

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/491

<u>Applicant</u>	:	Ying Shing (Hopewell) Engineering Company Limited
<u>Site</u>	:	Lot 2220 (Part) in D.D. 92, Kwu Tung South, New Territories
<u>Site Area</u>	:	4,795.98m ² (about)
<u>Lease</u>	:	New Grant Lot
<u>Plan</u>	:	Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
<u>Zoning</u>	:	“Recreation” (“REC”)
<u>Application</u>	:	Temporary Warehouse with Ancillary Office 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 with ancillary office for a period of 3 years. The Site falls within an area zoned “REC” on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16. According to the Notes of the OZP, ‘warehouse’ is neither a Column 1 nor Column 2 use within “REC” zone. Notwithstanding this, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Town Planning Board (the Board). The Site is paved. The northern portion is mainly used for storage/open storage without valid planning permission and the southern portion is mainly vacant.
- 1.2 According to the applicant, the temporary use comprises one single-storey structure (3,102m² in gross floor area (GFA) and 7m high) for warehouse and office use. The proposed warehouse is for non-dangerous goods such as soft drinks and goods. The layout plan is at **Drawing A-1**.
- 1.3 The Site is accessible from Kam Tsin Road. An ingress/egress is proposed at the south-eastern tip of the Site (**Drawing A-1 and Plan A-2**). A total of 4 spaces for parking private car, 2 spaces for parking light goods vehicle (LGV) and 6 loading/unloading spaces (4 for LGV and 2 for medium goods vehicle) are provided

on the Site. The operation hours are from 10:00 a.m. to 5:00 p.m. from Mondays to Fridays. There will be no operation on Saturdays, Sundays and public holidays. No heavy goods vehicles, including container tractors/trailers, will be used to/from the Site.

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

- (a) Application Form with a plan received on 18.9.2020 (Appendix I)
 - (b) Replacement Page of Application Form received on 22.9.2020 (Appendix Ia)
 - (c) Further Information of 28.10.2020# (Appendix Ib)
- # exempted from publication

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendix Ia**. The applicant stated that the subject lot was granted approval by Lands Department (LandsD) for erecting structure. As the structure would cause danger due to dilapidation, the applicant would like to renovate the structure for warehouse use.

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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Sheung Shui District Rural Committee (SSDRC) by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to any active enforcement action.

5. **Previous Application**

There is no previous application involving the Site.

6. **Similar Application**

There is no similar application within the same “REC” zone on the OZP. There is one similar application within the other “REC” zone to the further east of the Site which was rejected by the Committee in 1998 mainly on the grounds that there is no strong justification in the submission for a departure from the planning intention of “REC” zone; there is

insufficient information in the submission to demonstrate that the use would not have adverse traffic and fire safety impacts; and approval of the application would set an undesirable precedent. Details of the application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1, A-2, aerial photo on Plan A-3 and site photo on Plan A-4)

7.1 The Site is:

- (a) fenced and paved;
- (b) mainly used for storage/open storage in the northern portion while the southern portion is vacant; and
- (c) accessible via Kam Tsin Road (**Plan A-2**).

7.2 The surrounding area is predominantly rural in nature mainly with vegetated woodland, open storage, warehouses and domestic structures:

- (a) the Site is surrounded by open storage, warehouses, workshops and domestic structures (to the immediate south and west of the Site) within the same “REC” zone;
- (b) to the southeast and southwest are two pieces of densely vegetated woodland in the “Green Belt” (“GB”) zone; and
- (c) to the west and southwest are permitted burial grounds.

8. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the lot is a New Grant Lot without any guarantee of right of access. The lot and adjoining Lot 2219 both in D.D. 92 are covered by Short Term Waiver (STW) No. 918 for the purpose of rattan and furniture factory with a total permitted roofed-over area not exceeding 3,355.9m²; and the maximum height and the number of storey of any structure not exceeding 6.1 metres and one storey respectively;
- (b) the applicant should make its own arrangement for acquiring access to the lot. The Government shall accept no responsibility in such arrangement and there is no guarantee that any adjoining Government land will be allowed for vehicular access to the lot for the proposed use;
- (c) the lot is also covered by Letter of Approval (LoA) No. L6276 for erection of temporary structures for the purpose of chicken sheds. Given the existing parameters of the temporary structures do not tally with the approved one under the aforesaid LoA, his office reserves the rights to take enforcement action and cancel the LoA if situation warrants;
- (d) the application site does not tally with the lot boundary nor the occupation boundary. Besides, a portion of adjoining Government land at the southwest corner of and outside the Site was occupied without approval and erected with some unauthorized structures. The said unauthorized structures on Government land are not acceptable and the applicant should demolish them and clear the Site up to satisfaction of this office. His office reserves the right to take enforcement actions against the unauthorized structures and illegal occupation of Government land; and
- (e) if the application is approved, the owner of the lot and adjoining Lot 2219 shall apply to his office for cancellation and re-issue of the existing STW to cover all the occupation area and structures on the lots concerned. The application for cancellation and re-issue of the existing STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If a fresh STW is approved, its commencement date will be backdated to the first date of the occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he could not lend support to the application at this stage;
- (b) the applicant shall justify the adequacy of the parking spaces and

loading/unloading spaces so provided by relating to the number of vehicles visiting the Site;

- (c) the applicant should advise the width of the vehicular access. The vehicular access should be no less than 7.3m wide;
- (d) the applicant shall demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site, manoeuvring within the Site and into/out of the parking and loading/unloading spaces, preferably using the swept path analysis;
- (e) the applicant shall advise the management/control measures to be implemented to ensure no queuing of vehicles outside the Site;
- (f) the applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety; and
- (g) the vehicular access between the Site and Kam Tsin Road is not managed by his department.

Environment

9.1.3 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” (CoP), he does not support the application as there are sensitive receivers in the vicinity (the nearest residential dwellings located to the immediate south and west of the Site) (**Plan A-2**) and the proposed use involves the use of heavy vehicles¹, and environmental nuisance is expected;
- (b) there is no environmental complaint against the Site received by DEP in the past three years; and
- (c) the applicant is advised to strictly observe all relevant pollution control ordinances, particularly on waste management and disposal, follow relevant measures given in his department’s latest CoP, and put in place necessary precautionary/pollution control measures to prevent any pollution to the nearby sensitive receivers as a result of the operational and construction activities.

Sewerage

9.1.4 Comments of the DEP:

¹ According to the CoP, “heavy vehicles” include goods vehicles with permitted gross vehicle weight exceeding 5.5 tonnes and bus.

there is an existing public sewer at about 15m away from the Site. The applicant is reminded that any sewage discharge from the Site should be directed to nearby public sewer.

Landscape Aspect

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

- (a) he has no objection to the application from landscape planning perspective;
- (b) the Site is located in an area of rural landscape characters comprising of clusters of tree groups, temporary structures, car parks and village houses. Densely vegetated woodland is found at the south of the Site within the “GB” zone. The proposed development is considered not entirely incompatible with the landscape setting in proximity; and
- (c) according to the site visit conducted on 14.10.2020, the Site is entirely hard paved and some temporary structures are found within the Site. No existing tree is found within the Site. Adverse impact on landscape resources is not anticipated.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection in principle to the application; and
- (b) should the application be approved, conditions should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that the proposed temporary use will not cause adverse drainage impact to the adjacent area.

9.1.7 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

the applicant is required to provide adequate drains to prevent surface water running from the Site onto the nearby public road.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) he has no objection to the application; and

- (b) there is no record of approval by the Building Authority (BA) for the existing buildings/structures at the Site and his department is not in a position to offer comments on the suitability for the proposed use; and
- (c) there is no record of submission of the proposed buildings/structures to the BA for approval. His advisory comments on the proposed new buildings/structures are at **Appendix IV**.

