

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/946

<u>Applicants</u>	:	Big Trend Logistics Limited and Man Woo Hing represented by Lawson David & Sung Surveyors Limited
<u>Site</u>	:	Lots 123 (Part), 124 (Part), 125 (Part), 126 (Part) and 127 (Part) in D.D. 113 and Adjoining Government Land, Ma On Kong, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 6,133 m ² (including Government land of about 1,043m ²)
<u>Lease</u>	:	(i) Block Government Lease (demised for agricultural use) (about 83% of the Site) (ii) Government Land (about 17% of the Site)
<u>Plan</u>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Warehouse for Storage of Construction Materials (Timber and Metal) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for proposed temporary warehouse for storage of construction materials (timber and metal) for a period of 3 years. The Site is zoned “AGR” on the Kam Tin South OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). Filling of land within “AGR” zone also requires planning permission from the Board. The Site is currently paved and mostly vacant, and part of which is being used for parking of trucks (**Plans A-2 to A-4**).
- 1.2 According to the applicants, the proposed development involves five single-storey (from about 3m to 12m) structures with a total floor area of about 3,908m² for warehouses, site office, guard house and washroom uses. All construction materials are proposed to be stored within the enclosed

warehouse structures and all the loading/unloading activities will be conducted within the enclosed structures. No workshop activities will be carried out within the Site. The applicant also applies filling of land at a depth of not more than 0.2m for the whole Site for site formation for regularization. The operation hours will be between 9:00a.m. and 6:00p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. Four private car parking spaces and five loading/unloading spaces (two for light goods vehicles and three for container vehicles) are proposed within the Site. The site layout plan submitted by the applicants is at **Drawing A-1**.

- 1.3 The Site is involved in three previous applications (No. A/YL-KTS/783, 885 and 891) (details at paragraph 5 below).
- 1.4 In support of the application, the applicants have submitted the following documents:
 - (a) Application form with supplementary information (**Appendix I**) received on 3.1.2023
 - (b) Planning statement (**Appendix Ia**)
 - (c) Further information (FI) received on 17.2.2023* (**Appendix Ib**)
 - (d) FI received on 20.2.2023* (**Appendix Ic**)
 - (e) FI received on 30.3.2023* (**Appendix Id**)
 - (f) FI received on 24.4.2023* (**Appendix Ie**)
 - (g) FI received on 8.5.2023* (**Appendix If**)
 - (h) FI received on 11.5.2023* (**Appendix Ig**)

**exempted from publication and recounting requirements*

- 1.5 On 3.3.2023, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the application form, supplementary information, planning statement and FIs in **Appendices I to Ig**. They can be summarized as follows:

- (a) The applicants are one of the few remaining timber suppliers in Hong Kong. They have been operating the timber business in Ma Tso Lung, Kwu Tung North for almost 30 years. Being affected by the Kwu Tung North (KTN) New Development Area (NDA) project, their storage yards in Ma Tso Lung have been resumed by the Government. They need to relocate their business elsewhere in order to continue their business and maintain the timber/metal

supply in Hong Kong.

- (b) The Site is suitable for continuation of the applicants' business as the Site is comparable in size with their original operation sites in Ma Tso Lung, conveniently served by existing road, the Site has long been not used for agricultural activities and there are similar warehouse uses in the vicinity.
- (c) The proposed use is compatible with the surrounding rural environment. The applied use is temporary in nature and will not jeopardise the long-term development of the Site. The applicants undertake that should the Site be required for development in future, they will move out and return the land parcels to Government for development.
- (d) The proposed use would not induce adverse environmental, traffic and drainage impacts on the surrounding areas. To minimize possible environmental nuisance to the nearby area, all stocks are proposed to be stored within the enclosed warehouses; all the loading/unloading activities will be conducted within the enclosed structures; and no workshop activities will be conducted at the Site.

