

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

APPLICATION NO. A/YL-KTS/843

<u>Applicant</u>	: Winner Forklift Engineering Ltd.
<u>Site</u>	: Lots 606 RP (Part), 609 RP (Part), 610 (Part) and Adjoining Government Land in D.D.106, Kam Sheung Road, Kam Tin, Yuen Long
<u>Site Area</u>	: About 1,398m ² (including Government land of about 106.95m ² (about 8%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) [Maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]
<u>Application</u>	: Renewal of Planning Approval for Temporary Open Storage of Forklifts 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 open storage of forklifts for a period of 3 years. The Site is zoned “OU(RU)” on the Kam Tin South OZP and the applied use is neither a Column 1 nor Column 2 use in the “OU(RU)” zone. According to the Notes of the OZP, temporary use or development not exceeding a period of three years, notwithstanding that the use or development is not provided for in terms of the OZP, requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use (with previous planning permission lapsed on 5.4.2020) (**Plans A-2 to A-4b**).

- 1.2 The Site is the subject of eight previous applications for the same applied use as the current application. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1996 and 2017. The last Application No. A/YL-KTS/731 submitted by the same applicant was approved with conditions by the Committee on 17.3.2017 (for approval period from 5.4.2017 to 4.4.2020). All approval conditions have been complied with.
- 1.3 According to the applicant, a total of 59 forklift parking spaces, 1 medium goods vehicle parking space and 1 private car parking space are provided within the Site. Converted containers/ temporary structures to accommodate storage, workshop, office, shelters for forklift and toilet with a total floor area of about 806.6m² and building heights of 2.6m to 5.2m (1-2 storeys) are erected within the Site. The operation hours are from 9:00 a.m. to 6:00 p.m. on Mondays to Saturdays and there will be no operation on Sundays and statutory holidays. The main entrance of the Site is located at the south and an emergency vehicular access is located at the east of the Site abutting Kam Sheung Road. The layout plan and landscape plan submitted by the applicant are shown in **Drawing A-1 and A-2**.
- 1.4 The current application is same as the last approved application No. A/YL-KTS/731 in terms of applied use, site area/boundary, total floor area, number of structures and site layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with supplementary statement and plans received on 14.2.2020 **(Appendix I)**
 - (b) Further Information (FI) received on 11.3.2020 providing response to departmental comments **(Appendix Ia)**
[exempted from publication requirement]
 - (c) FI received on 31.3.2020 providing clarifications **(Appendix Ib)**
[exempted from publication requirement]
 - (d) FI received on 3.4.2020 providing responses to departmental comments **(Appendix Ic)**
[exempted from publication requirement]
- 1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 3.4.2020 (the previous planning permission was valid up to 4.4.2020) for consideration of the

application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

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

- (a) The development has been operating at the Site since 1999 and did not cause adverse impacts on the surrounding areas and nearby residents. The development would encourage industrial/commercial activities in the area and provide job opportunities, thereby facilitating development in the rural area.
- (b) The current application is a renewal of the last application No. A/YL-KTS/731. All the approval conditions of the last application have been complied with.
- (c) The existing drainage facilities, fire service installations (FSIs) and landscaping on the Site shall be maintained to the satisfaction of concerned departments.

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 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 obtaining consent from the current land owners. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the ‘Owner’s Consent / Notification’ requirements are not applicable.

4. Town Planning Board Guidelines

- 4.1 Town Planning Board Guidelines 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 as follows:

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.

- 4.2 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**.
- 4.3 The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 is relevant to the application. The Site falls within the Category 3 areas under the TPB PG-No. 13F¹. The relevant extract of the Guidelines is attached at **Appendix III**.

5. **Background**

The Site is currently not subject to any outstanding enforcement case.

6. **Previous Applications**

- 6.1 The Site is the subject of eight previous applications for the same applied use as the current application, which were all approved with conditions by the Committee between 1996 and 2017 for a period of 2 to 3 years. All the applications except the last three (No. A/YL-KTS/418, 527 and 635) were submitted under the then “Undetermined” (“U”) zone². Details of the applications are summarised in **Appendix IV** and their locations are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-KTS/63 covering a smaller site area was approved with conditions by the Committee in 1996 for a period of 2 years mainly for the reasons that the future land use of the Site would be finalized pending the resolution of the alignment of the West Rail and approval of the application on permanent basis might pre-empt the long term land use of the site; the temporary use was not incompatible with the adjoining land uses; approval conditions could be imposed to minimize the possible environmental impact; and the applied use could satisfy the short-term demand for open storage sites.

¹ The Site also fell within Category 3 areas in the previous TPB PG-No. 13E which was in force when the last previous application was approved.

² The Site was zoned “U” on the draft Kam Tin South OZP No. S/YL-KTS/1 gazetted on 17.6.1994 and was rezoned to the current “OU(RU)” zone on the draft Kam Tin South OZP No. S/YL-KTS/10 gazetted on 22.9.2006. The “OU(RU)” zone has remained unchanged since then.

