

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

**APPLICATION NO. A/YL-KTS/754**

- Applicant** : Hang Tone Drainage Engineering Ltd. represented by Top Bright Consultants Ltd.
- Site** : Lot 455 RP (Part) in D.D. 106, Kam Sheung Road, Kam Tin, Yuen Long, New Territories
- Site Area** : 1,639 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14  
[Approved Kam Tin South Outline Zoning Plan No. S/YL-KTS/13  
at the time of submission of application]
- Zoning** : “Other Specified Uses ” annotated “Rural Use” (“OU(RU)”)  
[Maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]  
  
[Same zoning and development restrictions on the approved Kam Tin South OZP No. S/YL-KTS/13 and the draft Kam Tin South OZP No. S/YL-KTS/14]
- Application** : Temporary Site Office and Service Depot for Drainage and Sewerage Works for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary site office and service depot for drainage and sewerage works for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site is not subject to any previous application. The Site is paved, fenced and currently used for the applied use without valid planning permission.
- 1.2 According to the submission, the Site comprises of 2 portions (i.e. northern and southern portions) which is separated by a local track. The northern portion includes a 2-storey (6m high) temporary structure for site office. The southern portion includes a canopy area (5 to 5.5m high) covering 6 one to two-storey container-converted structures for site office and ancillary storage of equipment and tools, and 4 one to two-storey container-converted structures and 3 structures for storeroom for equipment and tools and washroom. The total floor area of the structures is about 1,144 m<sup>2</sup>. The Site is accessible via a local track leading to Kam Sheung Road. There are a total of 4 parking spaces (2 for private car, 1 for

light goods vehicle (LGV) and 1 for medium goods vehicle (MGV)). According to the applicant, the service depot will mainly be used for storage of tools/ equipment that the staff would load and offload onto the vehicles and leave the Site to respective contracted site for work. No dismantling, repairing, cleaning or any workshop activities will be carried out on Site. No vehicles exceeding 24 tonnes will enter the Site. The operation hours are from 7 a.m. to 7 p.m. on Mondays to Saturdays and there will be no operation on Sundays and public holidays. The location plan, layout plan and landscape proposal submitted by the applicant are at **Drawings A-1 to A-3**.

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

- (a) Application Form received on 24.8.2017 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Further Information (FI) received on 27.9.2017 providing response to departmental comments **(Appendix Ib)**  
*(accepted and exempted from publication and recounting requirements)*
- (d) FI received on 7.12.2017 providing response to departmental comments **(Appendix Ic)**  
*(accepted and exempted from publication and recounting requirements)*
- (e) FI received on 10.1.2018 providing minor clarifications **(Appendix Id)**  
*(accepted and exempted from publication and recounting requirements)*
- (f) FI received on 12.1.2018 providing minor clarifications **(Appendix Ie)**  
*(accepted and exempted from publication and recounting requirements)*
- (g) FI received on 18.1.2018 providing minor clarification **(Appendix If)**  
*(accepted and exempted from publication and recounting requirements)*

1.4 As requested by the applicant, the Committee agreed to defer consideration of the application on 13.10.2017 to allow more time for the applicant to prepare further information (FI) to address the departmental comments. After the deferral request, the applicant submitted FIs in response to departmental comments to support the application.

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

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement at **Appendix Ia**. They are summarized as follows:

- (a) The applicant was established in 2007 as a specialist contractor who offers all aspects of drainage and sewerage works for public works and private sectors. The applicant has served various Government departments and private sectors to conduct rehabilitation works for different drainage and sewerage infrastructure in Hong Kong and currently has

over 15 contracted projects in corporation with various Government departments. The applied use facilitates the various on-going projects in the New Territories and meets the demand for such special service in Hong Kong.

- (b) The Site is an ideal location for the applied use as it is served by Kam Sheung Road without passing through village houses. There is no alternative location that the applicant could find to meet the operational need of the applied use.
- (c) A number of planning applications for temporary open storage use in the same “OU(RU)” zone have been approved by the Town Planning Board (the Board). Approval of the application will not contravene the planning intention of “OU(RU)” zone. The development is compatible with surrounding land uses and maximizes the use of abandoned land. Given the distinctive characteristics of the applied use, approval of the application would not set undesirable precedent.
- (d) The site boundary and layout are adjusted to avoid conflict with the public road works and provide waterworks reserve area. It is anticipated that the potential environmental, visual, traffic and drainage impacts caused by the applied use are insignificant. The service depot will mainly be used for storage of tools/ equipment. All the works will be conducted at the contracted sites and no dismantling, repairing, cleaning or any workshop activities will be conducted at the Site.

