

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

APPLICATION NO. A/YL-KTS/958

<u>Applicant</u>	:	Winner Forklift Engineering Ltd.
<u>Site</u>	:	Lots 606 RP (Part), 609 RP (Part), 610 (Part) in D.D.106 and Adjoining Government Land, Kam Sheung Road, Yuen Long
<u>Site Area</u>	:	About 1,398m ² (including Government Land of about 106.95m ²)
<u>Land Status</u>	:	(i) Block Government Lease (demised for agricultural use) (about 92% of the Site) (ii) Government Land (GL) (about 8% of the Site)
<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 Forklifts 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 forklifts for a period of 3 years. The Site is zoned “OU(RU)” on the Kam Tin South OZP (**Plan A-1a**). According to the covering Notes of the OZP, temporary use 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-KTS/843.
- 1.2 According to the applicant, there are a total of 59 forklift parking spaces, 1 medium goods vehicle parking space and 1 private car parking space provided within the Site. Converted containers / temporary structures with building heights of 1 to 2 storeys (or not more than 6m) and a total floor area of about 806.6m² are erected within the Site to accommodate storage, workshop, office, shelters for forklift and toilet use. The operation hours are between 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and statutory holidays. The main entrance and emergency vehicular access are located at the southern end and east

of the Site respectively, both of which are directly accessible via Kam Sheung Road. The site layout plan submitted by the applicant is shown in **Drawing A-1**.

1.3 The Site is involved in 14 previous applications for same temporary open storage uses (details at paragraph 6 below). The last application No. A/YL-KTS/843 submitted by the same applicant for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 26.5.2020. When compared with the last application, the current application is the same in terms of the applied use, site area / boundary, layout and major development parameters.

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

Application form with supplementary information received on **(Appendix I)**
15.3.2023 and 21.3.2023

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and supplementary information at **Appendix I**. They can be summarised as follows:

- (a) The development has been operating at the Site since 1999 and has not caused adverse impacts on the surrounding areas and nearby residents. The development would encourage industrial / commercial activities in the area and provide job opportunities, thereby facilitating development in the rural area.
- (b) There is no change in the applied use and layout of the development between the current application and the last approved Application No. A/YL-KTS/843. All the approval conditions of the last application have been complied with.
- (c) The existing drainage facilities, fire service installations (FSIs) and landscaping on the Site shall be maintained to the satisfactory of concerned departments.

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

The applicant is not a “current land owner” of the private land portion of the Site 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 obtaining consent from the current land owners. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the ‘Owner’s Consent / Notification’ requirements are not applicable.

4. Town Planning Board Guidelines

4.1 The Town Planning Board Guidelines for ‘Designation of “OU(RU)” Zone and Application for Development within “OU(RU)” Zone under Section 16 of the Town

Planning Ordinance' (TPB PG-No. 38) is relevant to the application. The relevant assessment criteria are summarised as follows:

Application for development within "OU(RU)" zone would need to demonstrate that the proposed development is in line with the planning intention of the zone and will not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings and will not overstrain the capacity of existing and planned infrastructure such as transport, drainage, sewerage and water supply in the area. Each development proposal will be assessed on its individual merits, with particular reference to its sustainability in ecological, environmental and infrastructural terms.

- 4.2 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 is relevant to the application. The Site falls within the Category 3 areas under the TPB PG-No. 13G¹. The relevant extract of the Guidelines is attached at **Appendix II**.
- 4.3 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. 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, in whole or in part, is involved in 14 previous applications (No. A/YL-KTS/63, 155, 264, 312, 343, 396, 418, 493, 527, 541, 630, 635, 731 and 843) for the same applied use as the current application, all of which were approved with conditions by the Committee or by the Board on review between 1996 and 2020. Whilst the first five applications were submitted under the then "Undetermined" ('U') zone², the remaining applications were submitted under the current "OU(RU)" zone.
- 6.2 Except Applications No. A/YL-KTS/67 and 493, all the applications were approved on temporary basis for a period of 3 years. These applications were approved on the considerations that temporary approval of the applications would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; relevant departments consulted in general had no adverse comment on the applications and / or their technical concerns could be addressed by relevant approval conditions; the developments were complied with the relevant

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.

² The Site was zoned "U" on the draft Kam Tin South OZP No. S/YL-KTS/1 gazetted on 17.6.1994 and was rezoned to the current "OU(RU)" zone on the draft Kam Tin South OZP No. S/YL-KTS/10 gazetted on 22.9.2006. The "OU(RU)" zone has remained unchanged since then.

Town Planning Board Guidelines for application for open storage and port back-up uses / Town Planning Board Guidelines for renewal of planning approval for temporary use or development. Application No. A/YL-KTS/67 was approved for a period of 2 years mainly on the reason that the alignment of the West Rail Line (currently known as Tuen Ma Line) had not been finalised at that time. Application No. A/YL-KTS/493 was approved for a period of 1 year mainly on the consideration that a shorter approval / compliance periods were imposed for a closer monitoring of the situation and fulfillment of the approval condition(s). Nevertheless, the planning permissions of Applications No. A/YL-KTS/418, 493, 541 and 630 were revoked subsequently due to non-compliance with approval conditions.

