

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

APPLICATION NO. A/YL-KTS/846

- Applicant** : Messrs. YEUNG Woon Ki and YEUNG Kwok Wah (Managers of Yeung Sz Ki Tso)
- Site** : Lot 1488 RP in D.D. 106, Yuen Kong Tsuen, Pat Heung, Yuen Long
- Site Area** : About 435.6 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
- Zoning** : “Agriculture” (“AGR”) (about 55%)
“Village Type Development” (“V”) (about 45%)
[Maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) 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 shop and services (real estate agency) for a period of 3 years (**Plan A-1a**). The Site falls within an area zoned “AGR” and “V” on the approved Kam Tin South OZP. The applied use is neither a Column 1 nor Column 2 use in the “AGR” zone but is a Column 2 use in the “V” zone. According to the Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use with valid planning permission.
- 1.2 The Site was involved in three previous applications submitted by the Managers of Yeung Sz Ki Tso for the same applied use as the current application, which were all approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) between 2010 and 2017. All the approval conditions of the last approved application (No. A/YL-KTS/742) have been complied with and the planning permission is valid until 23.6.2020.

- 1.3 According to the applicant, the Site is occupied by two 1 to 2-storey structures (not exceeding 4m high) with a total floor area of about 210.4m² for office, storage room and car parking uses. Four private car parking spaces are provided within the Site. The operation hours are between 9:00a.m. and 7:00p.m. daily. The Site is directly accessible from Kam Sheung Road. The site layout plan submitted by the applicants is in **Drawing A-1**.
- 1.4 When compared with the last approved application No. A/YL-KTS/742, the current application is the same in terms of applied use, site boundary and area, number of structures, floor area and layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information and plans received on 23.4.2020 **(Appendix I)**
 - (b) Further Information (FI) dated 21.5.2020 providing responses to departmental comments* **(Appendix Ia)**
 - (c) FI dated 25.5.2020 providing responses to departmental comments* **(Appendix Ib)**
 - (d) FI dated 1.6.2020 providing responses to departmental comments* **(Appendix Ic)**

**(exempted from publication requirement)*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form at **Appendix I**, and are briefly summarized as follows:

- (a) This application is for continued use of the Site for real estate agency. There is no change in terms of area, structures and the environment as compared with the last approved application.
- (b) The applicants will comply with the requirements of relevant departments. Drainage facilities, fire service installations and landscaping have been provided on the Site. The applicants will carry out mitigation measures to minimize potential noise, environmental and traffic impacts.

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

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

4. Town Planning Board Guidelines

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 subject to any enforcement case.

6. Previous Applications

The Site involves three previous applications for the same applied use as the current application. All of them were submitted by the Managers of Yeung Sz Yi Tso. Applications No. A/YL-KTS/513, 619 and 742 covering the same site as the current application were approved with conditions for a period of three years by the Committee between 2010 and 2017 mainly on the grounds that temporary approval would not frustrate the long-term planning intention of the “AGR” and “V” zones; the applied use was not incompatible with the surrounding land uses; the applied use was unlikely to generate significant environmental nuisance to the nearby residential structures/dwellings; similar approvals were given in the same “AGR” and “V” zones; and no adverse departmental comments had been received. All the approval conditions of the last approved application (No. A/YL-KTS/742) have been complied and the planning permission is valid until 23.6.2020. Details of the applications are summarized in **Appendix III** while their locations are shown on **Plan A-1b**.

7. Similar Applications

There are thirteen similar applications on six sites for temporary shop and services (real estate agency) use within the same “AGR” and “V” zones. All were approved with conditions by the Committee between 2010 and 2020 mainly for the reasons that temporary approval would not frustrate the long-term planning intention(s); the developments were not incompatible with the surrounding land uses; and relevant departments had no adverse comment. However, planning permissions for six applications were revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) hard paved and currently used for the applied use with valid planning permission; and
- (b) directly accessible from Kam Sheung Road.

- 8.2 The surrounding areas are predominantly rural in character with residential dwellings/structures, parking of vehicles, a real estate agency, a petrol filling station, fallow agricultural land, open storage/storage yards, a warehouse and vacant/unused land. The warehouse, open storage/storage yards and parking of vehicles are suspected unauthorized development subject to enforcement action by Planning Authority:
- (a) to its east within the “V” zone are residential dwellings/structures and parking of vehicles. A real estate agency with planning permission (Application No. A/YL-KTS/841) is located to the immediate south of the Site;
 - (b) to its northwest within the “AGR” zone are parking of vehicles, open storage/storage yards, residential dwellings/structures, fallow agricultural land, warehouse and unused land; and
 - (c) to its south and west across Kam Sheung Road are a petrol filling station and open storage/storage yards. The residential development namely Full Silver Garden is located to the further west.

9. Planning Intentions

- 9.1 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.
- 9.2 The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

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 of 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) Within the Site, the private lot is currently covered by Short Term Waiver (STW No. 3543) for “Temporary Shop and Services (Real Estate Agency)”.
- (c) 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 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. 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.
- (d) There is no Small House application approved or under processing within the Site.

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.

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

- (a) If the proposed run-in/out is agreed by the Transport Department, the applicant should provide the run in/out at Kam Sheung Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road drains.

Environment

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

- (a) The applicant shall be 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.
- (b) There is no environmental complaint concerning the Site received by DEP in the past three years.

Landscape

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

- (a) She has no objection to the application from landscape planning perspective.
- (b) Based on the aerial photo taken in 2019, the Site is situated in an area of rural landscape character comprising of scattered tree groups, temporary structures and village houses. Considering the nature and scale of the application, the proposed use is considered not entirely incompatible with the surrounding environment.
- (c) With reference to the site visit in May 2020, the Site is occupied with temporary structures. Existing landscape plantings are in acceptable condition. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the application was last approved. Further significant adverse impact on landscape resources due to the development is not anticipated.
- (d) Should the application be approved, approval condition on maintaining the existing trees and landscape plantings within the Site in a healthy condition at all times during the approval period should be included.

Agriculture and Nature Conservation

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

He has no strong view against the renewal application considering that the previous application for the same use as the current application was approved by the Committee.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Based on the applicant's submission, the applicant would maintain the same drainage facilities as those maintained under previous application No. A/YL-KTS/742.
- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTS/742 and the submission of records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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.
- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA 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.

- (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) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

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 of HAD):

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

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

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

11. Public Comment Received During the Statutory Publication Period

On 5.5.2020, the application was published for public inspection. During the three-week statutory publication period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary shop and services (real estate agency) for a period of 3 years at the Site which falls within "AGR" zone (55%) and "V" zone (45%). The planning intention of the "AGR" zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good

potential for rehabilitation for cultivation and other agricultural purposes. The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board. The applied use is not entirely in line with the planning intentions of “AGR” and “V” zones. Nevertheless, DAFC has no strong view on the application and DLO/YL of LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that temporary approval of the application would not frustrate the long-term planning intentions of the “AGR” and “V” zones.

- 12.2 The applied use is considered not incompatible with the surrounding land uses which are predominantly rural in character with residential dwellings/structures, a real estate agency, petrol filling station, fallow agricultural land and vacant/unused land (**Plan A-2**).
- 12.3 The application is in line with the TPB PG-No. 34C in that previous approval for the same applied use was granted at the Site since 2010 and all approval conditions of the last approved application (No. A/YL-KTS/742) have been complied with. The current application submitted by the same applicant is the same as the last application in terms of applied use, site boundary and area, number of structure, floor area and layout. Besides, there is no major change in planning circumstances since the last approval.
- 12.4 Relevant departments consulted have no adverse comment on the application. To minimize the possible environmental nuisance on the surroundings, approval conditions restricting the operation hours is recommended in paragraph 13.2 (a) below. 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 (b) to (f).
- 12.5 Three previous applications at the Site for the same applied use as the current use were approved with conditions by the Committee between 2010 and 2017. There are also 13 similar applications for temporary real estate agency within the same “AGR” and “V” zones approved with conditions by the Committee between 2010 and 2020 (including one to the immediate south of the Site). Approval of the current application is line with the Committee’s previous decisions.
- 12.6 No public comment was received by the Board during the statutory publication period.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the temporary shop and services (real estate agency) 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 24.6.2020 to 23.6.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;
- (c) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 Board by 24.9.2020;
- (e) the existing trees and landscape plantings within the Site shall be maintained in a healthy condition at all times during the planning approval period;
- (f) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b), (c), (e) 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;
- (h) if the above planning condition (d) 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
- (i) upon expiry of the planning permission, the reinstatement of the part of the Site zoned "AGR" to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

[The above planning conditions are largely the same as those under planning permission of previous Application No. A/YL-PH/742, except

change/deletion of those on landscape and FSIs based on the comments of CTP/UD&L of PlanD and D of FS respectively].

- 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 primarily 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. It is also not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from the planning intentions, even on a temporary basis.

Advisory Clauses

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with supplementary information received on 23.4.2020
Appendix Ia	FI dated 21.5.2020
Appendix Ib	FI dated 25.5.2020
Appendix Ic	FI dated 1.6.2020
Appendix II	Relevant extracts of TPG PG-No. 34C
Appendix III	Previous Applications covering the Site

Appendix IV	Similar Applications within the same “AGR” or “V” zones on the Kam Tin South OZP
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2020**