

RNTPC Paper No. A/YL-KTS/938
For Consideration by
the Rural and New Town
Planning Committee
on 14.10.2022

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

APPLICATION NO. A/YL-KTS/938

- Applicant** : Mr. LAU Sheung Hing represented by Metro Planning and Development Company Limited
- Site** : Lot 1568 (Part) in D.D. 106 and Adjoining Government Land, Yuen Kong, Pat Heung, Yuen Long, New Territories
- Site Area** : About 330m² (including about 16.15m² of government land)
- Land Status** : (i) Block Government Lease (demised for agricultural use) (covered by Short Term Waiver (STW) No. 2036 for the purpose of “Temporary Shop and Services (Real Estate Agency)”) (about 95% of the Site)
(ii) Government Land (about 5% of the Site)
- Plan** : Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) 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 shop and services (real estate agency) for a period of 3 years. The Site falls within an area zoned “AGR” on the Kam Tin South OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 years within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is fenced, paved and used for the applied use with valid planning permission under Application No. A/YL-KTS/834 (**Plans A-2 to A-4**). All the approval conditions have been complied with and the planning permission is valid until 23.12.2022.
- 1.2 The Site is involved in three previous planning applications (detailed in paragraph 6 below). The current application submitted by a different applicant is the same as the last approved application No. A/YL-KTS/834 in terms of the applied use, site area / boundary, layout and major development parameters.

- 1.3 According to the applicant, four 1 to 2-storey structures with a total floor area of about 255m² and building height not more than 6.5m are erected within the Site for real estate agency and meeting room, an open shed as rain shelter, an advertisement signboard and an electricity meter room. Five parking spaces for private car are provided underneath the rain shelter within the Site. The Site is accessible via Kam Sheung Road. The operation hours are between 9:00 a.m. and 8:00 p.m. daily, including Sundays and public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received on 24.8.2022, 29.8.2022, 30.8.2022 and 2.9.2022 **(Appendix I)**
 - (b) Further Information (FI) received on 30.9.2022 **(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 temporary nature of the development would not jeopardise the long-term planning intention of the “AGR” zone.
- (b) The applied use is compatible with the surrounding environment. Similar applications for real estate agency were approved in the vicinity of the Site by the Board. The planning circumstances of the Site are similar to that of the similar applications in the vicinity.
- (c) The Site is involved in three previous planning applications since 2014 and the current renewal application is same as the last approved application. All the approval conditions of the last application have been complied with.
- (d) The applied use would not generate adverse traffic, environmental, drainage and noise impacts.

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

The applicant is not the “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 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. Regarding the portion of the Site falling within government land, the “Owner’s Consent / Notification” Requirements are not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “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 Site is currently not the subject of any active planning enforcement action.

6. Previous Applications

- 6.1 The Site is involved in 3 previous applications (No. A/YL-KTS/623, 724 and 834) submitted by different applicant for the same applied use / renewal of the planning approval granted by the Board as the current application. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between January 2014 and December 2019 mainly on the grounds that approval of the applications on a temporary basis would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding rural land uses; relevant departments in general had no objection or their technical concerns could be addressed by appropriate approval conditions; or the renewal application was in line with the relevant Town Planning Board Guidelines for renewal of planning approval for temporary use or development.
- 6.2 Compared with the last approved Application No. A/YL-KTS/834, the current application submitted by a different applicant is the same in terms of the applied use, site area / boundary, layout and major development parameters. All the approval conditions are complied with and the planning permission is valid until 23.12.2022.
- 6.3 Details of these applications are summarized in **Appendix III** and the locations are shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are 3 similar applications (No. A/YL-KTS/788, 833 and 845) for temporary shop and services uses within the “AGR” zones in the vicinity of the Site in the past 5 years. All applications were approved with conditions by the Committee between July 2018 and April 2020 on similar considerations as stated in paragraph 6.1 above. Nevertheless, the planning permissions for Applications No. A/YL-KTS/788 and 833 were revoked owing to non-compliance with the approval conditions.
- 7.2 Details of these applications are summarized in **Appendix III** and the locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) fenced, paved and built with some existing structures;
- (b) accessible via Kam Sheung Road to its north (about 20m).

8.2 The surrounding areas have the following characteristics:

- (a) to its north across Kam Sheung Road are village houses of Yuen Kong Tsuen, parking of vehicles, an open storage yard, a car beauty service workshop, grassland and vacant land in the “V” zone; and
- (b) to its east, south and west are residential structures/dwellings, parking of vehicles, open storage yards, a warehouse, a shop, active farmland, grassland and vacant land.

9. Planning Intention

The planning intention of the “AGR” zone is 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 Department

The government 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 IV** and **V** respectively.

11. Public Comment Received During the Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory public inspection period, one public comment was received. An individual objects to the application mainly on the grounds that the development would cause adverse impacts on environment and fire safety thus affecting the well-being of the villagers nearby.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning permission for temporary shop and services (real estate agency) at the Site zoned “AGR”. The planning intention of the “AGR” zone is 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. Whilst the applied use is not in line with the planning intention of the “AGR” zone, DAFC has no strong view on the application noting that the Site has been approved for the same temporary use before. Approval of the application on a temporary

basis for a period of 3 years would not jeopardise the long-term planning intention of the “AGR” zone.

- 12.2 The development is considered not incompatible with the surrounding land uses which are predominated by residential structures/dwellings, open storage yards, parking of vehicles, grassland and vacant land. There are also similar temporary shop and services applications approved by the Committee in the vicinity (**Plan A-1**).
- 12.3 The application is generally in line with the TPB PG-No. 34D in that the current application is same as the last application in terms of the applied use, site area / layout and major development parameters; the applicant has complied with all the approval conditions; the renewal of planning approval period sought is of the same time frame as the previous approval; and there has been no material change in planning circumstances since the granting of the previous approval. In this regard, favourable consideration could be given to the current renewal application.
- 12.4 In view of its relatively small scale with a site area of about 330m² and direct frontage onto Kam Sheung Road, it is unlikely that the development would generate significant environmental nuisance to the nearby residential structures/dwellings. Relevant departments consulted including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS have no adverse comment on the application. Appropriate approval conditions are recommended in paragraph 13.2 below to address the technical requirements of concerned government departments. 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 DEP.
- 12.5 Regarding the public comment on the application as detailed in paragraph 11 above, government departments’ comments and planning 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 mentioned in paragraph 11 above, the Planning Department considers that the applied use 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 24.12.2022 until 23.12.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no 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) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) if any of the above planning condition (a), (b), (c) or (d) 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
- (f) 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 approval conditions are largely the same as those under the previous approved application No. A/YL-KTS/834, except deletion of the conditions related to the traffic, drainage and fire safety aspects based on the latest comments of C for T, CE/MN of DSD and D of FS.]

Advisory clauses

The recommended advisory clauses are attached 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 24.8.2022, 29.8.2022, 30.8.2022 and 2.9.2022
Appendix Ia	FI received on 30.9.2022
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
Drawing A-1	Layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
OCTOBER 2022**