Fire Safety

9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction;
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. His detailed advisory comments are at **Appendix IV**; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

9.1.10 Comments of the District Officer/North (DO/N), HAD;

- (a) he has consulted the locals from 8.10.2020 to 16.10.2020;
- (b) the North District Council (NDC) member of the subject Constituency supports the proposal. The Chairman of Sheung Shui District Rural Committee (SSDRC), the Resident Representative (RR) of Hang Tau, the Indigenous Inhabitant Representative (IIR) and RR of Kam Tsin, the RR of Kwu Tung (North) and the RR of Kwu Tung (South) have no comment; and
- (c) the IIR of Hang Tau objects to the application mainly on the grounds that there are some applications for medium-rise residential development in the vicinity resulting in congested traffic in the area due to only one access for Hang Tau Road and Kam Hang Road. It is the only access for the nearby village.

9.2 The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Commissioner of Police (C of P);
- (c) Director of Leisure and Cultural Services (DLCS); and

- (d) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

10. Public Comments Received During Statutory Publication Period

On 25.9.2020, the application was published for public inspection. During the three-week statutory publication period, a total of 4 public comments were received. Three comments (**Appendices III-1 to III-3**) from World Wide Fund for Nature Hong Kong (WWF), a North District Council (NDC) member and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “REC” zone; “destroy first, develop later” attitude should be deterred; the proposed development is to legitimatise brownfield operation; the Site is amid a cluster of residential developments and natural terrain; there is no previously approved application in the Site; and the proposed temporary application would affect the comprehensive rural planning in the North District. The remaining one comment (**Appendix III-4**) from an individual indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse with ancillary office for a period of 3 years. The Site falls within an area zoned “REC” on the approved Kwu Tung South OZP No. S/NE-KTS/16 (**Plan A-1**). The proposed development is not in line with the planning intention of “REC” zone, which is intended primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- 11.2 Although the proposed warehouse with GFA of 3,102m² and 7m high is considered not entirely incompatible with the surrounding area, DEP does not support the application as there are sensitive receivers in the vicinity (the nearest residential dwellings located to the immediate south and west of the Site) (**Plan A-2**) and the proposed use involves the use of heavy vehicles, and environmental nuisance is expected. C for T could not lend support to the application as the applicant fails to justify the adequacy of the parking spaces, demonstrate the satisfactory manoeuvring of vehicles entering to/exiting from/within the Site, ensure no queuing of vehicles outside the Site and ensure pedestrian safety. Other relevant Government departments consulted including CE/MN, DSD, D of FS and CTP/UD&L, PlanD have no objection to the application.
- 11.3 The Site does not involve any previous application and there is no similar application in the same “REC” zone. There is one similar application within the other “REC” zone near the Site which was rejected in 1998 as detailed in paragraph 6.
- 11.4 Local views conveyed by DO/N, HAD object to the application as stated in paragraph 9.1.10. Besides, there are 4 public comments received during the statutory publication period. One indicates no comment on the application and three object to

the application as mentioned in paragraph 10 above. In this regard, the departmental comments and planning assessments above are relevant.

12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11 and having taken into account the local views and public comments mentioned in paragraphs 9.1.10 and 10, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "REC" zone in the Kwu Tung South area which is primarily for recreational developments for the use of the general public and to encourage the development of active and/or passive recreation and tourism/eco-tourism. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas.

12.2 Alternatively, 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 6.11.2023. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to/from 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) design and provision of vehicular access, parking and loading/unloading spaces and pedestrian facilities within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.5.2021;
- (f) the submission of fire service installations and water supplies for fire fighting proposals 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

6.5.2021;

- (g) in relation to (f) above, the implementation of fire service installations and water supplies for fire fighting proposals 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 6.8.2021;
- (h) the submission of 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 6.5.2021;
- (i) in relation to (h) above, the implementation of 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 6.8.2021;
- (j) if any of the above planning conditions (a), (b), (c) or (d) 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
- (k) if any of the above planning conditions (e), (f), (g), (h) or (i) 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 at **Appendix IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application Form with a plan received on 18.9.2020
Appendix Ia	Replacement Page of Application Form received on 22.9.2020
Appendix Ib	Further Information of 28.10.2020

Appendix II	Similar Application
Appendices III-1 to III-4	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
NOVEMBER 2020**