

RNTPC Paper No. A/YL-KTN/692
For Consideration by
the Rural and New Town
Planning Committee
on 17.1.2020

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

APPLICATION NO. A/YL-KTN/692

- Applicants** : Yau Fook Holding Development Limited represented by BMI Appraisals Limited
- Site** : Lots 409 S.A (Part) and 413 in D.D. 110, Pat Heung, Yuen Long
- Site Area** : About 2,360.5m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Storage of Logistics Products and Goods with Ancillary Office 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 storage of logistics products and goods with ancillary office for a period of 3 years. The Site is zoned “AGR” and the applied use is neither a Column 1 nor Column 2 use for the “AGR” zone. According to the Notes of the OZP, temporary use 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 used for the applied use with valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is the subject of three previous applications for the same applied use, which were all approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) between 2011 and 2016. All

approval conditions of the last approved application (No. A/YL-KTN/542) have been complied with and the planning permission is valid until 28.1.2020.

- 1.3 According to the applicant, one single-storey structure of 8m high with a total floor area of about 1,393.7m² for storage and ancillary office uses is erected within the Site. Goods such as electronic parts and food products etc. are stored in the structure and will be transported away on demand. No heavy goods vehicle exceeding 24 tonnes is used for operation of the development. Besides, no workshop, industrial, parts breaking or painting activities would be carried out within the Site. The operation hours are between 8:00a.m. and 6:00p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. Two private car parking spaces, two medium vehicle parking spaces and a loading/unloading area are provided at the Site. The Site is accessible to Kam Tai Road and Kam Tin Road via a local track. The plans showing the site layout, fire service installations plan and vehicular access plan submitted by the applicant are at **Drawings A-1 to A-3**.
- 1.4 When compared with the last approved application (No. A/YL-KTN/542), the current application submitted by the same applicant is the same in terms of use, site boundary and area, number of structure, building height and total floor area.
- 1.5 In support of the application, the applicant has submitted the following document:
 - (a) Application form received on 3.12.2019 with **(Appendix I)** supplementary statement and plans
 - (b) Further Information (FI) received on 11.12.2019 in **(Appendix Ia)** response to departmental comments
[exempted from publication]
 - (c) FI received on 9.1.2020 in response to departmental **(Appendix Ib)** comments
[exempted from publication]

2. Justifications from the Applicants

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

- (a) In the last approved Application No. A/YL-KTN/542, the Director of Agriculture, Fisheries and Conservation had no adverse comments. As such, the development would not frustrate the planning intention of the “AGR” zone.
- (b) Due to the economic restructuring and sharp decline in agricultural activities, many farming areas within Pat Heung, Shek Kong, and Kam Tin have been abandoned or converted into semi-industrial and open storage uses. The applied use provides a short-term solution for the high demand of storage space which cannot be provided

in the urban areas. The temporary nature of the applied use allows flexibility without pre-empting the long-term development potential and permanent land use of the Site. Favourable consideration should be given to the renewal application.

- (c) The applied use is compatible with the surrounding land use such as storage of construction materials and vehicle parts and is in line with 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.13E). The Site falls within Category 2 areas and there has been no complaint from the locals and concerned government departments. The applicant has also complied with all approval conditions. Besides, similar temporary open storage uses in the vicinity have recently been approved by the Board. Renewal of the approval will not set an undesirable precedent.
- (d) The development will not generate adverse traffic, landscape, environmental and drainage impacts. Landscape provision and drainage facilities have been implemented. The exterior of the temporary structure has been painted in pale green to alleviate the landscape impact. The Site is maintained in a good condition and proper manner. The applicant will make every effort in complying with the approval conditions should the application be approved.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

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.34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. **Background**

The Site is currently not the subject of any active planning enforcement case.

6. **Previous Applications**

- 6.1 The Site involves three previous applications (No. A/YL-KTN/352, 428 and 542) for the same applied use and submitted by the same applicant as the current application. Details of the applications are summarised in **Appendix III** while their locations are shown on **Plan A-1**.

- 6.2 All applications were approved with conditions by the Committee for a period of 3 years on 28.1.2011, 17.1.2014 and 9.12.2016 respectively on the considerations that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the applied use was not incompatible with the surrounding land uses; there was no adverse departmental comment except for the Director of Environmental Protection and the environmental and technical concerns from the relevant departments would be addressed by appropriate approval conditions. For the last approved application (No. A/YL-KTN/542), all the approval conditions related to landscaping, drainage and fire safety aspects have been complied with, and the planning permission is valid until 28.1.2020.

7. **Similar Application**

- 7.1 There is one similar application in the same “AGR” zone in the vicinity of the Site. Details of the application are summarised in **Appendix IV** and the location of the site is shown on **Plan A-1**.
- 7.2 Application No. A/YL-KTN/330 for temporary furniture warehouse was rejected by the Committee on 10.7.2009 for reasons that the development was not in line with the planning intention; the development was not compatible with the surrounding land uses, which were dominated by residential structures/ village houses and scattered farm/ vacant structures and orchards; and approval of the application would set an undesirable precedent for similar applications and the cumulative effect would result in general degradation of the rural environment of the area.

8. **The Site and Its Surrounding Areas (Plans A-1 to A-5)**

- 8.1 The Site is:
- (a) largely covered and currently used for the applied use with valid planning permission; and
 - (b) accessible to Kam Tai Road and Kam Tin Road via a local track.
- 8.2 The surrounding areas are mixed with open storage/storage yards, workshop, warehouse, residential structures/dwellings and a plant nursery. Some of the open storage yards are suspected unauthorized development subject to planning enforcement action by the Planning Authority:
- (a) to its north are open storage yard and parking of vehicles with planning permission. To its further northeast is vacant land;
 - (b) to its immediate east and southeast are an area zoned “Open Storage” (“OS”) and “Industrial (Group D)” (“I(D)”) occupied by vehicle repair workshop, warehouse and open storage yards; and

- (c) to its southwest and west are open storage yards (one with planning permission), residential dwellings/structures (less than 20m) and a plant nursery.