- 6.3 Compared with the last approved Application No. A/YL-KTS/843, the current application submitted by the same applicant is the same in terms of the applied use, site area / boundary, layout and major development parameters. All the approval conditions have been complied with and the planning permission is valid until 25.5.2023.
- 6.4 Details of the previous applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 There are 8 similar applications (including renewal of the temporary planning approval granted by the Board), involving 5 sites, for various temporary open storage uses within the same “OU(RU)” zone in the vicinity of the Site in the past 5 years. All of the applications were approved with conditions by the Committee between March 2018 and October 2022 on similar considerations as stated in paragraph 6.2 above. Nevertheless, the planning permission for Application No. A/YL-KTS/751 was revoked in September 2019 due to non-compliance with the approval conditions.
- 7.2 Details of the applications are summarised in **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 off and currently use for the applied use with valid planning permission under Application No. A/YL-KTS/843; and
 - (b) directly accessible via Kam Sheung Road.
- 8.2 The surrounding areas have the following characteristics:
- (a) to its west and south are open storage / storage yards, residential structures / dwellings, parking of vehicles, a vacant site and a site approved for shop and services use under Application No. A/YL-KTS/911. To its further west is a

church and a kindergarten zoned “Government, Institution or Community” (“G/IC”);

- (b) to its north are storage yards, a restaurant and a vehicle service centre. To its further northwest are a vehicle showroom with valid planning permission under Application No. A/YL-KTS/851 and a site approved for shop and services use under Application No. A/YL-KTS/889;
- (c) to its east across Kam Sheung Road is an area zoned “Residential (Group D)” (“R(D)”) where Pok Oi Kong Ha Wai Village, a transitional housing development with valid planning permission under Application No. A/YL-KTS/847, is located. Besides, open storage / storage yard, a workshop, a vocational training centre and a residential structure / dwelling also can be found in this “R(D)” zone.

9. Planning Intention

The planning intention of the “OU(RU)” is primarily 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.

Environment

- 10.2 Comments of the Director of Environmental Protection (DEP):

- (a) there is no environmental complaint at the Site received by DEP in the past three years;
- (b) according to the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Use and Open Storage Sites’ (COP), he does not support the application as there are sensitive receivers, i.e. residential structures/dwellings in the vicinity of the Site (the nearest one is at about 15m to the west), and the development involves the use of heavy vehicles, thus environmental nuisance is expected; and
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by DEP.

11. Public Comment Received During 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 temporary open storage of forklifts for a period of 3 years at the Site zoned “OU(RU)” (**Plan A-1a**). The planning intention of the “OU(RU)” zone is primarily 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. Whilst the development is not in line with the planning intention of the “OU(RU)” zone, there is no known proposal for long-term development at the Site. It is considered that approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “OU(RU)” zone.

12.2 The development is considered not incompatible with the surrounding land uses which are mixed with transitional housing development, open storages / storage yards, residential structures / dwellings, parking of vehicle, vehicle showroom, workshop and vocational training centre. Besides, according to the applicant, the existing trees within the Site will be maintained. The Chief Town Planner/Urban Design and Landscape of Planning Department considers that further significant adverse landscape impact arising from the continuous use is not anticipated, and hence has no objection to the application from landscape planning perspective.

12.3 The Site falls within Category 3 areas under the 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 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 generally in line with the TPB PG-No. 13G and TPB PG-No. 34D in that previous approvals for the same use were granted since 1996 and all approval conditions under the last approved application (No. A/YL-KTS/834) have been complied with. The current application submitted by the same applicant is the same in terms of the use, site area / boundary, layout and major development parameters. 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 Relevant departments consulted, including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services, have no adverse comment on the application, and there is no local objection against the renewal application as conveyed by the District Officer (Yuen Long) of Home Affairs Department. DEP does not support the application as there are sensitive receivers, i.e. residential structures / dwellings in the vicinity of the Site (the nearest one is at about 15m to the west), and the development involves the use of heavy vehicles, thus environmental nuisance is expected. Nevertheless, the Site was not subject to environmental complaint in the past 3 years. Besides, it is noted that the Site is directly accessible via Kam Sheung Road without passing by the adjacent residential dwellings / structures and the operation hours of the development is restricted to the period between 9:00 a.m. to 6:00 p.m. with no operation on Sundays and statutory holidays. To minimise any potential environmental nuisances and to 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 Sites' issued by DEP.
- 12.6 There are 8 similar approved applications, involving 5 sites, for various temporary open storage uses within the same "OU(RU)" 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, 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 26.5.2023 until 25.5.2026. The following conditions of approval 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 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 vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (e) 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 26.8.2023;
- (f) the existing fire services installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b), (c), (d) 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; and
- (h) if the above planning condition (e) 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 the planning permission of previous Application No. A/YL-KTS/834.]

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 approval.
- 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 15.3.2023 and 21.3.2023
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	Government departments' general comments

Appendix VI	Recommended advisory clauses
Drawing A-1	Site layout plan
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous applications plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
MAY 2023**