

RNTPC Paper No. A/YL-KTS/888
For Consideration by
the Rural and New Town
Planning Committee
on 11.6.2021

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

APPLICATION NO. A/YL-KTS/888

<u>Applicant</u>	: Moon Kee Car Park represented by Top Bright Consultants Ltd.
<u>Site</u>	: Lots 111RP, 112(Part), 113, 115RP(Part), 116(Part) and 117RP in D.D. 113, Kam Tin South, Yuen Long
<u>Site Area</u>	: 4,353 m 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>	: “Agriculture” (“AGR”)
<u>Application</u>	: Renewal of Planning Approval for Temporary Public Car Park (Private Cars) 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 public car park (private cars) for a period of 3 years. The Site is zoned “AGR” on the Kam Tin South OZP and the applied use is neither a Column 1 nor Column 2 use in the “AGR” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of three 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 planning permission (**Plans A-2, A-4a and A-4b**). All approval conditions of the last approved application (No. A/YL-KTS/785) have been complied with and the planning permission is valid until 15.6.2021.
- 1.2 According to the applicant, three structures with a total floor area of about 385m² and building heights of 2.6m to 3m for site office, washroom and covered car parking space uses. A total of 118 private car parking spaces are provided. The Site is accessible from Kam Ho Road via a local track. The operation hours are 24

hours daily. No vehicles exceeding 5.5 tonnes will be parked and no workshop activities will be carried out within the Site. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 Compared with the last approved application submitted by the same applicant, there are no changes in the applied use, site area/ boundary, number of parking spaces and the maximum building height in the current application, except for a decrease in total floor area from 399m² to 385m² (-14m²/-3.5%) due to the reduction of floor area of the washroom.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form and supplementary planning (**Appendix I**) statement received on 19.4.2021
 - (b) Further information (FI) received on 28.5.2021 (**Appendix Ia**) providing response to departmental comments
(*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 planning statement and the FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The Site is ideal for use as a “park and ride” facility to serve the passengers using public transport at the Tai Lam Tunnel Bus Interchange. It will also alleviate the existing illegal parking problem in the vicinity and assist to relieve shortage of parking provision within the area when the three public housing sites in Kam Tin South are implemented.
- (b) The Site and its surrounding areas are one of the shortlisted clusters for potential public housing identified under brownfield sites review in Yuen Long district. It is noted that the detailed design and implementation programme will be formulated and clearance of the site will not be arranged in the next 3 years. The proposed development is only a temporary use and would not jeopardize the future land use of the Site.
- (c) The development would contribute to achieving the Government’s policy by encouraging commuters to use public transport and increasing parking spaces by private initiative. It would also make better use of valuable land resource and bring social benefits without increasing public expenditure.
- (d) The Site has been paved and used as public car park since 1999. The physical condition of the Site and its surrounding areas are now less favourable for

agricultural purpose. Temporary approval of the application would not contravene the planning intention of “AGR” zone.

- (e) The applied use is not incompatible with the surrounding land uses. Previous approvals for public car park were granted at the Site. The applied use and planning circumstances of the current application remain unchanged since the last planning application was granted and all approval conditions had been complied with. There are insignificant environmental, drainage and traffic impacts arising from the development.

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

The applicant is not the “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 site notice and sending notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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.

5. Background

The Site is currently not subject to any active planning enforcement action.

6. Previous Applications

- 6.1 The Site is involved in eleven previous planning applications. Details of these applications are summarized in **Appendix II** and the locations of the application sites are shown on **Plan A-1b**.

Approved applications

- 6.2 Seven applications for temporary public car park use were approved by the Committee or the Board on review between 1999 and 2018 for a period of 12 months to 3 years for the reasons that temporary approval would not jeopardize the long-term planning intention; the development was not incompatible with the surrounding land uses; departmental concerns could be addressed by imposing approval conditions; and previous approvals had been granted. However, planning permission for two applications were revoked due to non-compliance with approval conditions. For the last approved application No. A/YL-KTS/785 submitted by the same applicant, all the approval conditions have been complied with and the planning permission is valid until 15.6.2021.

Rejected applications

- 6.3 Three applications for temporary public car park for 3 years were rejected by the Committee in 2001 and 2002 on the grounds that there was no information to demonstrate that the vehicular access arrangement could be satisfactorily resolved; and the development would cause adverse drainage impact.
- 6.4 Application No. A/YL-KTS/514 covering a portion of the Site for temporary concrete batching plant for 2 years was rejected by the Committee in 2011 on the grounds that the development was not in line with the planning intention; the development was not compatible with the rural setting of the area and would generate adverse environmental, traffic, landscape and drainage impacts; and approval of the application would set an undesirable precedent.

7. Similar Application

There is a similar application No. A/YL-KTS/367 for public car park for private vehicles within the same “AGR” zone, which was rejected by the Board on review in 2006 on the grounds that the development was not in line with the planning intention of the “AGR” zone; the development was not compatible with the surroundings; there was no information in the submission to demonstrate the proposed use would not generate adverse landscape, traffic and drainage impacts on the surrounding areas; and the

approval of the application would set an undesirable precedent. Details of the application are summarized in **Appendix III** and the location of the site is shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) paved and currently used for the applied use with planning permission; and
- (b) accessible via a local track branching off Kam Ho Road.

8.2 The surrounding areas are rural in character and intermixed with warehouses, storage yard, residential dwellings/structures, plant nursery and vacant/unused land:

- (a) to its immediate south is vacant/unused land. A storage yard, warehouses, and vacant/unused land are located to its further south;
- (b) to its southeast is unused land zoned “Green Belt” (“GB”);
- (c) to its immediate west is unused land. The Tai Lam Tunnel Bus Interchange is on further west (**Plan A-1a**); and
- (d) to its immediate north is the elevated Pat Heung Road. To its further north across Pat Heung Road are vacant/unused land, a residential structure/dwelling and a plant nursery.

9. Planning Intention

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.

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 Schedule 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 (Lot 112 in D.D.113) is covered by a Short Term Wavier (STW) No. 4041 for “temporary public car park (private car)”.
- (c) Should the 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 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 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 point of view.
- (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.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be

clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Ho Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) 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” issued by DEP.

Landscape

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

- (a) He has no objection to the application from the landscape planning point of view.
- (b) 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. With reference to the site inspection photo taken on 4.5.2021, there are around 75 trees of common species mainly along periphery of the Site. In view that there is no 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.
- (c) The applicant should note that approval of the application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. Applicant is reminded to approach relevant authority/government department(s) direct to obtain the necessary approval on tree works.

Agriculture

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

Considering that the previous application for the same use as the current application was approved by the Board taken their comments into consideration, he has no strong view against the application for renewal of planning approval.

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 submitted planning statement, apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTS/785.
- (c) Should the Board approve the application, the conditions on maintenance of the drainage facilities implemented under application No. A/YL-KTS/785 and submission of records of the existing drainage facilities on site should be included.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The submitted fire service installations proposal is considered acceptable to his department. The installation /maintenance/ modification/ repair work of FSI shall be undertaken by an Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to the D of FS.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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 existing structures 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 and land filling) 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 V**.

Project Interface

10.1.10 Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

- (a) The Site is adjacent to the road improvement works at the Pat Heung Road/ Kam Ho Road junction under Contract No. YL/2017/01 – Site Formation and Infrastructure Works for Development at Kam Tin South, Yuen Long – Advance Works. The applicant is advised to liaise with CEDD's relevant project team for coordination of any interface issues.
- (b) It is noted that the Site falls within the boundary of "Site Formation and Infrastructure Works for Proposed Public Housing Development at Kam Ho Road, Yuen Long – Feasibility Study". He has no specific comment on the application as the applicant is seeking renewal of planning approval to use the Site for temporary public car park for a period of 3 years.

District Officer's Comments

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

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

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services; and
- (c) Commissioner of Police.

11. Public Comment Received During Statutory Publication Period

On 27.4.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment was received from an individual (**Appendix IV**) objecting to the application mainly on the grounds that the applied use would increase the traffic flow in the area and lead to traffic jam, environmental pollution, increase 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 public car park (private cars) for a period of three years in the “AGR” zone. The planning intention of the “AGR” zone is primarily intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purpose, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The applied use is not in line with the planning intention of the “AGR” zone. Nevertheless, DAFC has no strong view on the application. It is considered that the temporary nature of the development would not jeopardize the long-term planning intention of the “AGR” zone.
- 12.2 The development is considered not incompatible with the surrounding areas which are rural in character predominated by vacant/unused land. The Site is located close to the Tai Lam Tunnel Bus Interchange and according to the applicant, the applied use would provide a “park and ride” facility for the passengers using the interchange and would satisfy some of the local parking demand.
- 12.3 The application is in line with TPB PG-No. 34C in that previous approval for the same applied use (No. A/YL-KTS/785) was granted in 2018 and all the approval conditions have been complied with. Compared with the last approved

application, the current application submitted by the same applicant is the same in terms of use and of similar scale. Besides, there is no major change in planning circumstances since the last approval.

- 12.4 Relevant departments consulted including C for T, DEP and CE/MN of DSD have no adverse comment on the application. To minimize any possible environmental nuisance, approval conditions restricting the types of vehicles are recommended in paragraph 12.2 (c) to (d) below. 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, CE/MN of DSD and D of FS would be addressed by approval conditions (f) to (i) in paragraph 13.2 below.
- 12.5 The Site is subject to seven approved previous applications for temporary private car park use as detailed in paragraph 6.1. The four previous applications at the Site and the similar application in the same “AGR” that are rejected by the Committee are subject to different circumstances.
- 12.6 One public comment was received during the statutory publication period objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments, planning considerations and assessments as stated 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, the Planning Department considers that the temporary public car park (private cars) 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 16.6.2021 to 15.6.2024. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) 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;

- (c) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (d) no vehicles exceeding 7 metres long, as proposed by the applicant, are allowed to enter the Site through Kam Ho Road at any time during the planning approval period;
- (e) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time 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 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 16.9.2021;
- (i) the implementation of the accepted fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.12.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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;
- (k) if any of the above planning conditions (h) or (i) 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
- (l) upon expiry of the planning permission, the reinstatement of the Site 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 the planning permission of previous application No. A/YL-KTS/785, except change in those on traffic and FSIs based on C for T and D of FS's comments.]

Advisory Clauses

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

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 with planning statement received on 19.4.2021
- Appendix Ia** FI received on 28.5.2021
- Appendix II** Previous applications covering the Site
- Appendix III** Similar application within the same “AGR” zone on the Kam Tin South OZP
- Appendix IV** Public comment received during the statutory publication period
- Appendix V** Advisory Clauses
- Drawing A-1** Site 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-4a and Site Photos
A-4b**

**PLANNING DEPARTMENT
JUNE 2021**