considers that the temporary use under application 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, and be renewed from 14.7.2022 until 13.7.2025. 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 8:30 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 or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a record 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 14.10.2022;
- (g) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (h) 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; and
- (i) if the above planning condition (f) 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.

[The above approval conditions are the same as those under planning permission for previous application No. A/YL-KTS/822, except deletion / revision to those conditions related to the boundary fencing,

and fire service installations facilities based on relevant departments' comments.]

Advisory clauses

The recommended advisory clauses are attached in **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 supplementary information received on 3.5.2022 and 4.5.2022
Appendix Ia	FI received on 21.6.2022
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Relevant extract of TPB PG-No. 34D
Appendix IV	Previous and similar applications
Appendix V	Government departments' general comments
Appendix VI	Recommended advisory clauses
Appendix VII	Public comments
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-4	Site photos

**PLANNING DEPARTMENT
JUNE 2022**