

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/75

<u>Applicant</u>	Mr. Hau Yuet Kau represented by Mr. Leung Hang Nin
<u>Site</u>	Lots 1049 and 1050 in D.D.95 and adjoining Government Land, Kwu Tung North, New Territories
<u>Site Area</u>	2,086.2 m ² (including 1,034m ² of Government Land (GL))
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2
<u>Zoning</u>	“Agriculture (1)” (“AGR(1)”)
<u>Application</u>	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) within an area zoned “ARG(1)” on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). According to the Notes of the OZP for “AGR(1)” zone, temporary use not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use 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 involves 6 previous applications for similar use as the current application. The last application No. A/KTN/42 for the same use as the applied use was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) on 16.3.2018. The planning permission is valid until 30.3.2021 and all approval conditions have been complied with.
- 1.3 According to the applicant’s submission, the development comprises 17 structures (with building height not more than 4.8m and a total floor area of about 1,270 m²) mainly for workshop, storage, plant room, retailing, and office uses. The outside seating accommodation provides 60 seats. 2 parking spaces for private cars and 4 loading/unloading (L/UL) areas are provided within the Site (**Drawing A-1**). 4

tourist bus parking spaces are provided outside the Site. The Site is accessible through a local access road leading to Ho Sheung Heung Pai Fung Road. No vehicle trip will be arranged during peak hours (i.e. 7am-10am and 4pm to 7pm). Existing plantings on site will be well maintained. The operation hours of the applied uses are from 8:00am to 8:00pm daily. Septic tank and on-site wastewater treatment plant are being used for treating wastewater. Compared with the last application No. A/KTN/42, the current application is the same as the last application in terms of site area, site boundary, applied use and site layout. The submitted layout plan is at **Drawing A-1**.

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

- | | | |
|-----|---|----------------------|
| (a) | Application form received on 11.2.2021 | (Appendix Ia) |
| (b) | Further Information (FI) dated 3.3.2021 | (Appendix Ib) |
| (c) | FI dated 6.3.2021 | (Appendix Ic) |
| (d) | FI dated 9.3.2021 | (Appendix Id) |
- All FIs 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 Ia**. They are summarized 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) 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/42 have been complied with.
- (c) 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. 34C) are relevant to the application. The relevant assessment criteria are as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;

- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

5. Background

The Site is not the subject of any active enforcement case.

6. Previous Application

- 6.1 The Site involves 6 previous applications (No. A/NE-KTN/68, A/NE-KTN/123, A/NE-KTN/144, A/NE-KTN/151, A/KTN/11 and A/KTN/42) submitted by the same applicant as the current application. They were all approved with conditions by the Committee. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 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 use was small in scale and there was no adverse department comment. Application A/NE-KTN/123 for temporary soya product processing workshop for a period of 3 years was approved in 2008 mainly on consideration that the workshop was not incompatible with the surrounding land use, there was no major change in planning circumstances since the approval of the previous application No. A/NE-KTN/68.
- 6.3 The remaining 4 are all for the same temporary use as the current application. Application No. A/NE-KTN/144 was approved in 2011 mainly on the similar considerations of the previous approved applications and no major change in planning circumstances since then. Besides, the environmental concern could be addressed by imposing relevant approval conditions. The subsequent application No. A/NE-KTN/151 was approved in 2012 on similar considerations. Applications A/KTN/11 and A/KTN/42 both for renewal of planning approvals were approved each for a period of 3 years in 2015 and 2018 respectively mainly on the similar considerations and all approval conditions for previous approved applications had been complied with.
- 6.4 Compared with the last application No. A/KTN/42, the current application is the same in terms of applicant, use, site area and layout. All approval conditions for application No. A/KTN/42 have been complied with.

7. Similar Application

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

8. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3, A-4a, A-4b and A-4c)

8.1 The Site is:

- (a) formed and hard-paved with some structures;
- (b) currently used for the applied use with planning permission valid until 30.3.2021; and
- (c) accessible through a local road leading to Ho Sheung Heung Pai Fung Road.

8.2 The surrounding areas are rural in character predominated by mainly domestic structures, vehicle park and storage yard. The surrounding areas have the following characteristics:

- (a) to its east is cycle track, a road and Sheung Yue Rivier and to its northeast are vacant land and cycle parking area;
- (b) to its south and southwest are vegetation, domestic structures and vehicle park;
- (c) to its west are refuse collection point, public convenience, fallow agricultural land, storage, vehicle park and a ball court; and
- (d) to its north and northwest are vehicle park, retail shop and domestic structures.

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 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/North, Lands Department (DLO/N, LandsD):

- (a) The Site comprises Lots Nos. 1049 and 1050 in D.D.95 and the adjoining Government Land (GL). The lots are Old Schedule Lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access.
- (b) The lots are covered by Short Term Waiver (STW) No. 1552 (**Plan A-2**) for the purpose of a soya products processing workshop, retailing and seating accommodation with a total built-over area of the structures erection thereon not exceeding 592m².
- (c) The GL within the Site is covered by Short Term Tenancy (STT) No. 1491 (**Plan A-2**) for the purpose of wastewater treatment plant, storage, emergency vehicular access (EVA) and such other use ancillary to the soya products processing workshop as may be approved by the DLO on Lots No. 1049 and 1050 in D.D.95. The total built-over area of the structures erected on STT No. 1491 shall not exceed 625m². The total actual built-over area of the existing use under the said STW and STT is 1,197m² which is larger than one mentioned in the development parameters of the application¹.
- (d) Some portions of the adjoining GL, which outside the Site are being occupied and fenced off by hoardings without approval. His office reserves the right to take tenancy enforcement and/or land control actions against the unauthorised occupation.
- (e) If the planning application is approved, the owner(s) of the lots concerned shall in parallel clear off those hoardings erected on adjoining GL outside the Site to the satisfaction of his office. Otherwise, tenancy enforcement and land control actions against the aforesaid irregularities would be taken by his office.

