

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/102

- Applicant** : Hau Tat Shun Tso (with Mr. Hau Yuet Kau as manager) represented by Mr. Leung Hang Nin
- Site** : Lots 1049 and 1050 in D.D.95 and adjoining Government Land (GL), Kwu Tung North, New Territories
- Site Area** : 2,086.2 m² (including 1,034m² of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/4
- Zoning** : “Agriculture (1)” (“AGR(1)”)
- Application** : Renewal of Planning Approval for Temporary Soya Products Processing Workshop, Retailing and Outside Seating Accommodation for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary soya products processing workshop, retailing and outside seating accommodation for a period of 3 years at the application site (the Site) which is zoned “AGR(1)” on the approved Kwu Tung North OZP No. S/KTN/4 (**Plan A-1**). According to the Notes of the OZP for the “AGR(1)” zone, temporary use not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied uses with valid planning permission.
- 1.2 According to the applicant’s submission, the development comprises 17 structures with maximum building height (BH) not more than 6m / 2 storeys and a total gross floor area (GFA) of about 1,270m² mainly for workshop, storage, plant room, retailing, and office uses (**Drawing A-1**). The outside seating accommodation provides about 60 seats. Two private car parking spaces and four loading/unloading bays for light goods vehicles are provided within the Site. Four coach parking spaces are located outside the Site as arranged and supported by the Ho Sheung Heung Village Office (**Drawing A-1**). The Site is accessible through a local access road leading to Ho Sheung Heung Pai Fung Road (**Plan A-3**). No visitors’ vehicle trips will be arranged during peak hours (i.e. 7 a.m.-10

p.m. and 4 a.m. to 7 p.m. on Monday to Friday). The operation hours are between 8:00 a.m. and 8:00 p.m. daily. Existing plantings and landscape on the Site will be well maintained. Septic tank and on-site wastewater treatment plant are being used for treating wastewater.

1.3 The Site is the subject of seven previous applications for similar uses as the current application (details in paragraph 6 below). When compared with the last approved application (No. A/KTN/75), there is no change in the development parameters or layout of the development. All approval conditions of the last approved application had been complied with and the planning permission will lapse on 31.3.2024.

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

- (a) Application Form received on 19.1.2024 (Appendix I)
- (b) Further Information (FI) received on 6.2.2024 (Appendix Ia)
(exempted from publication and recounting requirements)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) Renewal of planning permission can enhance the convenience of picnickers, boost local industries and create job opportunities.
- (b) Short Term Waiver (STW) and Short Term Tenancy (STT) for the Site were granted by the Lands Department (LandsD). All the required licences have been obtained. All approval conditions in the last approved application No. A/KTN/75 had been complied with.
- (c) The existing plantings and landscape on the Site is normal and will be retained and properly maintained.
- (d) The renewal application is supported by the Sheung Shui District Rural Committee (SSDRC) and Ho Sheung Heung Village Office.

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

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

4. Town Planning Board Guidelines

Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Uses or Development (TPG-PG-No. 34D) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. Background

- 5.1 The Site was formed before the first publication in the Gazette of notice of the Kwu Tung North interim development permission area plan.
- 5.2 The Site is not subject to any enforcement action.

6. Previous Applications

- 6.1 The Site (in whole or in part) is the subject of seven previous applications (No. A/NE-KTN/68, A/NE-KTN/123, A/NE-KTN/144, A/NE-KTN/151, A/KTN/11, A/KTN/42 and A/KTN/75). All were approved by the Rural and New Town Planning Committee (the Committee) with conditions between 2000 and 2021.
- 6.2 Application No. A/NE-KTN/68 for temporary covered structures within existing Chinese soya products processing workshop for a period of 3 years was approved in 2000 mainly on considerations that the applied uses were small in scale and there was no adverse department comment. Application No. A/NE-KTN/123 for temporary soya product processing workshop for a period of 3 years was approved in 2008 mainly on considerations that the workshop was not incompatible with the surrounding land use, and there had been no major change in planning circumstances since the approval of the previous application No. A/NE-KTN/68.
- 6.3 The remaining 5 are all for the same temporary uses as the current application. Applications No. A/NE-KTN/144 and A/NE-KTN/151 for the same temporary uses, and No. A/KTN/11, A/KTN/42 and A/KTN/75 for renewal of planning approvals were approved each for a period of 3 years in 2011, 2012, 2015, 2018 and 2021 respectively mainly on the similar considerations, including no major change in planning circumstances; the environmental concern could be addressed by imposing relevant approval conditions; the applications were generally in line with the “Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” in force at the time; and all approval conditions for the previous approved applications had been complied with.
- 6.4 For the last approved application (No. A/KTN/75) submitted by the same applicant for the same applied uses with the same site area and layout approved by the Committee on 26.3.2021, all the approval conditions had been complied with.
- 6.5 Details of these previous applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.

