

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

APPLICATION NO. A/YL-KTS/819

- Applicant** : 賴月良
- Site** : Lots 425 S.A (Part) and 429 RP (Part) in D.D. 103, Ko Po San Tsuen, Kam Tin, Yuen Long
- Site Area** : About 450 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin South Outline Zoning Plan No. S/YL-KTS/15
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary "Storage and Parking of Private Vehicles" 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 and parking of private cars for a period of 3 years. The Site is currently used for the applied use with valid planning permission.
- 1.2 The Site is the subject of four previous applications (No. A/YL-KTS/407, 517, 617 and 707) for the same applied use, which were all approved with conditions by the Rural and New Town Planning Committee (the Committee) from 2007 to 2016. The last application No. A/YL-KTS/707 submitted by the same applicant as the current application was approved with conditions by the Committee on 24.6.2016 for a period of 3 years. All approval conditions have been complied with. The validity of the planning permission is until 24.6.2019.
- 1.3 According to the information provided by the applicant, the development involves 2 single-storey shelters with a building height of 2.8m and 4.6m and a total covered area of 450m² for storage and parking of private cars uses. A total of 18 private car parking spaces are provided within the Site. The operation hours are 24

hours daily. The Site is accessible via a local track from Kam Tin Road. Plan showing the site layout submitted by the applicant is at **Drawing A-1**.

- 1.4 When compared with the last approved application No. A/YL-KTS/707, the current application is the same in terms of the applied use, site area, layout, total covered area and building height.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with supplementary information (**Appendix I**) received on 6.3.2019
 - (b) Further Information (FI) received on 16.4.2019 in (**Appendix Ia**) response to departmental comments
 - (c) FI received on 24.4.2019 in response to departmental (**Appendix Ib**) comments

2. Justifications from the Applicant

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

The Site has been used for the applied use with planning permissions for more than ten years. The applicant owns some precious private cars for collection and needs a place to park/store these cars. Some of these cars have no valid traffic licences. The Site is used for storage and parking of private cars only. Hence, no adverse environmental impact will be generated to the surrounding areas.

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

The applicant is not a “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. 31A) by posting site notice and sending notice to the Kam Tin Rural Committee by registered post. 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 a subject of any outstanding enforcement case. Follow-up investigation will be taken upon expiry of the planning permission if the current application is not approved by the Town Planning Board (the Board).

6. **Previous Applications**

- 6.1 The Site is involved in four previous applications (No. A/YL-KTS/407, 517, 617 and 707) for the same applied use at the Site submitted by the same applicant. Details of the applications are summarized in **Appendix III** while their locations are shown on **Plan A-1**.
- 6.2 All the applications were approved with conditions by the Committee for a period of 3 years on 12.10.2007, 10.12.2010, 22.11.2013 and 24.6.2016 respectively for similar reasons that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone and DAFC had no adverse comment; the development was not incompatible with the surrounding areas; no adverse comment from relevant departments; or the site was subject to previous planning approvals for the same applied use and the approval conditions had been complied with. However, the planning permission of application No. A/YL-KTS/617 was revoked on 22.5.2014 due to non-compliance with approval conditions on submission of drainage record and implementation of tree preservation and fire service installations proposals.
- 6.3 For the last approved application No. A/YL-KTS/707, all the approval conditions have been complied with and the planning permission is valid until 24.6.2019.

7. **Similar Applications**

- 7.1 There are two similar applications (No. A/YL-KTS/561 and 601) for temporary warehouse at the same location within the same “AGR” zone. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 Both were approved with conditions by the Committee in 2012 and 2013 for similar reasons that the proposed uses were not incompatible with the surrounding land uses and would not frustrate the long-term planning intention; no adverse comments from relevant departments and relevant approval conditions could be imposed to minimize the environmental impact; and no local objection was received.

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

8.1 The Site is:

- (a) used for the applied use with valid planning permission (currently under renovation); and
- (b) accessible via a local road branching off Kam Tin Road.

8.2 The surrounding areas are predominantly a mixture of open storage/storage yards, warehouse, residential dwellings/structures, vacant /unused lands and water treatment works. Most of the open storage/storage yards and warehouse are suspected unauthorized developments subject to enforcement action by the Planning Authority:

- (a) to its north and west are residential dwellings/structures, open storage/storage yards, warehouse and vacant/unused lands;
- (b) to its east across a local track are vacant/unused lands subject to planning permissions for animal boarding establishment and vehicle repair workshop; and
- (c) to its immediate south is an open storage yard for vehicles and container trailers with planning permission. To its further south are vacant land subject to planning permission for animal boarding establishment and the Au Tau Water Treatment Works.

9. Planning Intention

The planning intention of the “AGR” zone is primarily 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, Lands Department (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) Within the Site, the following private lots are currently covered by Short Term Waivers (STWs)

STW No.	Lot No. in D.D. 103	Permitted Use
STW 4300	Lot No. 429 RP	Temporary Storage and Parking of Private Vehicles
STW 2921	Lot No. 425 S.A	Office Ancillary to Storage of Second Hand Private Cars and Temporary Storage and Parking of Private Vehicles

- (c) The Site is accessible from Kam Tin Road via Government Land (GL). 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 shall not exceed the relevant airfield height limit within the SKAHRA.
- (e) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for modification of the STW(s) 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. 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 the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (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 his 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/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department does not and will not maintain any access connecting the Site and Kam Tin Road. The applicant should be responsible for his own access arrangement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Agriculture

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

As the Site has low potential for agricultural rehabilitation, and has been hard paved for years, he has no strong view on the application from agricultural point of view.