Traffic

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

- (a) It is noted that the Site was the subject of 6 previous approved applications. He has no objection to the application from traffic engineering point of view.
- (b) The vehicular access between the Site and Ho Sheung Heung Road is not managed by Transport Department.

Environment

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

¹ According to applicant's submission, the built-over area is 1,115m².

- (a) He does not support the application as the 4 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 is no environmental compliant case related to the Site from 2018 to 2020.
- (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” (COP) to minimize any potential environmental nuisance.

Agriculture

10.1.4 Comments of the DAFC:

Considering that the previous applications for the same use as the current application were approved by the Board, he has no strong view on the application from an agricultural development point of view.

Landscape

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

- (a) He has no objection to the application from the landscape perspective.
- (b) Based on aerial photo taken in 2020, the Site is situated in an area of rural inland plains landscape character. Temporary structures, carparks, basketball court, village houses and scattered tree groups are found to the west of the Site while pond, river and farmlands are found to the north and to the east of the Site respectively. The proposed use is not incompatible with the surrounding environment.
- (c) According to the site record dated 24.2.2.2021, the Site is paved and in operation. The bamboo planted under previous approved application No. A/KTN/42 is found along the western boundary of the Site. With reference to the layout plan in the planning statement, the proposed layout is generally the same as that under the previous approved application No. A/KTN/42. Further significant adverse impact to the existing landscape resources for the continuous use with the Site is not anticipated.
- (d) Should the application be approved, all landscape plantings within the Site shall be maintained at all times during the approval period.

Drainage

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

- (a) He has no objection to the application from the public drainage point of view.
- (b) Should the application be approved, the following conditions should be included:
 - (i) submit a condition record of the existing drainage facilities implemented on the Site as previously implemented on the same site in the planning application No. A/KTN/42 to the satisfaction of his Division within three months; and
 - (ii) maintain the existing drainage facilities properly and rectify those facilities if they are found inadequate/ineffective during operation.

Building Matters

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

- (a) He has no objection to the application. There is no record of approval by the Building Authority for the existing buildings/structures at the Site and BD is not in a position to offer comments on their suitability for the proposed use.
- (b) For proposed new buildings, the advisory comments under the Buildings Ordinance are at **Appendix III**.

Fire Safety

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

He has no in-principle objection to the application subject to the existing fire services installations implemented on the Site being maintained in efficient working order at all time.

Food and Environmental Hygiene

10.1.9 Comments of the Director of Food and Environmental Hygiene (DFEH):

He has no comment on the application and his advisory comments are at **Appendix III**.

District Officer's Comments

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

He consulted the locals on the application. A total of 4 comments were received. The North District Council (NDC) member of the subject Constituency, the Resident Representative (RR) and the Indigenous Inhabitant Representative (IIR) of Ho Sheung Heung supported the application while the Chairman of Sheung Shui Rural Committee indicated no comment.

10.2 The following Government departments have no adverse comment on the application:

- (a) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (b) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) Commissioner of Police (C of P); and
- (f) Director of Electrical and Mechanical Services (DEMS).

11. Public Comments Received During Statutory Publication Period

On 19.2.2021, the application was published for public inspection. During the publication periods, 2 public comments from individuals (**Appendices III-1 to III-2**) were received. Of which, 1 object to the application on grounds of possible adverse environmental and fire safety impact to the surrounding residential dwellings and 1 has no comment on the application.

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 use is 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 use on the Site as the current application have been approved by the Board.
- 12.2 The applied use is not incompatible with the existing surrounding land uses which comprise mainly vehicle parks, storages and retail use intermixed with some domestic structures.
- 12.3 The current application is in line with TPB PG-No. 34C in that there has been no material change in planning circumstances since granting of the last approval under

application No. A/KTN/42; 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 "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" in order to minimize the potential environmental impacts on the adjacent area. Other concerned departments, including D of FS, CE/MN, DSD, C for T and CTP/UD&L, PlanD have no adverse comment on the application and their suggested technical requirements are recommended in paragraph 13.2 below.

- 12.4 Given that 6 previous approvals for the same similar use had been granted to the Site, approval of the current application is generally in line with the Committee's previous decisions.
- 12.5 1 objecting public comment was received during the statutory publication period as stated in paragraph 11. The departmental comments and planning considerations and assessments above.

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 has no objection to the application for renewal of planning approval for temporary soya products processing workshop, retailing and outside seating accommodation 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 from 31.3.2021 until **30.3.2024**. 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 existing trees within the Site shall be maintained at all times during the planning approval period;
- (d) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;

- (e) 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;
- (f) 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 **30.6.2021**;
- (g) if any of the above planning condition (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;
- (h) if the above planning condition (f) 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

[Except for revision on the conditions (c) and (d) to accord with the departments' latest requirements, other approval conditions are similar to those under the previous application No. A/KTN/42]

Advisory clauses

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

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are 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 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. Attachment

Appendix Ia	Application form received on 11.2.2021
Appendix Ib	FI dated 3.3.2021
Appendix Ic	FI dated 6.3.2021
Appendix Id	FI dated 9.3.2021
Appendix II	Previous Applications
Appendices III-1 to III-2	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a, A-4b and A-4c	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**