7. Similar Applications

There is no similar application for the applied uses within the “AGR(1)” zone.

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

8.1 The Site is:

- (a) formed and hard-paved with some structures;
- (b) currently used for the applied uses with planning permission valid until 30.3.2024; and,
- (c) accessible through a local road leading to Ho Sheung Heung Pai Fung Road.

8.2 The surrounding areas are rural in character intermixed with domestic structures, vehicle parks, storage yard, retail shop, a warehouse, a refuse collection point, public toilets, and vacant/unused land. To its east is a cycle track and a road along Sheung Yue River.

9. Planning Intention

The planning intention of the “AGR(1)” is primarily to retain and safeguard the agricultural land/farm/fish ponds for agricultural purposes and to serve as a buffer to give added protection to the Long Valley Nature Park.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

10.2 The following government departments have the following comments on the application:

Environment

Comments of the Director of Environmental Protection (DEP):

- (a) He does not support the application as the four spaces for coach parking would attract traffic of heavy vehicles, and there are sensitive uses in the vicinity of the Site (the nearest domestic structure is in the immediate southwest of the Site) and near the access road. Environmental nuisance to nearby residents is anticipated.
- (b) There was no environmental complaint related to the Site in the past 3 years.
- (c) Should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and

Open Storage Sites” (the COP) to minimize any potential environmental nuisance. DEP’s advisory comment is provided in **Appendix V**.

District Officer’s Comments

Comments of the District Officer (North District), Home Affairs Department (DO(N), HAD):

- (a) Indigenous Inhabitant Representative of Ho Sheung Heung supported the application.
- (b) He has no particular comment on the application.

11. Public Comments Received During Statutory Publication Period

On 26.1.2024, the application was published for public comments. During the statutory publication period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary soya products processing workshop, retailing and outside seating accommodation for a period of 3 years on the Site within “AGR(1)” zone (**Plan A-1**). Although the applied uses are not in line with the planning intention of the “AGR(1)” zone, DAFC has no strong view on the application as previous applications for the same uses on the Site as the current application have been approved by the Board.
- 12.2 The applied uses are not incompatible with the existing surrounding land uses which comprise mainly vehicle parks, storages and retail use intermixed with some domestic structures (**Plan A-2**).
- 12.3 The current application is in line with TPB PG-No. 34D in that there has been no material change in planning circumstances since granting of the last approval under application No. A/KTN/75; all the time-limited approval conditions under the last application had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval. Although DEP does not support the application as there are residential dwellings in the vicinity of the Site and the access road, DEP has not received any complaints about the Site in the past 3 years. To address DEP’s concern and mitigate any potential environmental impacts, approval conditions restricting operation hours and vehicle types are recommended in paragraph 13.2 below. The applicant is advised to follow the environmental mitigation measures as recommended in the latest COP in order to minimise the potential environmental impacts on the adjacent area. Other concerned departments, including Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD), Director of Fire Services and Chief Town Planner/Urban Design & Landscape of Planning Department have no adverse comment on the application. The technical requirements suggested by CE/MN, DSD will be imposed through approval conditions as recommended in paragraph 13.2 below.

- 12.4 As detailed in paragraph 6, given that seven previous approvals for the same and similar uses had been granted to the Site, approval of the current application is generally in line with the Committee's previous decisions.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12, the Planning Department considers that the applied uses could be tolerated for a further 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 31.3.2024 until 30.3.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, is allowed to enter/exit the Site at any time during the planning approval period;
- (c) the submission of a condition 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 **31.6.2024**;
- (d) the existing drainage facilities on the Site shall be maintained and rectified if found inadequate/ineffective during operation at all time during the planning approval period;
- (e) if any of the above planning condition (a), (b) or (d) 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;
- (f) if the above planning condition (c) 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 the same as those under the last approved planning application No. A/KTN/75, except that the conditions on maintenance of existing trees and fire service installations are no longer required as advised by relevant department(s).]

Advisory clauses

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

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

- (a) the proposed development is not in line with the planning intention of the "AGR(1)" zone which is primarily to retain and safeguard the agricultural land/farm/fish ponds for agricultural purposes and to serve as a buffer to give added protection to the Long Valley Nature Park. No strong planning justifications are given in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the temporary use would generate adverse environmental nuisance on the surrounding areas as there are residential dwellings in its close proximity.

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

Appendix I	Application Form received on 19.1.2024
Appendix Ia	FI received on 6.2.2024
Appendix II	Relevant Extracts of TPB PG-No. 34D
Appendix III	Previous Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses

Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
MARCH 2024**