

RNTPC Paper No. A/YL-NTM/398
For Consideration by
the Rural and New Town
Planning Committee
on 20.3.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/398

- Applicant** : Hong Kong Kelang Modern Agriculture Company Limited represented by R-riches Property Consultants Limited
- Site** : Lots 2693 RP, 2696, 2698, 2699, 2700 and 2701 in D.D. 102 and adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
- Site Area** : About 2,461m² (including GL of about 110m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Open Storage” (“OS”)
- Application** : Temporary Wholesale Trade (Food) and Storage with Ancillary Office for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary wholesale trade (food) and storage with ancillary office for a period of 5 years. According to the Notes of the OZP for the “OS” zone, ‘Wholesale Trade’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site has been paved and partly fenced off. Majority of the Site is currently used for the wholesale trade (eggs) without a valid planning permission.
- 1.2 The Site forms part of an application (No. A/YL-NTM/346) submitted by the same applicant for proposed temporary wholesale trade (eggs) involving storage and ancillary office previously approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions on 13.10.2017 for a period of 3 years. The planning permission was revoked on 13.3.2020 due to non-compliance with conditions on the implementation of drainage proposal and fire service installations (FSIs) proposal.

- 1.3 As shown on **Plan A-2**, the Site is accessible via a local track connecting to Kwu Tung Road. As compared with the last application No. A/YL-NTM/346, the current application mainly involves the same use but with wholesale trade (eggs) revised as wholesale trade (food) comprising commodities such as eggs, poultry meat, seasonings and canned food, etc. Besides, there is an increase in site area, covered area, total non-domestic gross floor area (GFA) and the number of structures. Same as the last approval, the operation hours proposed by the applicant are between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays, and 3 loading/unloading (L/UL) spaces for light goods vehicles (7m x 3.5m each) are provided within the Site (**Drawing A-1**). A drainage proposal and a FSIs proposal have been submitted to support the application. A comparison of the major development parameters under the previous and current application is as follows:

Major Development Parameters	Last Application No. A/YL-NTM/346 (a)	Current Application No. A/YL-NTM/398 (b)	Difference (b) – (a)
Site Area (about)	1,945.5m ²	2,461m ²	515.5m ² (+26.50%)
Covered Area (about)	1,270m ²	1,900m ²	+630m ² (+49.61%)
Uncovered Area (about)	675.5m ²	561m ²	-114.5m ² (-17.00%)
Total Non-domestic GFA (about)	1,555.9m ²	2,186m ²	+630.1m ² (+40.50%)
Number of Structures	4 one to two-storey structures (8.23m) for wholesale, storage, rainshelter, and site office use	5 one to two-storey structures (8.23m) for wholesale, storage, rainshelter, ancillary office, and canopy for L/UL area	+1

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

- (a) Application form received on 21.1.2020 **(Appendix I)**
- (b) Supplementary planning statement received on 21.1.2020 **(Appendix Ia)**
- (c) Further Information (FI) received on 2.3.2020 providing justifications for non-compliance with approval conditions under previous application with drainage and FSIs proposals **(Appendix Ib)**
(exempted from publication)
- (d) FI received on 16.3.2020 providing further reasons for failure to comply with approval conditions under previous application and pledge to comply with approval conditions **(Appendix Ic)**
(exempted from publication)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement and FIs at **Appendices Ia to Ic**. They can be summarized as follows:

- (a) The applied use is temporary in nature and will not frustrate the long-term planning intention of the “OS” zone. The development is considered not incompatible with the surrounding land uses.
- (b) The Site is subject to a previous s.16 application (No. A/YL-NTM/346) submitted by the same applicant for the same wholesale trade use, which was approved with conditions by the Committee on 13.10.2017 for a period of 3 years. Therefore, approval of the current application would not set an undesirable precedent within the same “OS” zone.
- (c) The applicant has failed to comply with approval conditions (i) and (f) of the previously approved application (No. A/YL-NTM/346) on the implementation of FSIs and drainage proposals respectively by the specified time. The applicant had complied with the submission requirements for FSIs and drainage proposals under approval conditions (h) and (e) on 9.3.2018 and 6.4.2018 respectively, however, implementation works for the proposals could not be commenced until approval of Short Term Waiver (STW) was granted by Lands Department (LandsD) on 9.5.2019 which had delayed the implementation. For condition (i), while FSIs have been constructed by the applicant, connections of government mains for separate water and electricity supplies to FSIs were not yet available. For condition (f), part of the drainage facilities (i.e. U-channels at-grade and on the rooftop) have been completed and the remaining works (i.e. PVC downpipes) are expected to be completed in two months’ time. FSIs proposal and drainage proposal covering the new site boundary were submitted to support the current application.
- (d) The development will not create significant adverse traffic, environmental, landscape and drainage impacts on the surrounding areas. Adequate mitigation measures will be provided, including submission of drainage, FSIs and landscape proposals, to minimize any adverse impact arising from the development.
- (e) The applicant will comply with the requirements in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”) in order to minimize adverse environmental impacts and nuisance to the surrounding area. The applicant will strictly follow relevant Government requirements and guidelines for undertaking the sewerage measures, and prohibit the use of public announcement system to minimize noise nuisance to the surrounding area. He is committed to comply with the approval conditions should the application be approved.