- 6.3 Applications No. A/YL-KTS/155, 264, 343, 418, 527, 635 and 731 were approved with conditions by the Committee between 1999 and 2017 for a period of 3 years for similar reasons that the developments were not incompatible with the surrounding land uses; the applications were in line with the then Town Planning Board Guidelines on “Application for Open Storage and Port Back-up Uses” as previous approvals for open storage at the site were granted and the approval conditions under the previous applications were complied with; there was no adverse comment from the relevant departments in general; and the environmental concern could be addressed by appropriate approval conditions. However, Application No. A/YL-KTS/418 was revoked in 2010 due to non-compliance with approval conditions. For the last approved application No. A/YL-KTS/731 which was submitted by the current applicant, the planning permission was valid until 4.4.2020 and all the approval conditions were complied with.

7. Similar Applications

- 7.1 There are 36 similar applications for various temporary open storage uses within the same “OU(RU)” zone since the promulgation of the then TPB-PG No. 13E on 17.10.2008. Details of these applications are summarized in **Appendix V** and their locations are shown on **Plan A-1a**.
- 7.2 31 similar applications were approved with conditions by the Committee from 2009 to 2019 for similar reasons that the applications complied with TPB-PG No. 13E in that previous approvals for open storage were granted at the sites and the approval conditions had been complied with; the proposed uses were not incompatible with the surrounding land uses; there were no adverse comments from relevant departments in general; and the departmental concerns could be addressed by appropriate approval conditions. However, planning permissions for 13 applications were revoked due to non-compliance with approval conditions.
- 7.3 Five similar applications were rejected by the Committee or the Board on review between 2011 and 2015. The applications were rejected mainly on the grounds that the developments were incompatible with surrounding land uses; the applications did not comply with the TPB PG-No. 13E in that no previous approval for open storage had been granted at the sites; there were adverse departmental comments; and/or there were insufficient information to demonstrate the developments would not cause adverse environment, drainage, traffic and landscape impacts.

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

8.1 The Site is:

- (a) paved, fenced off and currently use for the applied use (previous planning permission under Application No. A/YL-KTS/731 was valid until 4.4.2020); and
- (b) abutting Kam Sheung Road on the east.

8.2 The surrounding areas are rural in character mainly occupied by open storage/storage yards, workshops, warehouses, a restaurant, a kindergarten, a church, residential structures/dwellings and vacant/unused land. Some of the open storage/storage yards, workshops and warehouses are suspected unauthorized developments subject to enforcement actions by the Planning Authority (**Plan A-2**):

- (a) to its west and south are open storage yards, warehouse, residential structures/dwellings and vacant/unused land. To its further west is a church and a kindergarten zoned “Government, Institution or Community” (“G/IC”);
- (b) to its immediate north is a residential dwelling. Further north are workshop, open storage/storage yards and a restaurant; and
- (c) to its east across Kam Sheung Road is an area zoned “Residential (Group D)” (“R(D)”) predominantly occupied by residential structures/dwellings, workshops, warehouses and open storage yards.

9. Planning Intention

The planning intention of the “OU(RU)” 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 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 summarized as follows:

Land Administration

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

- (a) The Site comprises Government Land (GL) and 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 609 RP in D.D. 106 covered by Short Term Waiver (STW) No. 3682, and Lots 606 RP (Part) and 610 in D.D. 106 covered by STW No. 3683 are for the purpose of “Ancillary Use to Open Storage of Forklifts”. The concerned GL within the Site is covered by Short Term Tenancy (STT) No. 2657 for the purpose of “Open Storage of Forklifts and Ancillary Use”.
- (c) Should the application be approved, the STW/STT holder(s) will need to apply to his office for modification of the STW/STT conditions where appropriate. Besides, the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. 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 rent or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no comment on the application from the traffic engineering point of view.
- (b) Should the application be approved, 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. 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/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road.
- (b) 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.

Environment

10.1.4 Comments of the Director of Environmental Protection (DEP)

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) In accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application as there are sensitive receivers, i.e. residential structures/dwellings in the vicinity of the Site (the nearest one is located to its immediate north), and the development involves the use of heavy vehicles, thus 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 DEP.

Landscape

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 point of view.
- (b) Based on the aerial photo of 2019, the surrounding area of the Site is comprised of storage sites, temporary structures and scattered

tree group. The applied use is considered not incompatible with the landscape setting in proximity.

- (c) With reference to the planning statement, the applicant would continue to carry out regular horticultural maintenance including watering and appropriate pruning etc. for existing trees within the Site, in order to enhance the landscape amenity. Further significant adverse landscape impact arising from the continuous use for open storage of forklifts is not anticipated.
- (d) The applicant is reminded that any proposed tree treatments shall be approved by the relevant tree authority as necessary, prior to the commencement of works.

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.
- (b) Based on the drainage proposal/planning statement in the application, apparently the applicant would maintain the same drainage facilities as those maintained under previous planning application No. A/YL-KTS/731.
- (c) Should the application be approved, approval conditions should be stipulated for the applicant (i) to maintain the existing drainage facilities and (ii) to submit records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board.

Building Matters

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

- (a) There is no in-principle objection under the Buildings Ordinance to the applied use on the Site.
- (b) There is no record of approval by the Building Authority (BA) for the structures existing at the Site and he is not in a position to offer comments on their suitability for the use related to the application.

- (c) If the existing structures are erected on leased land without approval of his department, they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
- (d) Before any new building works are to be carried out on the Site, the prior approval and consent of the BA 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) If the Site does not abut on a specified street having a width of not less than 4.5m wide, the development intensity shall be determined under Building (Planning) Regulations (B(P)R) 19(3) at the building plan submission stage. The Site shall be provided with means of obtaining access thereto from a street under the B(P)R 5 and emergency vehicular access shall be provided under B(P)R 41D.
- (f) For UBW erected on leased land, enforcement action may be taken by the BA 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.

Nature Conservation

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

He has no comment on the application from the nature conservation point of view noting that the Site has been paved and used for storage purposes for some years.

Fire Safety

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

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

District Officer's Comments

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

His office has not received any comments from locals upon close of consultation and has no particular comment on the application.

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

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

11. Public Comment Received During Statutory Publication Period

On 21.2.2020, the application was published for public inspection. During the three-week statutory public inspection period, one public comment from an individual (**Appendix VI**) was received. The comment objects to the application mainly on the grounds that there should be a permanent arrangement and way forward for the Site instead of continuing with the temporary operation; and the temporary nature of the applied use gave the operator an excuse not to invest in their business.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning permission for temporary open storage of forklifts for a period of 3 years in "OU(RU)" zone. The planning intention of the "OU(RU)" zone is primarily for the preservation of the character of the rural area, and 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 Board, with a view to upgrading or improving the area or providing support to the local communities. The applied use is not in line with the planning intention of the "OU(RU)" zone. Nevertheless, there is no known programme for long-term development at the Site. Hence, it is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the "OU(RU)" zone.

12.2 The development is considered not incompatible with the surrounding land uses which are mixed with open storage yards, residential structures/dwellings and vacant/unused land.

- 12.3 The Site falls within Category 3 areas under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant.

Category 3 areas: within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions.

- 12.4 The application is generally in line with TPB PG-No. 13F and TPB PG-No. 34C in that previous approvals for open storage at the Site was granted since 1996 and all the approval conditions of the last approved application (No. A/YL-KTS/731) have been complied with. There is also no adverse comment from the relevant departments, except DEP. Compared with the last approved application (No. A/YL-KTS/731), the current application submitted by the same applicant is the same in terms of site area, applied use, total floor area, number of structures and site layout. The applicant has also submitted landscape and FSIs proposal in the current submission. As there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application.

- 12.5 DEP does not support the application as there are sensitive receivers, i.e. residential structures/dwellings in the vicinity of the Site (the nearest is to its immediate north), and the development involves the use of heavy vehicles, thus environmental nuisance is expected. Nevertheless, the Site was not subject to environmental complaint in the past 3 years. The Site is also abutting Kam Sheung Road and vehicles do not need to pass through residential dwellings. To address DEP’s concern, approval conditions restricting the operation hours are recommended in paragraph 13.2 (a) and (b) below. The applicant will also be advised to adopt the environmental mitigation measures as set out in 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 in paragraph 13.2 (c) to (h).

- 12.6 One public comment was received during the statutory publication period objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and the planning considerations and assessments stated above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment in paragraph 11, the Planning Department considers that the temporary open storage of forklifts 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 26.5.2020 to 26.5.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and statutory holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a 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 Town Planning Board by 26.8.2020;
- (f) the existing fire services installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b), (c), (d) or (f) 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
- (h) if the above planning condition (e) 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.

[The above approval conditions are similar to those under the planning permission of the last Application No. A/YL-KTS/731, except deletion / change 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 VII**.

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

the development is not in line with the planning intention of the "OU(RU)" zone, which 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 Board, with a view to upgrading or improving the area or providing support to the local communities. The development on site will frustrate the planning intention of the zone.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the 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 received on 14.2.2020
Appendix Ia	FI received on 11.3.2020
Appendix Ib	FI received on 31.3.2020
Appendix Ic	FI received on 3.4.2020
Appendix II	Relevant extract of TPB PG-No. 34C
Appendix III	Relevant extract of TPB PG-No. 13F
Appendix IV	Previous applications covering the Site

Appendix V	Similar applications within the same “OU(RU)” zone on the approved Kam Tin South OZP
Appendices VI	Public comment received during the statutory publication period
Appendix VII	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Plan
Plan A-1a	Location Plan with similar applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2020**