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

The applicants are not the "current land owner" but have 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 notice at the Site and sending notice to the Pat Heung Rural Committee by registered mail. Regarding the portion of the Site falling within government land, the "Owner's Consent / Notification" Requirements are not applicable.

4. Background

The Site is subject to planning enforcement action. Reinstatement Notice No. E/YL-KTS/402 was issued on 24.3.2021 requiring reinstatement of the concerned land. As the site has not been reinstated as required by the notice, prosecution action is being taken.

5. Previous Applications

- 5.1 The Site is involved in three previous applications (No. A/YL-KTS/783, 885 and 891) for various temporary uses. The latter two applications which are for temporary animal boarding establishment are not relevant to the current application which is for temporary warehouse. Application No. A/YL-KTS/783 submitted by a different applicant for temporary warehouse for storage of drainage pipes with ancillary site office was rejected by the Rural and New Planning Committee (the Committee) in September 2018 mainly on the grounds that the applicant failed to demonstrate in the

application that the development would have no adverse environmental and landscape impacts; and approval of the application would set an undesirable precedent.

- 5.2 Details of the previous applications are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application for temporary warehouse within the same “AGR” zone in the vicinity of the Site on the Kam Tin South OZP.

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

- 7.1 The Site is:

- (a) fenced, paved and mostly vacant, and part of which is being used for parking of trucks; and
- (b) accessible from Kam Ho Road via a local track.

- 7.2 The surrounding areas have the following characteristics:

- (a) to its north, northwest and northeast are a warehouse, a storage yard, an animal boarding establishment, a site being used for gardening purpose and vegetated land within the “Green Belt” zone, some of which are suspected unauthorized developments subject to planning enforcement action;
- (b) to its east are residential dwellings/structures (the nearest about 10m to the east) and vegetated land;
- (c) further to the east across Kam Ho Road is Pat Heung Depot; further to the west across the warehouse is Tsing Long Highway (**Plan A-3**); and
- (d) to its west and southwest is vacant land and vegetated land within the “Conservation Area” zone.

8. Planning Intention

- 8.1 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.
- 8.2 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 departments as set out in paragraphs 9.2 and 9.3 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 bureau supports the application:

Comments of the Secretary for Development (SDEV):

the application is submitted by two operators whom warehouse are affected by the KTN NDA project. According to the applicants, they have endeavoured to identify suitable sites for re-establishing their operation elsewhere. The Site is considered the most suitable and practicable one after an extensive site search carried out by the applicants. The applicants also claim that the proposed temporary warehouse is not incompatible with the surrounding land uses; no adverse traffic, environmental and drainage impact is anticipated; and that the Site is of similar scale with their displaced operations. The land freed up by the displaced operations will together with other cleared land be redeveloped into the KTN NDA. Facilitating relocation of affected brownfield operations is crucial to the smooth clearance for and implementation of the NDA project. From the perspective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy, the application is supported.

9.3 The following government departments have objection to / reservation on the application:

Agriculture and Nature Conservation

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

- (a) the Site falls within the “AGR” zone and is being used as an open storage. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from an agricultural perspective; and
- (b) he has no comment on the planning application from nature conservation perspective.

Environment

9.3.2 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 Sites”, he does not support the application as there are sensitive receivers, i.e. residential dwellings / structures located in the vicinity (the nearest one at about 10 m to the east) (**Plan A-2**) and the proposed development involves the use of heavy vehicles, environmental nuisance is thus expected; and
- (b) there was no environmental complaint case received against the Site in the past 3 years.

Landscape

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

- (a) she has some reservation on the application from landscape planning perspective;
- (b) according to the applicant, 2 existing trees within the Site are proposed to be felled and 6 nos. of *Bauhinia blakeana* are proposed within the Site. The applicant claimed that the existing trees in the northern site boundary are outside the site boundary; and
- (c) based on the aerial photo, the Site is located in a miscellaneous rural fringe landscape character comprising of temporary structures, village houses, highway, West Rail maintenance centre and woodland surrounding the Site. There is concern that approval of the application would alter the landscape character and degrade the landscape quality of the “AGR” zone.

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

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received. The commenter objects to the application mainly on the grounds that the Site is involved in a few rejected previous applications and is subject to planning enforcement action.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary warehouse for construction

materials (timber and metal) for a period of 3 years and filling of land at the Site zoned “AGR” on the OZP (**Plan A-1**). The proposed development is not in line with the planning intention of the “AGR” zone, which is to retain and safeguard good 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, and DAFC does not support the application from agricultural perspective as the Site falling within the “AGR” zone has potential for agricultural rehabilitation. However, it is noted that the application is to facilitate relocation of business operations displaced by the KTN NDA project and the use is still needed by the community. With the policy objective of facilitating smooth clearance for the timely development of the NDA project and providing operating space for displaced brownfield operations still meeting the need of economy, SDEV supports the application. It is considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “AGR” zone and the application warrants special consideration from the Committee.

- 11.2 The proposed development is not incompatible with the surrounding land uses which are mainly rural in character predominated by warehouses, storage yard, animal boarding establishments, residential dwellings / structures, Pat Heung Depot and vegetated /vacant land. Nevertheless, CTP/UD&L of PlanD concerns that approval of the application would alter the landscape character and degrade the landscape quality of the “AGR” zone and hence has some reservation on the application from landscape planning perspective. In this regard, the applicants state that the Site has not been used for agricultural activities for a long time and there is no vegetation within the Site. Besides, the Site is surrounded by trees and vegetation which can help screen off adverse landscape impacts to the surrounding area.
- 11.3 DEP does not support the application as there are residential uses in the vicinity (with the nearest one at about 10m to the east of the Site) (**Plan A-2**), and the proposed use will cause traffic of heavy vehicles hence environmental nuisance is expected. However, it should be noted that the ingress/egress to the Site does not need to pass through the nearby domestic structures. Besides, there has been no environmental complaint received against the Site in the past 3 years. Should the application be approved, the applicants will also be advised to adopt the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses” issued by DEP.
- 11.4 Other relevant departments consulted, including C for T, CE/MN of DSD and D of FS, have no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority.
- 11.5 The Site involves one previous application (No. A/YL-KTS/783) for temporary warehouse use which was rejected by the Committee in

September 2018 as mentioned in paragraph 5 above. Given that DEP's and CTP/UD&L of PlanD's views have been considered and addressed in paragraphs 11.2 and 11.3 above and there are no adverse comments from C for T, CE/MN of DSD and D of FS, and taking into consideration the justifications provided by the applicants and the policy support from SDEV, the circumstances of the current application may be considered as unique and sympathetic consideration can be given.

- 11.6 A public comment objecting to the application was received during the statutory publication period as mentioned in paragraph 10 above. In this regard, government departments' comments and planning 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 comment mentioned in paragraph 10 above, the Planning Department considers that the temporary use under application 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 19.5.2026. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, 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) the submission of a revised 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 19.11.2023;
- (e) in relation to (d) above, the implementation of the revised 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 19.2.2024;

- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a revised fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.11.2023;
- (h) in relation to (g) above, the implementation of the revised 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 19.2.2024;
- (i) if any of the above planning condition (a), (b), (c) or (f) 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;
- (j) if any of the above planning condition (d), (e), (g) or (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
- (k) 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.

Advisory clauses

The recommended advisory clauses are attached 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.
- 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 applicants.

14. Attachments

Appendix I	Application form with supplementary information received on 3.1.2023
Appendix Ia	Planning statement
Appendix Ib	FI received on 17.2.2023
Appendix Ic	FI received on 20.2.2023
Appendix Id	FI received on 30.3.2023
Appendix Ie	FI received on 24.4.2023
Appendix If	FI received on 8.5.2023
Appendix Ig	FI received on 11.5.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout 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**