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

The applicant is not the “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 site notice and sending notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

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

Town Planning Board Guidelines No. 38 for Designation of “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) Zone and Application For Development Within “OU(RU)”) Zone under Section 16 of The Town Planning Ordinance (TPB PG-No.38) is relevant to the application. The relevant assessment criteria are summarized below:

Application for development within “OU(RU)” zone would need to demonstrate that the proposed development is in line with the planning intention of the zone and will not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings and will not overstrain the capacity of existing and planned infrastructure such as transport, drainage, sewerage and water supply in the area. Each development proposal will be assessed on its individual merits, with particular reference to its sustainability in ecological, environmental and infrastructural terms.

**5. Background**

The Site were the subject of previous enforcement action for storage use. Enforcement Notices (ENs) were issued to the responsible persons on 28.3.2017. Compliance Notice for the ENs were issued upon the discontinue of the unauthorised developments (UDs) both on 9.11.2017. Should there be sufficient evidence to prove that the use on site is an UD under the Town Planning Ordinance, appropriate enforcement action will be taken.

**6. Previous Application**

The Site is not subject to any previous application.

**7. Similar Application**

There is no similar application for temporary site office and service depot use akin to storage/warehouses use within the same “OU(RU)” zone.

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

8.1 The Site is:

- (a) paved and fenced off;
- (b) currently occupied by some 1 to 2-storey container-converted structures and used as the applied use without valid planning permission; and
- (c) accessible via a local track leading to Kam Sheung Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are residential structures/ dwellings, warehouse and open storage of vehicles;
- (b) to its west are residential structures/ dwellings (the nearest about 10m), storage yard and vacant land;
- (c) to its south are open storage yards and warehouses; and
- (d) to its immediate east across Kam Sheung Road are open storage yards, warehouses, parking of vehicles, residential structures/ dwellings and vacant/unused land.

**9. Planning Intention**

The planning intention of the “OU(RU)” zone is primarily for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Town Planning Board (the Board), with a view to upgrading or improving the area or providing support to the local communities.

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

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

### **Land Administration**

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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 Site is accessible to Kam Sheung 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.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity of the landlord 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 the Commissioner for Transport (C for T):

He has no comment on the application from the traffic engineering perspective. The following clauses should be included in the approval condition and advisory clause respectively:

- (a) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.
- (b) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. 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/North Territories West, Highways Department (CHE/NTW, HyD):

- (a) His office is not and shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Kam Sheung Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

**Environment**

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

- (a) There were 4 substantiated environmental complaints on waste nuisance in the past 3 years.
- (b) 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, i.e. residential dwellings/ structures located to the west of the Site (with the nearest about 10m away) and in the vicinity of the Site (**Plan A-2**) and environmental nuisance is expected.
- (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirement in the latest COP issued by DEP.

**Landscape Aspect**

10.1.5 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 the landscape planning perspective.
- (b) The surrounding area is rural in character dominated by open storages, temporary structures, interspersed with tree groups. Similar temporary use can be found in proximity of the Site. The applied temporary use is not incompatible with the existing landscape setting.
- (c) Based on the site inspection in November 2017, the Site is currently used as a site office and service depot without existing vegetation. There is no significant landscape resource in proximity and further significant impact on existing landscape is not anticipated.
- (d) Should the application be approved, approval condition requiring submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Board should be included.
- (e) His detailed comments on the landscape proposal are at **Appendix II**.

### **Drainage**

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

- (a) He has no objection in principle to the development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring (i) the submission of a drainage proposal and (ii) the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

### **Building Matters**

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site and he is not in a position to offer comment on their suitability for the use applied in the application;
- (b) The applicant's attention is drawn to the following points:
  - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
  - (ii) For UBW erected on leased land, enforcement action may be taken by 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.
  - (iii) Before any new building works (including containers/ open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
  - (iv) 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 respectively.
  - (v) 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 Building (Planning) Regulations at the building plan submission stage.

### **Nature Conservation**

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

As the Site has been hard-paved, he has no comment on the application from nature conservation point of view.

### **Fire Safety**

10.1.9 Comments of the Director of Fire Services (DFS):

- (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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Water Supply**

10.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). A Waterworks Reserve within 1.5m from the centreline of the water mains shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose.
- (c) The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the Site with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works and all other services across, through or under it which the Water Authority may require or authorise.
- (d) No tree or shrub with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main.
- (e) The developer shall bear the cost of any necessary diversion works affected



by the development.

- (f) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

### **Project Interface**

10.1.12 Comments of the Project Manager (New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD);

- (a) The Site falls within a potential housing development site identified in the Land Use Review for Kam Tin South and Pat Heung.
- (b) The application should be considered in view of the planned housing development, the existing infrastructure, the uses permitted under the prevailing OZP, the prevailing land administration policy and the associated Ordinance.

