

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

**APPLICATION NO. A/YL-PH/914**

<b><u>Applicant</u></b>	:	Karson Corporation Limited
<b><u>Site</u></b>	:	Various lots in D.D. 111, Pat Heung, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 5,232 m <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>	:	Temporary Warehouse and Open Storage of Backdrop Screens, Advertising Aluminium Frames 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 temporary warehouse and open storage of backdrop screens, advertising aluminium frames and construction materials for a period of 3 years. The Site is zoned “AGR” on the Pat Heung OZP and the applied use is neither a Column 1 nor Column 2 use in the “AGR” zone. 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), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently fenced, paved, divided into two parts with a narrow strip of government land in-between, and built with some existing structures. It is used for the applied use without planning permission (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the development involves nine single-storey structures (about 5m high) with a total floor area of about 1,652m<sup>2</sup> within the northern and southern portions of the Site for storage of mainly backdrop screens and advertising aluminium frames, site office and staff rest room uses. The open-air area will be used to store advertising aluminium frames and construction materials. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out. The operation hours are between 9:00a.m. and 6:00p.m. from Mondays to Saturdays, with no

operation on Sundays and public holidays. Two loading/unloading spaces for light goods vehicles (LGVs) not exceeding 5.5 tonnes will be provided within the Site. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in six previous applications (No. A/YL-PH/235, 616, 686, 701, 756 and 803) (details at paragraph 6 below). The last application No. A/YL-PH/803, submitted by a different applicant, was approved with conditions by the Rural and New Town Planning Committee (the Committee) in April 2019. However, the planning permission was revoked in September 2021 due to non-compliance with approval condition on the provision of fire service installations (FSIs). A comparison of the major development parameters of the last approved application and the current application is summarized below:

	<b>Last Application No. A/YL-PH/803 (a)</b>	<b>Current Application (b)</b>	<b>Difference (b)-(a)</b>
Applied Use	Temporary Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for a Period of 3 Years	Temporary Warehouse and Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for a Period of 3 Years	
Site Area (m <sup>2</sup> ) (about)	5,232	5,232	-
No. of Structures	11	9	-2 (-18%)
Total Floor Area (m <sup>2</sup> )(about)	1,994	1652	-342 (-17%)
No. of Storey	1	1	-
Building Height (m) (about)	5	5	-
No. of Loading/Unloading Spaces for LGVs	2	2	-

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

- (a) Application form with supplementary information (**Appendix I**) received on 22.3.2022
- (b) Further information (FI) received on 17.5.2022 (**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 applied use is temporary in nature and will not jeopardise the long-term planning intention of the “AGR” zone. The development is compatible with the surrounding environment.
- (b) The applied use is largely the same as that of the previously approved application (No. A/YL-PH/803). The Site has been used for the applied use approved by the Board for a long time with no complaint received from the locals and government departments.
- (c) The applicant will comply with all the approval conditions to be stipulated by the Board and other statutory requirements should the application be approved. The drainage and FSIs implemented at the Site will be properly maintained. No adverse traffic impact is anticipated.

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

The applicant is not a “current land owner” 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. 31) by posting notice at the Site and sending notice to the Pat Heung Rural Committee by registered mail.

## **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) promulgated on 27.3.2020 are relevant to the application. The Site falls within Category 2 areas under the Guidelines. Relevant extract of the Guidelines is at **Appendix II**.

## **5. Background**

The Site is not subject to any planning enforcement action.

## **6. Previous Applications**

- 6.1 The Site is involved in six previous applications (No. A/YL-PH/235, 616, 686, 701, 756 and 803) for temporary open storage uses, which were all submitted by applicants different from the current application. Except Application No. A/YL-PH/235, all applications were approved with

conditions by the Committee between January 2011 and April 2019 mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the applied uses were not incompatible with the surrounding land uses; the applications generally complied with the relevant Town Planning Board Guidelines on applications for open storage and port back-up uses; relevant departments in general had no adverse comments and / or their technical concerns could be addressed by appropriate approval conditions. Nevertheless, the planning permissions of Applications No. A/YL-PH/686, 701, 756 and 803 were revoked due to non-compliance with approval conditions.

- 6.2 Compared with the development scheme under the last approved Application No. A/YL-PH/803, there are slight changes in the layout and major development parameters, including decrease in total floor area and number of structures, details of which are set out in paragraph 1.3 above.
- 6.3 Details of the previous applications are summarized in **Appendix III** and the locations are shown on **Plan A-1b**.

