

RNTPC Paper No. A/YL-KTS/883
For Consideration by
the Rural and New Town
Planning Committee
on 30.4.2021

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

APPLICATION NO. A/YL-KTS/883

<u>Applicant</u>	: Mr. TANG Luen Kwong
<u>Site</u>	: Lots 703, 704 S.B RP and 705 S.B RP in D.D. 106 Kam Tin, Yuen Long
<u>Site Area</u>	: About 1,463.95m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) (maximum plot ratio of 0.2 and building height of 2 storeys (6m))
<u>Application</u>	: Renewal of Planning Approval for Temporary Open Storage of Vehicle and Vehicle Parts with Ancillary Office 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 open storage of vehicle and vehicle parts with ancillary office for a period of 3 years. The Site is zoned “R(D)” on the Kam Tin South OZP and the applied use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of three years requires 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 (**Plans A-2, A-4a and A-4b**). All approval conditions of the last approved application (No. A/YL-KTS/776) have been complied with and the planning permission is valid until 22.5.2021.

- 1.2 According to the applicant, five structures with a total floor area of about 158.99m² and building heights ranging from 2.62m to 5.4m (1-2 storeys) are provided on-site for storage and office uses. Two private car parking spaces and two loading/unloading spaces for light goods vehicle are provided within the Site. The operation hours are between 9 a.m. and 6 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. The layout plan submitted by the applicant is in **Drawing A-1**.
- 1.3 Compared with the last approved application (No. A/YL-KTS/776), the current application submitted by the same applicant is the same in terms of applied use, site area/boundary, floor area and site layout.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary statement received on 2.3.2021 and supplementary information received on 8.3.2021 **(Appendix I)**
 - (b) Further Information (FI) received on 6.4.2021 in response to departmental comments **(Appendix Ia)**
(exempted from publication requirement)
 - (c) FI received on 13.4.2021 in response to departmental comments **(Appendix Ib)**
(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 supplementary statement in **Appendix I**. They can be summarized as follows:

- (a) The application is not in conflict with the planning intention as it is temporary in nature. The “R(D)” zone could still be implemented should it be desired by any interested parties.
- (b) The development will take full advantage of the location. The applied use provides a short-term solution for the much demanding open storage space. The temporary nature of the applied use allows flexibility without pre-empting the long-term development potential and permanent land use of the Site.
- (c) The applied use is in line with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses”. The current application is the same as the previously approved applications in terms of applied use. The re-granting of planning permission will not cause problem on land use compatibility.

- (d) The applied use is compatible with the surrounding land uses including open storage of the construction materials and vehicle parts. Moreover, landscaping, drainage facilities, fire service installations, site paving and fencing have been implemented on the Site to the satisfaction of the relevant Government departments.
- (e) The operation has not caused any nuisance to the nearby residents/occupants in the past three years. The applied use would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and will not create undesirable precedent. Also, the applicant would endeavour to minimise any disturbance to the surrounding.

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 notice at the Site and sending notice to Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guideline for “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB PG-No. 34C) is relevant to this application. The relevant criteria are extracted below:
 - (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.

- 4.2 The Site falls within Category 2 area under the Town Planning Board Guideline for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13F) promulgated by the Board on 27.3.2020. The relevant extract of the Guideline is attached at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site was involved in nine previous applications for similar temporary open storage uses covering different site areas/boundaries. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) or the Board on review between 1999 and 2018 on similar considerations that the development was not incompatible with the surrounding areas; the application was generally in line with the Town Planning Board Guideline for “Application for Open Storage and Port Back-up Uses” as previous approvals were granted and there was no adverse departmental comments/ departmental concerns could be addressed by approval conditions. However, planning permission of applications No. A/YL-KTS/205 and 273 were revoked due to non-compliance with approval conditions. For the last approved application No. A/YL-KTS/776, all the approval conditions have been complied with and the planning permission is valid until 22.5.2021.

7. Similar Applications

- 7.1 There are 17 similar applications for various temporary open storage uses within the same and adjoining “R(D)” zones on the OZP since the promulgation of TPB PG-No.13E on 17.10.2008. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.
- 7.2 15 applications were approved with conditions by the Committee between 2009 and April 2021 for similar reasons as stated in paragraph 6.2 above. However, planning permission of two applications were revoked due to non-compliance with planning conditions.
- 7.3 Applications No. A/YL-KTS/536 and 599 for temporary car breaking workshop and open storage of vehicles and vehicles parts with ancillary office and temporary warehouse and ancillary office and open storage (power generator, machinery and parts) respectively were rejected by the Committee in 2011 and by the Board on review in 2013 on the grounds that the developments were not in line with the planning intention of the "R(D)" zone; the applications did not comply

with the TPB PG-No. 13E in that there was no previous approval for workshop and open storage use granted at the application sites and there were adverse departmental comment and local objections against the applications; and the approvals of the applications would set an undesirable precedent.

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

8.1 The Site is:

- (a) currently used for the applied use with valid planning permission; and
- (b) abutting Shek Kong Airfield Road to the east.

8.2 The surrounding areas are rural in character intermixed with open storage yards, residential structures/dwellings, Shek Kong Barracks and unused land:

- (a) to its north are open storage yards, parking of construction machinery, and a residential structure/dwelling (about 60m away)
- (b) Shek Kong Barracks is located to the further north and east across Shek Kong Airfield Road;
- (c) to its south is unused land and further south across Kam Shui North Road is the Kam Tin River;
- (d) to its west are residential structures/dwellings (the nearest about 30m away) and unused land.

9. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from 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, LandsD):

- (a) The Site comprises Old Scheduled 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, part of the private lots No. 703 and 704 S.B RP are covered by Short Term Waivers (STWs) No. 4233 and 4234 respectively for the purpose of “temporary open storage of vehicles and vehicle parts with ancillary office”.
- (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, and the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the 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 the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Shek Kong Airfield Road.

- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Nature Conservation

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

- (a) Noting that its previous applications for the same/similar use had been approved by the Board, he has no comment on the application from nature conservation perspective.
- (b) There is an ecological mitigation planting area (**Plan A-2**) between the Site and Kam Shui North Road. Should the application be approved, the applicant shall be reminded to adopt necessary measures to avoid damaging the trees and understory vegetation in the mitigation planting area.

Environment

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

There was no environmental complaint concerning the Site received in the past three years. The applicant is advised to follow the relevant mitigation measures and requirement in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Landscape

10.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) Compared with aerial photos taken in 2018 and 2020, there is no significant change to the surrounding landscape setting since the last application was approved. In view of the Site is not located in landscape sensitive zoning and there is no substantial change in the layout of the development, further significant impact on existing landscape resources within the Site arising from the continuous use is not anticipated.

- (b) Should the application be approved, an approval condition to maintain all existing trees within the Site in good condition during the planning approval period should be included.
- (c) The applicant is reminded that approval of the application under Town Planning Ordinance does not imply approval of tree works such as pruning, transplanting and felling under lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.
- (d) With reference to his site inspection on 17.3.2021, it is noted that there were lots of stockpile materials stored around the trees along western peripheries of the Site. The applicant is advised to remove all stockpile materials within 1m from the tree trunk to avoid damage to the trunks and roots of the trees and remove any objects on tree trunk to avoid girdling of the tree. Topping of mature trees should be avoided. Relevant guidelines on proper tree care are detailed in **Appendix VI**.

Drainage

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

- (a) He has no in-principle objection to the development.
- (b) Based on the application, apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTS/776.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under application No. A/YL-KTS/776, and submission of the records of the existing drainage facilities on site to his satisfaction should be included in the planning approval.

Fire Safety

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

He has no in-principle objection to the renewal application subject to the existing fire service installations (FSIs) implemented on the Site being maintained in efficient working order at all times.

Building Matters

10.1.9 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 structures existing at 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 buildings) are to be carried out on the Site, prior approval and consent of BD 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.
- (c) His detailed comments on UBW and provision of access are at **Appendix VI**.

District Officer's Comments

10.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comment 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;
- (b) Director of Electrical and Mechanical Services;
- (c) Chief Engineer/Construction, Water Supplies Department; and
- (d) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 9.3.2021, the application was published for public inspection. During the three-week statutory publication period, two comments from a Yuen Long District Council member and an individual (**Appendices V-1 and V-2**) were received objecting to the mainly on the grounds that the heavy vehicles would damage the village road surface and affect other road users; the transportation of vehicles and machineries would increase traffic flow and lead to traffic congestion; and the proposed development would cause environmental pollution and increase in fire risk, and affect the safety and living quality of the villagers.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning permission for temporary open storage of vehicles and vehicle parts with ancillary offices for a period of three years in the “R(D)” zone. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The applied use is not in line with the planning intention of the “R(D)” zone. Nevertheless, there is no known programme for long-term development at the Site. Hence, it is considered that temporary approval of the application would not jeopardize the long-term planning intention of the “R(D)” zone.

12.2 The applied use is not incompatible with the surrounding area which is rural in character intermixed with residential structures/ dwellings and unused land.

12.3 The Site falls within Category 2 area under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant.

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.4 The current application is generally in line with TPB PG-No.34C and 13F in that all the approval conditions under the last approved application (No. A/YL-KTS/776) have been complied with. Also, relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of applied use, site area/boundary, floor area and site layout. Besides, there is no major change in planning circumstances since the last approval.

12.5 To minimize any possible environmental nuisance, approval conditions restricting the operation hours, vehicle types and workshop activities are recommended in paragraph 13.2(a) to (d). Besides, the applicant will be advised to adopt the relevant mitigation measures and requirements as set out in 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 (e) to (l).

- 12.6 Apart from the nine previous applications for open storage use at the Site which were all approved by the Committee as set out in paragraph 6. Moreover, there are also 15 similar applications for temporary open storage use within the same and adjoining “R(D)” zone which were approved by the Committee as detailed in paragraph 7 above. Approval of the current application is in line with the Committee’s previous decisions.
- 12.7 Two public comments objecting to the application were received during the statutory publication period as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as mentioned 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 comments mentioned in paragraph 11, the Planning Department considers that the temporary open storage of vehicles and vehicle parts with ancillary office 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 23.5.2021 until 22.5.2024. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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;
- (d) 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;
- (e) no vehicle is allowed to queue back to or reverser onto/from public road at any time during the planning approval period;
- (f) all existing trees within the Site shall be maintained in good condition at all times during the planning approval period;

- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of the records 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 23.8.2021;
- (i) the existing fire services installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (i) 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; and
- (k) if the above planning condition (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.

[The above approval conditions are similar to those in the planning approval of the last Application No. A/YL-KTS/776, except the change in conditions on FSIs proposal based on D of FS's comment.]

Advisory Clauses

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

13.3 There is no strong reason to reject 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 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 received on 2.3.2021 and supplementary information received on 8.3.2021
Appendix Ia	FI received on 6.4.2021
Appendix Ib	FI received on 13.4.2021
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the same and adjoining “R(D)” zones on the Kam Tin South OZP
Appendices V-1 and V-2	Public Comments
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2021**