### **Electricity**

10.1.14 Comments of the Director Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

### **District Officer’s Comments**

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

His office has not received any comments from locals and he has no particular comments on the application.

10.2 The following government department has no comment on the application:

- (a) Commissioner of Police (C of P)

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

On 1.9.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 22.9.2017, 1 public comment (**Appendix III**) was received from a member of the public objecting to the application mainly on the grounds that the application is not in line with the planning intention of the “OU(RU)” zone; the Site would not be restored to the original state and the degraded site would be rezoned to other use; and there are many brownfield sites in the New Territories where the applied use should be situated.

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

- 12.1 The application is for temporary site office and service depot for drainage and sewerage works for a period of three years within “OU(RU)” zone. The applied use is not in line with the planning intention of the “OU(RU)” zone, which is for the preservation of the character of the rural area, and uses or development compatible with the rural landscape may be allowed on application to the Board. Nevertheless, there is no known development programme for the long-term development at the Site. It is considered that approval of the application on temporary period of 3 years would not jeopardize the long-term planning intention of the “OU(RU)” zone of the OZP.
- 12.2 According to the applicant, the applied use is for site office and service depot (storage of tools/equipment) which is akin to warehouse use. There will be no dismantling, repairing, cleaning or any workshop related activities carried out at the Site. The applied use is considered not incompatible with the surrounding land uses, which are predominantly open storage yards, warehouses, parking of vehicles and vacant/unused land (**Plan A-2**). Moreover, it is considered that the temporary site office and service depot use is unlikely to cause adverse traffic, landscape and drainage impacts on the surrounding areas and the concerned Government departments including CTP/UD&L of PlanD, C for T and CE/MN of DSD have no objection to the application.
- 12.3 DEP does not support the application as there are sensitive receivers, i.e. residential dwellings in the vicinity of the Site (with the nearest one about 10m to the west of the Site) (**Plan A-2**) and 4 substantiated environmental complaints have been received. However, the Site can be accessed to Kam Sheung Road via a local track without passing through residential dwellings. The applicant also stated that no cleaning or workshop activities will be carried out on the Site. The concern of DEP on possible environmental nuisance to surrounding areas could be addressed through the incorporation of approval conditions restricting the operating hours, prohibiting heavy goods vehicles and workshop activities in paragraph 13.2 (a) to (d) 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. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP in order to minimize any possible environmental nuisances. The technical requirements of C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS can be addressed by imposing the approval conditions recommended in paragraphs 13.2 (f) to (m) below.
- 12.4 One public comment objecting to the application was received from an individual during statutory public inspection period as stated in paragraph 11 above. In this regard, relevant government departments’ comments and planning assessments above are relevant.

### 13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the site office and service depot for drainage and sewerage works 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 3 years up to 26.1.2021. The following approval conditions and advisory clauses are also suggested for Members' reference:

#### Approval Conditions

- (a) no operation between 7:00 p.m. and 7:00 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, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site during the planning approval period;
- (e) the maintenance of the existing boundary fencing on the Site at all times during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the submission of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.7.2018;
- (h) in relation to (g) above, the implementation of landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.10.2018;
- (i) 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 26.7.2018;
- (j) in relation to (i), 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 26.10.2018;
- (k) in relation to (j) above, the implemented drainage proposal on the Site shall be

maintained at all times during the planning approval period;

- (l) the submission of 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 26.7.2018;
- (m) in relation to (l) above, the provision of fire service installations 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 26.10.2018;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (k) 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;
- (o) if any of the above planning conditions (g), (h), (i), (j), (l) or (m) 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
- (p) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

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

the development is not in line with the planning intention of the "OU(RU)" zone which is intended for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Town Planning Board, with a view to upgrading or improving the area or providing support to the local communities. No strong 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 received on 24.8.2017
<b>Appendix Ia</b>	Supplementary Planning Statement received on 24.8.2017
<b>Appendix Ib</b>	FI received on 27.9.2017 in response to departmental comments
<b>Appendix Ic</b>	FI received on 7.12.2017 in response to departmental comments
<b>Appendix Id</b>	FI received on 10.1.2018 providing minor clarifications
<b>Appendix Ie</b>	FI received on 12.1.2018 providing minor clarifications
<b>Appendix If</b>	FI received on 18.1.2018 providing minor clarification
<b>Appendix II</b>	Detailed Comments from UD&L of PlanD
<b>Appendix III</b>	Public Comment
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Plan
<b>Drawing A-2</b>	Layout Plan
<b>Drawing A-3</b>	Landscape Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos