

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

APPLICATION NO. A/YL-KTN/902

<u>Applicant</u>	:	Mr. WONG Hon Kuen
<u>Premises</u>	:	Lot 787 R.P (Part) in D.D.107, Fung Kat Heung, Kam Tin, Yuen Long
<u>Premises Area</u>	:	About 65m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	:	“Industrial (Group D)” (“I(D)”) [a maximum plot ratio of 1.6, a maximum site coverage of 80% and a maximum building height of 13m]
<u>Application</u>	:	Renewal of Planning Approval for Temporary Shop and Services (Retail Store) for a Period of 3 Years

1 The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application premises (the Premises) for temporary shop and services (retail store) for a period of 3 years. The Premises fall within an area zoned “I(D)” on the Kam Tin North OZP. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under “I(D)” zone requiring planning permission from the Town Planning Board (the Board). The Premises which form part of an existing 1-storey structure are currently vacant with a valid planning permission for shop and services use under the last application (No. A/YL-KTN/707). All the approval conditions have been complied with and the planning permission is valid until 29.5.2023. The approved scheme is yet to be implemented.
- 1.2 According to the applicant, the Premises involve a 1-storey structure with building height of about 5m and total floor area of about 65m² for retail store use. No parking space is provided in the Premises. The operation hours are from 10:00 a.m. to 6:00 p.m. daily including public holidays. The Premises are accessible from Fung Kat Heung Road via local tracks and footpaths. The layout with fire service installations (FSIs) plan and access plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Premises are the subject of two previous applications (detailed in paragraph 6 below). The current application is the same as the last approved application No. A/YL-KTN/707 submitted by the same applicant in terms of the applied use, premises area/boundary, layout and major development parameters.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information (Appendix I)
received on 15.3.2023 and 23.3.2023
 - (b) Further Information (FI) received on 26.4.2023 (Appendix Ia)

2 Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information and FI in **Appendices I** and **Ia**. They can be summarised as follows:

- (a) There are lots of developments in the surrounding in recent years, including industrial developments in the “I(D)” zone and the residential development (Park Yoho) near Sha Po Tsuen. The applied use could serve the nearby workers and residents.
- (b) There are previous approvals under application No. A/YL-KTN/573 and 707 for the same applied use.
- (c) The proposed retail store has not been operated pending the result of waiver application with the Lands Department.

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

The applicant is one of the “current land owners” and 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 other current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4 Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to this application. Relevant extract of the Guidelines is attached at **Appendix II**.

5 Background

The Premises are currently not subject to any active planning enforcement action.

6 Previous Applications

- 6.1 The Premises are the subject of two previous applications (No. A/YL-KTN/573 and 707) submitted by the same applicant for the same applied use as the current application. Application No. A/YL-KTN/573 and 707 were approved with conditions by the Committee on 22.9.2017 and 29.5.2020 respectively mainly on considerations that temporary approval would not jeopardise the long-term planning intention of the “I(D)” zone; the development was not incompatible with the surrounding land uses; and relevant departments had no adverse comment on the application. However, the planning permission under application No. A/YL-KTN/573 was revoked in February 2020 due to non-compliance with approval condition on implementation of FSIs proposal.
- 6.2 Compared with the last approved application No. A/YL-KTN/707, the current application is the same in terms of the applied use, premises area/boundary, layout and major development parameters. All the approval conditions are complied with and the application is valid until 29.5.2023.
- 6.3 Details of the applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

7 Similar Applications

- 7.1 There are six similar applications (No. A/YL-KTN/582, 607, 655, 727, 734 and 741) involving five sites within the same “I(D)” zone in the vicinity of the Premises in the past five years. All applications were approved with conditions by the Committee between 2018 and 2021 on similar considerations as stated in paragraph 6.1 above. The planning permissions under application No. A/YL-KTN/582 and 727 were revoked due to non-compliance with approval conditions.
- 7.2 Details of the similar applications are summarised at **Appendix III** and the locations are shown on **Plan A-1**.

8 The Site and Its Surrounding Areas (Plans A-2 to A-4b)

- 8.1 The Premises are:
- (a) vacant and occupy part of an existing 1-storey structure; and
 - (b) accessible from Fung Kat Heung Road via local tracks and footpaths.
- 8.2 The surrounding areas are rural in character predominated by residential structures/dwellings, parking of vehicles, agricultural land, open storage/storage yards, monastery and vacant land:
- (a) to the north and east are mainly residential structures/dwellings, parking of vehicles, open storage/storage yards and a monastery; and
 - (b) to the south and west are mainly residential dwellings/structures, fallow/cultivated agricultural land and vacant land.

9 Planning Intention

The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

10 Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comments 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.

11 Public Comment Received During the Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual who raises fire safety concern was received.

12 Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission for temporary shop and services (retail store) at the Premises zoned “I(D)”. The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. Although the applied use is not entirely in line with the planning intention of the “I(D)” zone, it is considered that approval of the application on a temporary basis for a further period of 3 years would not frustrate the long-term planning intention of the “I(D)” zone.
- 12.2 The applied use is considered not incompatible with the surrounding land uses which are mixed with residential structures/dwellings, open storage, vehicle park, monastery and agricultural land. There are planning approvals for temporary shop and services uses in the vicinity. According to the applicant, the retail store under application is intended to serve the residents and workers in the locality.
- 12.3 The application is generally in line with TPB PG-No. 34D in that all the approval conditions under the last approved application No. A/YL-KTN/707 are complied with. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of the applied use, premises area/boundary, layout and major development parameters. Relevant departments consulted, including the Commissioner for Transport, the Director of Environmental Protection, the Chief Engineer/Mainland North of Drainage Services Department and the Director of Fire Services (D of FS), have no objection to or no adverse comments on the renewal application. As there is no major change

in the planning circumstances since the last approval, sympathetic consideration could be given to the current renewal application for a period of 3 years.

- 12.4 To address the technical requirements of D of FS and to minimise any potential environmental nuisances, appropriate approval conditions are recommended in paragraph 13.2 below and 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' issued by the Environmental Protection Department.
- 12.5 Given that two previous approvals for the same temporary shop and services use have been granted to the Premises and six similar applications in the vicinity of the Premises have been approved in the past five years, approval of the current application is in line with the Committee's previous decisions.
- 12.6 Regarding the fire safety concern raised in the public comment, paragraphs 12.3 and 12.4 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 mentioned in paragraph 11 above, the Planning Department considers that the applied use 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 30.5.2023 until 29.5.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing fire service installations implemented at the Premises shall be maintained in efficient working order at all times during the planning approval period; and
- (b) if the above planning condition (a) 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.

[The above approval conditions on fire safety aspect are revised from those under the last approved application No. A/YL-KTN/707 based on the latest comments of D of FS.]

Advisory clauses

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

- 13.3 There is no strong reason to recommend rejection of the renewal application.

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 information received on 15.3.2023 and 23.3.2023
Appendix Ia	FI received on 26.4.2023
Appendix II	Relevant extract of TPB PG-No. 34D
Appendix III	Previous and similar applications
Appendix IV	General departmental comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment received during the statutory inspection period
Drawing A-1	Layout with FSIs plan
Drawing A-2	Access plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
MAY 2023**