## **7. Similar Applications**

- 7.1 There are 10 similar applications (No. A/YL-PH/752, 763, 770, 782, 805, 834, 844, 865, 873 and 885) for various temporary open storage / warehouse uses within the “AGR” zone in the vicinity of the Site in the past 5 years. All the applications, except Applications No. A/YL-PH/752 and 770, were approved with conditions by the Committee between December 2017 and July 2021 on similar considerations as stated in paragraph 6.1 above.
- 7.2 Details of these applications are summarized in **Appendix III** and the locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
  - (a) hard-paved, fenced, separated by a narrow strip of government land and used for the applied use without planning permission; and
  - (b) accessible from Kam Tin Road via a local access.
- 8.2 The surrounding areas have the following characteristics:
  - (a) to its east, northeast, south and southeast are open storage / storage yards, a canteen, a warehouse, residential dwellings/structures (the nearest about 50m to the southeast) and vacant site. Among these, three of the open storage sites are covered by valid planning permissions;

- (b) to its north are open storage / storage yard and vacant land (the latter is covered by valid planning permission for temporary public vehicle park); and
- (c) to its immediate west is the Shek Kong Stabling Sidings of the XRL.

## **9. Planning Intention**

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.

## **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 IV** and **V** respectively.
- 10.2 The following government department has objection to / reservation on the application.

### **Agriculture and Nature Conservation**

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

- (a) the Site falls within the “AGR” zone and is currently comprised of a paved vacant land and temporary structures. 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 greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view; and
- (b) from nature conservation point of view, DAFC has no adverse comment on the application.
- (c) DAFC’s other advisory comments are provided in the Recommended Advisory Clauses in **Appendix V**.

## **11. Public Comments Received During Statutory Publication Period (Appendix VI)**

The application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received. The commenters object to the application mainly on the grounds that the development

would cause adverse traffic impact, environmental pollution and safety concerns to the nearby villagers; and the applicant is making use of the planning application system to continue its business at the Site.

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

- 12.1 The application is for temporary warehouse and open storage of backdrop screens, advertising aluminium frames and construction materials for a period of 3 years at the Site zoned “AGR” (**Plan A-1a**). The 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. DAFC does not support the application as the Site falling within the “AGR” zone has potential for agricultural rehabilitation. Nevertheless, 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.
- 12.2 The development is considered not incompatible with the surrounding area, which is mainly rural in character predominated by open storage / storage yards (3 of which with planning permissions), warehouse, residential dwellings / structures and the Shek Kong Stabling Sidings of the XRL. Similar applications for temporary open storage uses are approved by the Board in its vicinity (**Plan A-2**). Besides, the area to the further east is zoned “OS” and is ‘Category 1 areas’ under the TPB PG-No. 13F where there are various existing open storage uses (**Plans A-1a and A-3**). Hence significant impact on the existing landscape resources is not anticipated and CTP/UD&L of PlanD has no objection to the application.
- 12.3 The Site falls within Category 2 areas 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 considered generally in line with the TPB PG-No. 13F in that there are previous planning approvals for the same open storage use (Applications No. A/YL-PH/616, 686, 701, 756 and 803) at the Site. Compared with the last approved application (No. A/YL-PH/803), the current application mainly involves the addition of open storage area and slight changes in the layout with decrease in number of structures and total floor area. Relevant government departments, including C for T, DEP, CE/MN of DSD and DFS, have no adverse comment on the application. The applicant has submitted a drainage proposal, a FSIs proposal and drainage

facilities records implemented on-site to support the application, with no adverse comments received from concerned departments. As there is no major change in the planning circumstances since the last approval, sympathetic consideration could be given to the current application. To minimize any potential environmental nuisances and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. In addition, the applicant will be advised to adopt the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses” issued by DEP.

- 12.5 The Site is the subject of 5 approved previous applications for similar temporary open storage uses granted by the Committee between 2011 and 2019. Whilst the planning permission of the previous 4 applications were revoked due to non-compliance with the approval conditions, they are submitted by applicants different from the current application. In the current application, the applicant explains that he has no relevance with the applicants of the previous applications and has included relevant proposals to support the application. While the current application is submitted by a different applicant, in view that the Site has been used for similar operation and is subject to repeated revocation of planning approvals due to non-compliance with approval conditions, the applicant will be advised that should he fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given by the Committee to any further similar applications.
- 12.6 There are ten similar applications within the “AGR” zone in the vicinity of the Site in the past five years. Eight of them were approved by the Committee on similar considerations as stated in paragraph 6.1 above. Approval of the current application is in line with the Committee’s previous decisions.
- 12.7 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 11 above. In this regard, government departments’ 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, 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 until 20.5.2025. 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 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) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 1.7.2022;
- (g) the implementation of the accepted 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 20.11.2022;
- (h) if any of the above planning condition (a), (b), (c), (d) or (e) 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 any of the above planning condition (f) or (g) 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 in **Appendix V**.

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

the 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.



#### **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 information received on 22.3.2022
<b>Appendix Ia</b>	FI received on 17.5.2022
<b>Appendix II</b>	Relevant extract of TPB PG-No. 13F
<b>Appendix III</b>	Previous and similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comments
<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1a</b>	Location plan with similar applications
<b>Plan A-1b</b>	Previous application plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a and 4b</b>	Site photos

**PLANNING DEPARTMENT  
MAY 2022**