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 TPB 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 San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” Requirements are not applicable.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Application

5.1 Part of the Site is the subject of a previous application (No. A/YL-NTM/346) for proposed temporary wholesale trade (eggs), storage and ancillary office submitted by the same applicant, which was approved by the Committee with conditions on 13.10.2017 for a period of 3 years, mainly on grounds that the proposed use was considered not in conflict with the planning intention of the site, approval of the proposed temporary use would not jeopardize the long-term planning intention of the “OS” zone, the proposed development was not incompatible with the surrounding uses, and no adverse comment received on the application from concerned Government departments. The permission was subsequently revoked on 13.3.2020 due to non-compliance with approval conditions related to the implementation of drainage proposal and FSIs proposal.

5.2 Details of the application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Application

There is no similar application within the same “OS” zone on the OZP.

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

7.1 The Site is:

- (a) accessible via a local track connecting to Kwu Tung Road;
- (b) paved and partly fenced off; and
- (c) is partly used for the applied use.

7.2 The surrounding areas are predominantly rural in character mixed with vacant/unused land, warehouses/storages, open storage, vehicle parks and scattered residential dwellings, and have the following characteristics:

- (a) to its immediate north are unused land and container tractor/trailer vehicle park. To its further north across Kwu Tung Road are predominantly

unused land with scattered residential dwellings;

- (b) to its immediate east are a residential structure (zoned “OS”) and a warehouse/storage. To its further east are open storage of transformer and a container vehicle park with warehouse;
- (c) to its immediate south are warehouse, storages and open storage of construction machinery. To its further south are a grave, open storage and storage of construction materials; and
- (d) to its immediate and further southwest are residential dwellings, storage and unused land.

8. Planning Intention

The “OS” zone is intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses which cannot be accommodated in conventional godown premises.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long (DLO/YL), LandsD:

- (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) The GL of the Site is covered by a Short Term Tenancy (STT) No. 3191 for the purpose of “Temporary Wholesale Trade (Food) and Storage and Ancillary Office”.
- (c) The private land of Lots 2693 RP, 2696, 2699, 2700 and 2701 in D.D. 102 are covered by Short Term Waiver (STW) No. 4976, 4977, 4978, 4979 and 4980 respectively to permit structures for the purpose of “Temporary Wholesale Trade (Food) and Storage and Ancillary Office”.
- (d) Should planning approval be given, the STT/STW holder will need to apply to his office for modification of the STT/STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or

erection of temporary structure(s) will be considered. Moreover, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or regularize any irregularity on site, if any. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such applications will be approved. If such applications are approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) The Site is connected to the public road network via a section of a local access which is not managed by Transport Department. The land status of the local access road should be clarified with the LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) As there is no information about the vehicular access at the private lot(s) to the concerned site, he presumes the applicant should arrange by themselves if necessary, and should seek the relevant land owner(s) on the right of using the vehicular access.
- (c) Should the application be approved, the following condition should be incorporated:

no vehicle is allowed to queue back to or reverse onto/from the site at any time during the planning approval period.

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

- (a) The access arrangement to the Site from Kwu Tung Road should be commented by Transport Department.
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kwu Tung Road. Presumably, the relevant departments will provide their comments, if any.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

The Site falls within the administrative route protection for the proposed Northern Link (NOL), which is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the alignment of the proposed NOL are still under review, those areas within the administrative route protection boundary may be required to be vacated at the time for the construction of the NOL and subject to nuisance, such as noise and vibration of the proposed NOL. He has no objection in principle to the application from development point of view of the NOL, provided that the applicant is satisfied with the surrounding condition of nuisance taking into account the future construction, operation and maintenance of NOL.

Environment

9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) According to the latest “COP”, he does not support the application as the Site is within 100m from the nearest sensitive uses (i.e. the nearest residential structure is located to the immediate east of the Site) (**Plan A-2**), and environmental nuisance is expected.
- (b) The applicant is advised to follow the environmental mitigation measures as recommended in the latest “COP” in order to minimize the potential environmental impacts on the surrounding area.

Nature Conservation

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

The Site falls within the “OS” zone on the Ngau Tam Mei OZP. According to the aerial photo available in the Geospatial Information Hub of LandsD, the Site is primarily disturbed in nature and a previous planning application on similar uses had been approved (No. A/YL-NTM/346). In this regards, he has no comment on the application from nature conservation point of view.

Fire Services

9.1.7 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) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval.