Environment

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

- (a) There was no environmental complaint concerning the Site received by DEP in the past three years.
- (b) The applicant is advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisances.
- (c) The Site falls within the Consultation Zone of Au Tau Water Treatment Works which is a Potentially Hazardous Installation. Based on the information provided, he considers that the chlorine risk is acceptable.

Landscape

- 10.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) She has no objection to the application from the landscape planning point of view.
 - (b) The Site is covered by four previous applications. She had no objection to the last approved application (No. A/YL-KTS/707) submitted by the same applicant for the same use.
 - (c) According to the aerial photos taken in 2016 and 2018, there is no significant change in the rural landscape characters where the Site is located. The surrounding area is composed of temporary structures, open car park, vacant land and scattered tree groups. The applied use is considered not incompatible with the landscape setting in proximity.
 - (d) According to the site visit conducted on 27.3.2019, two nos. of existing trees in fair conditions were found within the Site. Some existing trees and vegetation were observed outside the Site boundary. Further adverse landscape impacts arising from the applied use is not anticipated.
 - (e) Should the application be approved, an approval condition on maintenance of existing trees within the Site in healthy condition at all times during the approval period is recommended.

Water Supplies

- 10.1.7 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):
- (a) He has no objection to the application.
 - (b) The Site is located adjacent to existing Waterworks Reserves where several critical water mains were laid to and from the nearby Au Tau Water Treatment Works (**Plan A-2**).
 - (c) No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purposes.
 - (d) The Water Authority and his officers and contractors, his or their workmen shall have free access at all time to the said area with necessary plants and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorize.

- (e) No trees/shrubs shall be planted within the Waterworks Reserve.
- (f) No change of the existing conditions shall be undertaken without prior agreement of WSD.
- (g) The Site falls within the consultation zone of Au Tau Water Treatment Works, which is a Potentially Hazardous Installation (PHI).

Drainage

10.1.8 Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the development.
- (b) Based on the submission, the applicant would maintain the same drainage facilities as those implemented under previous Application No. A/YL-KTS/707.
- (c) Should the application be approved, approval conditions requiring the maintenance of the existing drainage facilities implemented under Application No. A/YL-KTS/707 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

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

- (a) He has no objection in principle to the proposal subject to fire service installations 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 FSI 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 Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

10.1.10 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 on the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) Before any new building works (including containers/open sheds as temporary building) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator of the proposed building works in accordance with the BO.
- (c) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are UBW under the BO and should not be designated for any proposed use under the application.
- (d) 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.
- (e) 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.
- (f) If the Site does not abut on a specified street of not less than 4.5 m 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

10.1.11 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 the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 15.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.4.2019, one public comment was received from an individual objecting to the application mainly on the grounds that the application is perpetuating inappropriate and inefficient land use; and vehicles should be parked in underground, high-rise or stacked facilities (**Appendix V**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission for temporary storage and parking of private vehicles for a period of 3 years in the “AGR” zone. The planning intention of the “AGR” zone is primarily 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. The development is not in line with the planning intention of the “AGR” zone. Nonetheless, DAFC has no strong view on the application from the agricultural point of view as the potential for agricultural rehabilitation of the Site is low. It is considered that a temporary planning permission for 3 years would not frustrate the long-term planning intention of the “AGR” zone.
- 12.2 The Site is directly abutting a local road and the applied use is considered not incompatible with the surrounding areas which are predominantly a mixture of open storage/storage yards, warehouse, residential dwellings/structures, vacant/unused lands and water treatment works.
- 12.3 The application is in line with TPB PG-No. 34C in that previous approvals for the same applied use were granted since 2007 and all approval conditions of the last approved application (No. A/YL-KTS/707) have been complied with. There is no adverse comment from the relevant departments. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of the applied use, site area and total covered 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 Government departments consulted including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD have no objection to or no adverse comment on the application. There is also no environmental complaint concerning the Site received by DEP in the past three years. To minimize any possible nuisance, approval conditions restricting the type of vehicles and workshop

activities are recommended in paragraph 13.2 (a) to (b). Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (c) to (k) below.

- 12.5 There are also 2 similar applications for temporary warehouse at another site within the same “AGR” zone approved with conditions by the Committee in 2012 and 2013 mainly for the reasons as mentioned in paragraph 7 above. Approval of the application is in line with the Committee’s previous decisions.
- 12.6 One public comment was received during the statutory publication period objecting to the application mainly on the ground that the application is perpetuating inappropriate and inefficient land use. In this regard, temporary approval would not frustrate the long-term planning intention. The departmental comments and planning assessments as stated above are also relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment as mentioned in paragraph 11 above, the Planning Department considers that the temporary storage and parking of private vehicles 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 25.6.2019 until 24.6.2022. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (b) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time 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 existing trees on the Site shall be maintained at all times during the planning approval period;
- (f) 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 25.9.2019;
- (g) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.12.2019;
- (h) in relation to (g) above, the provision of fire service installations within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.3.2020;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (e) 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 any of the above planning conditions (f), (g) or (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 the 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 the same as those under the planning permission of the previous application No. A/YL-KTS/707, except the condition on submission of drainage record is added based on CE/MN of DSD's comment.]

Advisory Clauses

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

- 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 "AGR" zone which is intended 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 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

Appendix I	Application Form with Supplementary Planning Statement received on 6.3.2019
Appendix Ia	FI received on 16.4.2019 in response to departmental comments
Appendix Ib	FI received on 24.4.2019 in response to departmental comments
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Condition for Temporary Use or Development (TPB PG-No. 34C)
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the same “AGR” zone on the Kam Tin South OZP
Appendices V	Public comment received during statutory publication period
Appendix VI	Advisory clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with similar applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2019**