

RNTPC Paper No. A/YL-KTS/915
For Consideration by
the Rural and New Town
Planning Committee
on 4.3.2022

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

APPLICATION NO. A/YL-KTS/915

<u>Applicant</u>	: Mr. TANG Luen Kwong
<u>Site</u>	: Lot 452RP (Part) in D.D. 109, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 720 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>	: “Residential (Group C)” (“R(C)”) [Maximum plot ratio of 0.8, maximum site coverage of 40% and maximum building height of 4 storeys (12m)]
<u>Application</u>	: Renewal of Planning Approval for Temporary Car Park (Private Cars and Light Goods Vehicles) 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 car park (private cars and light goods vehicles) for a period of 3 years. The Site falls within an area zoned “R(C)” on the approved Kam Tin South OZP. According to the covering Notes of the OZP, temporary use or development of any land or building 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 valid planning permission under Application No. A/YL-KTS/818 until 22.3.2022 (**Plans A-2 and A-4**).

- 1.2 The Site is the subject of 3 previous applications (No. A/YL-KTS/622, 689 and 818) for the same use as the current application submitted by the same applicant which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 13.12.2013, 8.1.2016 and 22.3.2019 for a period of 3 years. All the approval conditions for the last approved application (No. A/YL-KTS/818) have been complied with.
- 1.3 According to the applicant, a total of 25 parking spaces for private cars and light goods vehicles are provided within the Site. The car parking spaces are intended to serve the members of Tso Tong and meet the local parking demand. The operation hours are between 6:00 a.m. and 10:30 p.m. daily. The Site is accessible from Kam Tin Road. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 Compared with the last approved application (No. A/YL-KTS/818), the current application is the same in terms of applied use, site area, site layout and number of parking spaces provided.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information (**Appendix I**) received on 12.1.2022

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and supplementary information in **Appendix I**. They can be summarized as follows:

- (a) The Site is the subject of a previous approved planning application for temporary car park (private cars and light goods vehicles). Over the past 3 years, the operation has not caused any nuisance to the nearby residents/occupants.
- (b) The proposed use provides a short-term solution for the much demanding carpark space in the area.
- (c) Temporary approval of the application would not frustrate the long-term planning intention of the “R(C)” zone.
- (d) The 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 endeavor to minimize any disturbance to the surroundings.

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

The applicant is not a “current land owner” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by sending notice to the Kam Tin Rural Committee by registered post and posting notice near the entrance of the Site. 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 planning enforcement action.

6. **Previous Applications**

- 6.1 The Site is the subject of three previous applications (No. A/YL-KTS/622, 689 and 818) for the same use (i.e. temporary car park for Tso Tong) as the current application and submitted by the same applicant. All applications were approved with conditions by the Committee on 13.12.2013, 8.1.2016 and

22.3.2019 for a period of 3 years. Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.

- 6.2 These applications were approved mainly for the reasons that temporary approval would not frustrate the long-term planning intention of the “R(C)” zone; the developments were not incompatible with the surrounding land uses; there were no adverse departmental comments on the applications; and the technical concern of relevant departments could be addressed by approval conditions. However, the planning permission of Application No. A/YL-KTS/622 was revoked on 13.6.2014 due to non-compliance with approval conditions on drainage, landscape and fire safety aspects. All the approval conditions for Applications No. A/YL-KTS/689 and 818 have been complied with.

7. **Similar Application**

There is no similar application for temporary car park within the same “R(C)” zone in the vicinity of the Site on the OZP.

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) accessible from Kam Tin Road.

8.2 The surrounding areas are rural in character mixed with residential dwellings/structures, some of which with shops on the ground floor, restaurant, parking of vehicles, open storage/storage yards, workshops, GIC facilities, vacant/unused land and fallow agriculture land. The open storage/storage yards and workshops are suspected unauthorized development subject to enforcement action taken by the Planning Authority:

- (a) to the immediate west and east are residential dwellings/structures, some of which with shops on the ground floor, parking of vehicles, a car park, a restaurant, a car repair workshop, a refuse collection point and an electric substation;
- (b) to the immediate south and southeast are a car beauty workshop, a youth centre and parking of vehicles, and further south are an open storage yard and fallow agriculture land; and

- (c) to the north across Kam Tin Road are residential dwellings/structures (some with ground floor shops), open storage/storage yards and workshops.

9. Planning Intention

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to 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):

The Site comprises an Old Schedule Agricultural Lot 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. The information provided in the application indicates that no structure is proposed within the Site.

Traffic

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

- (a) He is supportive of the application from the traffic engineering perspective to meet public demand of car parking spaces.
- (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 Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department shall not be responsible for maintenance of any access connecting the Site and Kam Tin 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):

There was no environmental complaint received at the Site in the past three years. 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” issued by the DEP to minimize any potential environmental nuisance.

Drainage

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

- (a) He has no objection in-principle to the development.
- (b) Based on the submission in the application, the applicant would maintain the same drainage facilities as those implemented under the previous application No. A/YL-KTS/818.
- (c) Should the application be approved, the approval conditions on the maintenance of the drainage facilities implemented under Application No. A/YL-KTS/818 and submission of records of the existing drainage facilities on the Site should be included in the planning permission.

Fire Safety

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

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

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on Site, prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (d) If the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Water Supply

10.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) Existing water mains will be affected as shown on **Plan A-2**. The cost of any necessary diversion shall be borne by the developer.
- (b) In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5 metres from the centerline of the water mains shall be provided to WSD. No structure shall be built or materials stored within this waterworks reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (c) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water mains shown on **Plan A-2**.

- (d) The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

District Officer's Comments

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

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

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD));
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 21.1.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 11.2.2022, a public comment from an individual was received (**Appendix III**). The commenter objects to the application mainly on the grounds that the development would cause adverse impacts on traffic, environment and fire safety and the well-being of the villagers nearby.

12. Planning Considerations and Assessments

12.1 The application is for renewal of temporary car park (private cars and light goods vehicles) for a period of 3 years within the "R(C)" zone. The planning intention of the "R(C)" is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The applied use is not in line with the planning intention of the "R(C)" zone. Nevertheless, according to the applicant, the applied use is to serve the members of Tso Tong and meet the local parking demand. Also, there is at present no known programme for long-term development at the Site. It is considered that approval of the application on a temporary basis for 3 more years would not jeopardize the long-term planning intention of the "R(C)" zone.

12.2 The temporary car park is considered not incompatible with the surrounding areas mixed with residential dwellings/structures, some of which with shops on the

ground floor, parking of vehicles, car park, open storage/storage yards, GIC facilities, and fallow / cultivated agriculture land.

- 12.3 The application is generally in line with TPB PG-No. 34C in that all the approval conditions under the last approved application (No. A/YL-KTS/818) have been complied with. There is no adverse comment from relevant departments consulted and no local objection received as advised by DO(YL). Besides, there is no major change in planning circumstances since the last approval. 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, site layout and car parking spaces provided. The 3-year approval period sought is of the same time frame as the previous application.
- 12.4 Relevant departments consulted including DEP, C for T, CHE/NTW of HyD, D of FS and CE/MN of DSD have no objection to or no adverse comment on the application. The applicant will be advised to adopt the environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in paragraph 13.2 below.
- 12.5 The Site is the subject of three previous applications (No. A/YL/KTS/622, 689 and 818) for the same use submitted by the same applicant as the current application which were approved with conditions by the Committee between 2013 and 2019 for reasons as stated in paragraph 6 above. All the approval conditions for the last approved application No. A/YL-KTS/818 have been complied with. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 One objecting comment was received during the statutory publication period as mentioned in paragraph 11 above. In this regard, relevant government departments’ comments as well as planning considerations and assessments 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 as mentioned in paragraph 11 above, the Planning Department considers that the temporary car park (private cars and light goods vehicles) 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 23.3.2022 until 22.3.2025. The following conditions of approval 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 the 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a 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 23.6.2022;
- (g) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (h) if any of the above planning condition (a), (b), (c), (d), (e) 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; and
- (i) 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.

[The above approval conditions are similar to those under the last approved planning Application No. A/YL-KTS/818, except those on drainage and fire safety aspects based on relevant government department's comments, and deletion of the conditions on operational hours and period.]

Advisory Clauses

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

- 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 Supplementary Information received on 12.1.2022
Appendix II	Previous Applications covering the Site
Appendix III	Public Comment received during the Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**