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 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long (DLO/YL):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot No. 409 S.A in D.D. 110 is covered by a Short Term Waiver (STW) No. 3580 to permit structures erected thereon for the purpose of ‘Temporary Storage of Logistics Products and Goods with Ancillary Office’.
- (c) The Site is accessible from Kam Tai Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure should not exceed the relevant airfield height limit within SKAHRA.
- (e) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for

regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

10.1.2 Comments of Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, the approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) He has no comment on the renewal application from the highways maintenance point of view.
- (b) His department is not/shall not be responsible for the maintenance of any existing vehicular access connecting the Site and Kam Tai Road.

Environment

10.1.4 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”, he does not support the application as sensitive receivers, i.e. residential structures are found to the west (less than 20m away) of the Site and the applied use involved the use of heavy vehicles, environmental nuisance is expected.
- (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 the DEP.

Landscape

10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape (CTP/UD&L):

- (a) She has no objection to the application from landscape planning perspective.
- (b) With reference to the aerial photo taken in 2019, the Site is situated in an area of rural fringe landscape character. The surrounding area of the Site is comprised of open storage yards, temporary structures, car park, vacant lands and clustered tree groups. The development is considered not incompatible with existing landscape setting in the proximity.
- (c) Compared the aerial photo of 2019 with that of 2014, there is no significant change in the surrounding landscape character. Further significant adverse landscape impact arising from the continued use for storage of logistics products and goods is not anticipated.

Agriculture

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

He has no strong view to the renewal application considering that previous applications for the same use as the current application were approved by the Board.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Based on the applicant's submission, the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTN/542.
- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTN/542 and the submission of records of the existing drainage facilities on Site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

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

He has no objection in principle to the renewal application subject to the existing fire service installations (FSIs) implemented on the Site being maintained in efficient working order at all times.

Building Matters

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

- (a) He has no objection in principle to the proposed use on the Site under Buildings Ordinance (BO).
- (b) There is no record of approval by the Building Authority for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (c) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized under the BO and should not be designated for any approved use under the application.
- (d) Before any new building works (including storage shed and office as temporary building) are to be carried out on the Site,

prior approval and consent of the Building Authority should be obtained, otherwise, they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.

- (e) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (f) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (g) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

District Officer's Comments

10.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comments from locals upon close of consultation and he has no particular comments on the application.

10.2 The following Government departments have no comment on/ no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

11. Public Comment Received During Statutory Publication Period

On 13.12.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission for temporary storage of logistics products and goods with ancillary office at the Site zoned “AGR”. The planning intention of the “AGR” zone is 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 applied use is not in line with the planning intention of the “AGR” zone. Nevertheless, DAFC has no strong view on the application. Approval of the application on a temporary basis for a period of 3 years would not jeopardise the long-term planning intention of the “AGR” zone.
- 12.2 The development is considered not incompatible with the surrounding land uses which are mixed with open storage yards, workshop, warehouse, residential structures/dwellings and a plant nursery. There are planning approvals for temporary open storage use in the adjacent areas. Besides, there is a large piece of land zoned “OS” and “I(D)” to the immediate east and southwest of the Site which is occupied by open storage uses (**Plan A-2**).
- 12.3 The application is in line with the TPB PG-No. 34C in that previous approvals for the same applied use were granted since 2011 and all approval conditions of the last approved application (No. A/YL-KTN/542) have been complied with. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of use, site area, number of structure, building height and total floor area. As there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application.
- 12.4 Relevant departments consulted, except DEP, have no adverse comment on the application. DEP does not support the application as there are residential dwellings/structures located to the immediate west (less than 20m away) and the applied use involves the use of heavy vehicles, environmental nuisance is expected. It is noted that there is no environmental complaint concerning the Site received in the past three years. Since the development is mainly operated within the enclosed structure, it is unlikely that it would generate significant environmental nuisance to the surroundings. To minimise the possible environmental nuisance, approval conditions restricting the operation hours and types of vehicles, as well as prohibiting workshop activities are recommended in paragraphs 13.2 (a) to (e) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (e) to (h) in paragraph 13.2 below.
- 12.5 No public comment was received during the statutory publication period.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12, the Planning Department considers that the temporary storage of logistics products and goods with ancillary office 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, and be renewed from 29.1.2020 to 28.1.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 8:00 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 heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be stored/parked at or enter/exit the Site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of the record 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 Board by 29.4.2020;
- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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 the above planning condition (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 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.

[The above planning conditions are largely the same as those under the planning permission of previous Application No. A/YL-KTN/542, except change/deletion of those on landscape and FSIs based on the comments of CTP/UD&L of PlanD and D of FS.]

Advisory Clauses

The recommended advisory clauses are attached at **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 planning intention of the "AGR" zone which is 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, 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 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 attachments received on 3.12.2019
Appendix Ia	Further Information (FI) received on 11.12.2019
Appendix Ib	FI received on 9.1.2020
Appendix II	Relevant Extracts of Town Planning Board Guidelines No.34C on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No.34C)
Appendix III	Previous applications covering the Site
Appendix IV	Similar application within the same "AGR" zone in the vicinity on the OZP
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Fire Service Installations Plan
Drawing A-3	Vehicular Access Plan
Plan A-1	Location plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2020**