- (c) His advisory comments are at **Appendix IV**.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in the position to offer comments on their suitability for the use proposed in the application.
- (b) His advisory comments are at **Appendix IV**.

Drainage

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

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) He noted that applicant has submitted a drainage proposal. However, the proposal has been checked to be generally unacceptable. In fact, under the current application, the applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover & invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations & charts should be included. The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on Site.
- (c) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (d) The applicant is reminded that the proposed drainage proposal / works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (e) No public sewerage maintained by CE/MN of DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (f) The applicant should consult DLO/YL of LandsD regarding all the proposed drainage works outside the lot boundary in order to ensure the unobstructed discharge from the Site in future.

- (g) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage works on Site under proper maintenance at all times.

District Officer's Comments

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

His office has no comment on the application and the local comments shall be submitted to the Board directly, if any.

9.2 The following Government departments have no comment on or no objection to the application:

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager (West) (PM(W)), CEDD;
- (d) Director of Leisure and Cultural Services (DLCS); and
- (e) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 7.2.2020, the application was published for public inspection. During the first three weeks of the statutory publication period, 1 public comment was received from San Tin Rural Committee supporting the application for the reasons that the applied use was in line with the planned use, could create employment opportunities for local residents, and was in great demand, the Site in proximity to Lok Ma Chau Control Point was suitable for the applied use, the development in relatively small scale would not create adverse traffic impacts/burden on the surrounding areas and villagers nearby.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary wholesale trade (food) and storage with ancillary office for a period of 5 years. The Site falls within the "OS" zone, which is primarily intended for provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. In this regard, the applied use is considered not in conflict with the planning intention of the Site.
- 11.2 The Site is accessible via a local track connecting to Kwu Tung Road and amid a large "OS" zone with uses of container vehicle parks, warehouses/storages and open storages and scattered residential dwellings in its surroundings. The development is not incompatible with the uses in the surrounding areas.

- 11.3 Other than DEP, there is no adverse comment on the application from relevant Government departments consulted including C for T, D of FS and CE/MN of DSD. DEP does not support the application as there are sensitive uses in the vicinity of the Site (i.e. nearest residential structure is located to the immediate east of the Site) and environmental nuisance is expected. In this regards, to address the concerns on the possible environmental nuisances generated by the applied temporary use, approval conditions restricting the operation hours and type of vehicles, and requiring provision of boundary fencing are recommended in paragraphs 12.2 (a) to (c) and (e) below. Any non-compliance with these approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant should be advised to follow the latest “COP” issued by DEP to minimize the possible environmental impacts.
- 11.4 Majority of the Site is the subject of a previous application (No. A/YL-NTM/346) for the same wholesale trade use submitted by the same applicant, which was approved by the Committee on 13.10.2017 for a period of 3 years until 13.10.2020. Approval of the current application is in line with the previous decisions of the Committee. Nevertheless, the last approved application (No. A/YL-NTM/346) was revoked on 13.3.2020 due to non-compliance with approval conditions related to the implementation of drainage and FSIs proposals. On this, the applicant stated that he had complied with all conditions including provision of boundary fencing and submissions of drainage and FSIs proposals. Majority of the FSIs and drainage facilities (i.e. U-channels at grade and on the rooftop) had been constructed. However, the connections of government mains for separate water and electricity supplies to FSIs were not yet available and remaining works of the drainage facilities (i.e. PVC downpipes) are expected to be completed in two months’ time. In support of the current application, the applicant submitted updated drainage and FSIs proposals and pledged to comply with the approval conditions should the application be approved. It is considered that the subject application can be given sympathetic consideration. Should the application be approved, shorter compliance periods are recommended for close monitoring of the progress on compliance with the approval conditions. The applicant will also be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 There is one supporting public comment received during the statutory publication period as detailed in paragraph 10.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 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 5 years until 20.3.2025. The following conditions of approval and advisory clauses are also

suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 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 heavy goods vehicles exceeding 24 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, is allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the site at any time during the planning approval period;
- (e) the provision of boundary fencing on the site within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 20.6.2020;
- (f) the submission of a drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.6.2020;
- (g) in relation to (f) above, the implementation of the 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 20.9.2020;
- (h) in relation to (g) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.6.2020;
- (j) in relation to (i) above, the implementation of the 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 20.9.2020;
- (k) if any of the above planning conditions (a), (b), (c), (d) or (h) 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
- (l) if any of the above planning conditions (e), (f), (g), (i) or (j) 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**.

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

the applicant fails to demonstrate that the development would not generate adverse environmental impact to the surrounding areas of the Site.

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 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.

13.3 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.

14. Attachments

Appendix I	Application Form received on 21.1.2020
Appendix Ia	Supplementary Planning Statement received on 21.1.2020
Appendix Ib	FI received on 2.3.2020
Appendix Ic	FI received on 16.3.2020
Appendix II	Previous Application
Appendix III	Public Comment received during the Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos