

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-PH/1035**

<b><u>Applicant</u></b>	: Ka Keung Trading Company represented by Chief Force Limited
<b><u>Site</u></b>	: Lots 2873 S.B (Part), 2874 (Part), 2875 (Part), 2891 (Part) and 2892 (Part) in D.D.111, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	: About 2,271m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Warehouse (excluding Dangerous Goods Godown) and Open Storage of Construction Materials, Machineries and Vehicles for Sale with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding Dangerous Goods Godown) and open storage of construction materials, machineries and vehicles for sale with ancillary facilities for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is paved and occupied by containers and construction materials without a valid planning permission (**Plan A-4**).
- 1.2 The Site is accessible from Kam Tin Road via a local track (**Plan A-1**). According to the applicant, the proposed uses involve two single-storey structures for storage use and one two-storey structure for ancillary office and facilities, both with a height of not more than 6m, and a total gross floor area of about 520m<sup>2</sup> (**Drawing A-1**). An area of about 1,291m<sup>2</sup> (56.8%) at the southern part of the Site is proposed for open storage use. The applicant also applies for regularisation of the associated filling of land for the entire Site for not more than 0.1m from +37.9mPD to +38mPD for site formation. Two parking spaces for light goods vehicles (each of 7m × 3.5m)

and one parking space for medium/heavy goods vehicles (7m × 11m) are proposed within the Site. The operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities and selling of vehicles will be conducted and no dangerous goods will be stored at the Site. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 According to the applicant, the current application is to facilitate the relocation of the existing brownfield operation which is affected by the implementation of the Remaining Phase of the Kwu Tung North New Development Area (KTN NDA). The affected operation involves a total site area of about 1,819m<sup>2</sup> which is comparable with the size of the Site (i.e. about 2,271m<sup>2</sup>).
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Supplementary Statement (**Appendix I**) received on 29.10.2024 and Supplementary Information (SI) received 4.11.2024
  - (b) Further Information (FI) received on 7.11.2024\* (**Appendix Ia**)
  - (c) FI received on 11.12.2024\* (**Appendix Ib**)

*\* accepted and exempted from publication and recounting requirements*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form, Supplementary Statement and FIs at **Appendices I to Ib**, and can be summarised as follows:

- (a) The application is to facilitate the relocation of an existing brownfield operation for open storage of construction materials and machineries and vehicles for sale which is affected by the implementation of the Remaining Phase of KTN NDA.
- (b) The applicant has undergone a thorough site-selection process before identifying the Site as the most suitable site for relocation. Although there were a number of government sites offered to affected brownfield operators by way of Short Term Tenancies under restricted tendering, the applicant was not able to win the bid due to keen competition amongst a large number of affected operators. The Site is identified as a suitable site as it is easily accessible from major roads, relatively flat and already formed, and not near any residential structure.
- (c) The previous approval at the Site (No. A/YL-PH/1002) for war game centre will not be implemented by the previous applicant due to economic reasons. The current application for relocation of an existing brownfield operation would better utilise land resources.
- (d) Fire service installations (FSIs) and drainage proposals have been submitted in support of the current application. The applicant will comply with the approval

conditions to be imposed and will apply for Short Term Waiver for the proposed uses at the Site should the current application be approved.

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

The applicant is not the “current land owner” 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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notices 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 Town Planning Board Guidelines on ‘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 Category 3 areas under TPB PG-No. 13G, and the relevant extract of which is at **Appendix II**.

**5. Background**

The current open storage use on the Site would be subject to planning enforcement action.

**6. Previous Applications**

The Site, in part or in whole, is the subject of three previous applications (No. A/YL-PH/879, 918 and 1002). Application No. A/YL-PH/879 for proposed temporary shop and services was rejected by the Committee in April 2021. Another two applications (No. A/YL-PH/918 and 1002) for temporary war game centre were approved with conditions by the Committee in June 2022 and May 2024 respectively. These three applications were submitted by a different applicant for different uses as compared to the current application, and the considerations of these three planning applications are therefore not relevant to the current application. Details of these previous applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

**7. Similar Applications**

- 7.1 There are five similar applications, involving three sites, for various temporary open storage uses (including renewal of planning approvals granted by the Board) within/partially within the “AGR” zone in the vicinity of the Site in the past five years.
- 7.2 One application (No. A/YL-PH/821) was rejected by the Committee in November 2019 mainly on the consideration that the application did not comply with the then TPB PG-No. 13E in that the application site fell within Category 3 areas and no

previous planning approval was granted to the site for open storage use. The other four applications (No. A/YL-PH/831, 878, 942 and 1034) were approved with conditions by the Committee between May 2020 and December 2024, mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the proposed/applied use was not incompatible with the surrounding uses; and concerned government departments consulted in general had no adverse departmental comments or technical concerns could be addressed by relevant approval conditions. Details of these similar applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1**.

- 7.3 Other than the similar applications mentioned in paragraph 7.2 above, application No. A/YL-PH/1036 for the same temporary warehouse and open storage uses as the current application within the “AGR” zone on the OZP will be considered at the same meeting (**Plan A-1**).

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

### **8.1 The Site is:**

- (a) paved and occupied by containers and construction materials without a valid planning permission; and
- (b) accessible from Kam Tin Road via a local track.

- 8.2 The surrounding areas are rural in character with an intermix of open storage/storage yards (one with valid permission under application No. A/YL-PH/1034), vehicle repair/dismantle workshops, vehicle parks (one with valid permission under application No. A/YL-PH/976), grassland, vacant land, and woodland/graves.

## **9. Planning Intention**

- 9.1 The planning intention of the “AGR” zone is primarily 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.
- 9.2 According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

## **10. Comments from Relevant Government Bureau/Departments**

- 10.1. Apart from the government bureau/departments as set out in paragraphs 10.2 and 10.3 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 V and VI** respectively.

10.2. The following government bureau supports the application:

**Policy Aspect**

10.2.1 Comments of the Secretary for Development (SDEV):

- (a) the current application is submitted by Ka Keung Trading Company, who is a business operator whose operation will be displaced by the government-led KTN NDA project as advised by the Lands Department. The applicant seeks planning permission for a temporary warehouse and open storage for a period of three years to facilitate relocation of the aforementioned affected operation;
- (b) according to the applicant, the Site, with comparable size to the affected operation in KTN NDA, is considered suitable for the relocation. The applicant has also proposed measures to minimise impact in drainage, fire safety and traffic aspects; and
- (c) the land freed up by the displaced operation will, together with other cleared land, be redeveloped into the KTN NDA capable of providing about 49,900 housing units by phases. 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 from policy perspective.

10.3. The following government department does not support the application:

**Agriculture and Nature Conservation**

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally vacant with some structures. Agricultural infrastructures such as road access and water source are available in the area. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (c) no comment on the application from nature conservation perspective.

## **11. Public Comments Received During Statutory Publication Period**

On 5.11.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received (**Appendix VII**), including one objecting to the application from an individual mainly on the grounds that since the Site is not within Category 2 area under TPB PG-No. 13G and does not involve any previous approval for brownfield operations, there is no justification to approve the current application; and one from the Kadoorie Farm and Botanic Garden expressing concerns that the unauthorized development/use at the Site should be investigated.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for proposed temporary warehouse (excluding Dangerous Goods Godown) and open storage of construction materials, machineries and vehicles for sale with ancillary facilities for a period of three years and associated filling of land at the Site zoned “AGR” (**Plan A-1**). The planning intention of “AGR” zone is primarily to retain and safeguard good quality 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. The proposed uses are not in line with the planning intention of the “AGR” zone and the DAFC does not support the application from agricultural perspective. Notwithstanding this, according to the applicant, the application is to facilitate the relocation of an existing brownfield operation affected by the implementation of the Remaining Phase of KTN NDA development, and the size of the Site (i.e. about 2,271m<sup>2</sup>) is comparable to that of the affected operation (i.e. about 1,819m<sup>2</sup>). With the policy objective of ensuring timely development of the NDA and delivery of housing yield as well as facilitating the continued operation of displaced brownfield operations, SDEV supports the application from policy perspective. Taking into account the policy support rendered by SDEV and the planning assessments below, the proposed uses on a temporary basis of three years may warrant sympathetic consideration and could be tolerated.
- 12.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. According to the applicant, the entire Site has already been filled and no further filling of land is required. The Chief Engineer/Mainland North of Drainage Services Department and the Director of Environmental Protection have no objection to application from public drainage and environmental perspectives respectively. Should the Committee decide to approve the application, an approval condition requiring reinstatement of the Site to an amenity area upon expiry of the planning permission is recommended.
- 12.3 The proposed uses are considered not incompatible with the surrounding land uses which are rural in character with an intermix of open storage/storage yards, vehicle repair/dismantle workshops, vehicle parks, grassland, vacant land, and woodland/graves. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application from landscape planning perspective and considers that the proposed uses are not

incompatible with the surrounding landscape setting and significant landscape impact arising from the proposed uses are not anticipated.

12.4 Other relevant government departments consulted including the Commissioner for Transport and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 13.2 below. Should the application be approved, the applicant will be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise the potential environmental nuisance caused by the proposed uses on the surrounding areas.

12.5 The Site falls within Category 3 areas under TPB PG-No. 13G. The following guidelines are relevant:

Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). Having considered that the open storage and port back-up uses have a role to play in Hong Kong’s economy and provide considerable employment opportunities, and the operators/uses affected by resumption and clearance operations of the Government to make way for developments may face difficulties in finding a replacement site, sympathetic consideration could be given to those applications meeting the following criteria: (i) policy support is given by the relevant bureau(x) to the application for relocation of the affected uses/operations to the concerned sites; and (ii) no adverse departmental comments and local objections, or the concern could be addressed by approval conditions.

12.6 The application generally complies with TPB PG-No. 13G in that policy support is rendered by SDEV to the application for relocation of the affected uses to the Site, and there is no major adverse departmental comment on the application and their concerns can be addressed through imposition of approval conditions.

12.7 There are four approved similar applications for various temporary open storage uses within/partially within the “AGR” zone in the vicinity of the Site in the past five years as mentioned in paragraph 7 above. Approving the current application is in line with the Committee’s previous decisions.

12.8 Regarding the public comments objecting to the application as mentioned in paragraph 11, the departmental comments and planning assessments 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, PlanD considers that the proposed uses could be tolerated for a period of three 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 three years until 20.12.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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 20.6.2025;
- (b) in relation to (a) 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 20.9.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) 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 31.1.2025;
- (e) the submission of a revised 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 20.6.2025;
- (f) in relation to (e) 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 20.9.2025;
- (g) if the above planning condition (c) 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;
- (h) if any of the above planning condition (a), (b), (d), (e) or (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; and
- (i) upon 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 at **Appendix VI**.



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

the proposed uses with associated filling of land are not in line with the planning intention of "AGR" zone, which is primarily to retain and safeguard good quality 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. No strong planning justification has been given in the submission for a departure from the planning intention of "AGR" zone, 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**

<b>Appendix I</b>	Application Form with Supplementary Statement received on 29.10.2024 and SI received 4.11.2024
<b>Appendix Ia</b>	FI received on 7.11.2024
<b>Appendix Ib</b>	FI received on 11.12.2024
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 13G
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Government Departments' General Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Appendix VII</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos