

RNTPC Paper No. A/YL-KTS/932
For Consideration by
the Rural and New Town
Planning Committee
on 12.8.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/932

<u>Applicant</u>	:	Longwick Landscape Greening Company Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 1892 RP in D.D. 106, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	:	1,757m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin South Outline Zoning Plan No. S/YL-KTS/15
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Shop and Services (Landscaping and Gardening Showroom) for a Period of 3 Years and Land Filling

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (landscaping and gardening showroom) for a period of three years and land filling. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years and filling of land in the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is fenced, vacant and mostly paved (**Plan A-2**).
- 1.2 According to the applicant, the proposed development is for the operation of a gardening and landscaping retail shop and showroom which involves an open area for displaying gardening and landscaping products, an artificial pond for displaying landscape products with water features, and four one to two-storey structures (ranging from about 3.5m and 7m in height) with a total floor area of about 469.2m² for shop and services, ancillary office, toilet, caretaker office and storage uses. 3 private car parking spaces and 1 light goods vehicle loading / unloading space will also be provided. About 738m² (or 42%) of the Site will be filled by concrete at a depth of not more than 0.2m for site formation of structures and circulation space. The operation hours are from 9:00 a.m. to 7:00 p.m. daily including public holidays. No vehicle exceeding 5.5 tonnes will be allowed to enter / exit the Site. The Site is accessible via a short local access branching off

from Pat Heung Road. The site layout plan and paved ratio plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is involved in a previous planning application No. A/YL-KTS/833 (detailed in paragraph 5 below) approved by the Rural and New Town Planning Committee (the Committee) for the same use with same development parameters (including site area, total GFA, building height, number of car parking spaces and loading/unloading space) as the current application in December 2019.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information (**Appendix I**) received on 16.6.2022
 - (b) Further information (FI) received on 5.8.2022 (**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 summarized as follows:

- (a) The proposed development is to support local farmers and promote sustainable local farming in the Kam Tin and Pat Heung area.
- (b) The proposed development is temporary in nature and would not jeopardize the long-term planning intention of the “AGR” zone.
- (c) Land filling is required for site formation of structures and circulation space, which is considered necessary and has been kept to minimal for the operation of the proposed development. Upon expiry of the planning approval, the Site will be reinstated to an amenity area with the hard-paving removed and reinstated for agricultural purpose.
- (d) The applicant will follow the ‘Code of Practice on Handling the Environment Aspects of Temporary Uses and Open Storage Sites’ to minimize adverse environmental impacts on the surrounding area. The relevant Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PNs) would be followed to treat all discharge, and a license will be applied under the Water Pollution Control Ordinance. The applicant will also comply with all the approval conditions after obtaining the planning approval.
- (e) The proposed development will not induce adverse traffic, environmental, drainage and landscape impacts to the surrounding areas.

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 site notice and notifying the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Application

- 5.1 The Site is the subject of a previous application No. A/YL-KTS/833 for proposed temporary shop and services (landscaping and gardening showroom) for a period of three years and land filling. The application was approved with conditions by the Committee on 13.12.2019 mainly on the grounds that temporary approval of the application would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; relevant departments in general had no objection; and/or the technical concerns of relevant departments could be addressed by appropriate approval conditions. Nevertheless, the planning permission of application No. A/YL-KTS/833 was revoked on 13.5.2022 owing to non-compliance with approval condition related to the implementation of fire service installations proposal.
- 5.2 Compared with the last Application No. A/YL-KTS/833, the current application is submitted by the same applicant and is the same in terms of applied use, site area / boundary, layout and major development parameters.
- 5.3 Details of the application is summarized in **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Applications

There are two similar applications (No. A/YL-KTS/788 and 834), both of which are for temporary shop and services (real estate agency) or renewal of planning permission granted by the Committee, within the same “AGR” zone in the vicinity of the Site within the past 5 years. All the applications were approved with conditions by the Committee in July 2018 and December 2019 mainly for similar reasons as stated in paragraph 5.1 above. However, the planning permission of application No. A/YL-KTS/788 was revoked due to non-compliance with the approval conditions. Details of the application is summarized in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) fenced, vacant and mostly hard paved; and
- (b) accessible via a local track leading from Pat Heung Road (about 10m) across a nullah to its northwest.

7.2 The surrounding areas have the following characteristics:

- (a) to its south and east are cultivated agricultural land, grassland and scattered residential dwellings / structures;
- (b) to its southwest are parking of vehicles, a pond, an open storage yard and residential dwellings / structures; and
- (c) to its immediate north is a nullah, and further north across Pat Heung Road is land zoned “Village Type Development” with residential dwellings / structures, grassland and vacant land (which is the site approved for proposed temporary shop and services (estate agency) under application No. A/YL-KTS/893).

8. Planning Intention

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.
- 9.2 The following government department has objection to / reservation on the application.

Agriculture and Nature Conservation

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

the Site falls within the “AGR” zone and is abandoned. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

10. Public Comment Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, a public comment was received. An individual raises objection to the application mainly on the grounds that the previous application was revoked due to non-compliance of approval condition related to the fire safety aspect, and there are frequent fire incidents in the New Territories.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (landscaping and gardening showroom) for a period of three years in the “AGR” zone, with filling of land at part of the Site (738m² / 42%) by not more than 0.2m in depth for site formation of structures and circulation purposes. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Although the application is not in line with the planning intention of the “AGR” zone and DAFC does not support the application as the Site possesses potential for agricultural rehabilitation, it is considered that approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “AGR” zone. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, CE/MN of DSD and DEP have no adverse comment from the drainage and environmental perspectives.
- 11.2 According to the applicant, the proposed gardening and landscaping retail shop and showroom is intended to support the local farmers and promote sustainable local farming in the Kam Tin and Pat Heung areas. The proposed development is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures / dwellings, active agricultural land, parking of vehicles, open storage yard, grassland and vacant land.
- 11.3 In view of its nature and scale, the proposed development is not expected to cause significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Relevant departments consulted including C for T, DEP, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no adverse

comment on the application. To minimize the possible environmental nuisances generated by the development and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses” issued by DEP.

- 11.4 The Site is involved in a previous approval (No. A/YL-KTS/833) for the same applied use and submitted by the same applicant granted by the Committee in December 2019. The planning permission of the last application was revoked in May 2022 due to non-compliance with planning condition related to the implementation of FSIs proposal. In this regard, the applicant explains that the non-compliance of approval condition was mainly because the applicant failed to apply for Short Term Waiver. In the current application, the applicant has included a FSIs proposal and a drainage proposal in support of the application with no adverse comment received from both D of FS and CE/MN of DSD. The applicant also undertakes to comply with all the approval conditions should the application be approved by the Committee. Moreover, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 11.5 There are two similar applications approved by the Committee in 2018 and 2019 for temporary shop and services (real estate agency) within the same “AGR” zone in the vicinity of the Site as detailed in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decisions.
- 11.6 Regarding the public comment on the application as detailed in paragraph 11 above, government departments’ comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 years.
- 12.2 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 until 12.8.2025. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;

- (c) 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 12.11.2022;
- (d) the implementation of the accepted fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.2.2023;
- (e) if any of the above planning condition (a) or (b) 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;
- (f) if any of the above planning conditions (c) or (d) 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
- (g) 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.

Advisory clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.

- 13.3 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.

14. Attachments

Appendix I	Application form with supplementary information received on 16.6.2022
Appendix Ia	FI received on 5.8.2022
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Drawing A-2	Paved ratio plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4	Site photos

**PLANNING DEPARTMENT
AUGUST 2022**