

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

APPLICATION NO. A/YL-KTS/970

<u>Applicant</u>	:	Mr. Tang Tin Wai represented by Goldrich Planners & Surveyors Limited
<u>Site</u>	:	Lots 565 (Part), 566 RP (Part), 613 (Part) and 616 RP (Part) in D.D. 106 and Adjoining Government Land, Ng Ka Tsuen, Kam Sheung Road, Yuen Long
<u>Site Area</u>	:	About 3,985m ² (including Government land (GL) of about 53m ² (1.3%))
<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>	:	“Other Specified Uses” annotated “Rural Use” (“OU(RU)”) [Maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]
<u>Application</u>	:	Renewal of Planning Approval for Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission for temporary shop and services for a period of 3 years at the application site (the Site) which falls within an area zoned “OU(RU)” on the Kam Tin South OZP (**Plan A-1a**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under the “OU(RU)” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently paved, erected with temporary structures and used for the applied use with valid planning permission under application No. A/YL-KTS/851 (**Plans A-2 to A-4**). All the approval conditions have been complied with and the planning permission is valid until 15.9.2023.
- 1.2 According to the applicant, the development involves 15 one to two-storey structures with building heights ranging from 2.6m to 7m and a total floor area of about 2,622m² at the Site for shop and services (motor-vehicle showroom) and ancillary office, storeroom and toilet uses. About 100 vehicles would be displayed within the Site. The operation hours are from 8:00 a.m. to 9:00 p.m. daily including Sundays and public holidays. Seven parking spaces for private cars and three

parking spaces for light goods vehicles are provided within the Site. The Site is accessible from Kam Sheung Road. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in 19 previous applications for various temporary uses, including two (No. A/YL-KTS/718 and 851) for the same use as the current application (details at paragraph 6 below). Compared with the last approved application No. A/YL-KTS/851 submitted by the same applicant, the current application is the same in terms of the applied use, site area/boundary, layout and major development parameters.
- 1.4 In support of the application, the applicant has submitted the following document:
- (a) Application form with supplementary information received (**Appendix I**) on 30.6.2023
 - (b) Further Information (FI) received on 24.7.2023* (**Appendix Ia**)
 - (c) FI received on 28.7.2023* (**Appendix Ib**)
 - (d) FI received on 10.8.2023* (**Appendix Ic**)
- * *Exempted from publication and recounting requirements*

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 FIs at **Appendices I to Ic**. They can be summarised as follows:

- (a) The development is temporary in nature and will not frustrate the long-term planning intention. Besides, it is compatible with the surrounding environment.
- (b) There is no change in the applied use and layout of the development between the current application and the last approved application No. A/YL-KTS/851. All the approval conditions have been complied with.
- (c) There are similar applications for shop and services approved by the Rural and New Town Planning Committee (the Committee) in the vicinity of the Site within the same “OU(RU)” zone.
- (d) The applicant will regularise the unauthorised building works (UBWs) under lease by applying for Short Term Waiver (STW) for the structures erected.
- (e) The development does not induce adverse traffic, environmental and drainage impacts on the surrounding areas. No workshop activities are carried out at the Site. No vehicles exceeding 5.5 tonnes are allowed to be parked/stored on or enter/exit the Site. The existing drainage facilities and fire service installations (FSIs) on the Site are well-maintained to the satisfaction of the concerned departments.

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

The applicant is not the “current land owner” of the private land portion of the Site 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 to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” Requirement is not applicable.

4. Town Planning Board Guidelines

4.1 The Town Planning Board Guidelines for ‘Designation of “OU(RU)” Zone and Application for Development within “OU(RU)” Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 38) is relevant to the application. The relevant assessment criteria are summarised as follows:

application for development within “OU(RU)” zone would need to demonstrate that the proposed development is in line with the planning intention of the zone and will not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings and will not overstrain the capacity of existing and planned infrastructure such as transport, drainage, sewerage and water supply in the area. Each development proposal will be assessed on its individual merits, with particular reference to its sustainability in ecological, environmental and infrastructural terms.

4.2 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. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

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

6. Previous Applications

6.1 The Site is involved in 19 previous applications for various temporary uses. Whilst the last two applications (No. A/YL-KTS/718 and 851) were for the same use as the current application, the remaining 17 applications were for various temporary open storage and vehicle park uses which are not related to the current application.

6.2 Applications. No. A/YL-KTS/718 and 851 were approved by the Committee in December 2016 and September 2020 respectively, mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the applied use was considered not incompatible with the surrounding land uses; and the relevant departments consulted generally had no adverse comment or their technical concerns could be addressed by relevant approval conditions. All the

approval conditions under the last application No. A/YL-KTS/851 are complied with and the planning permission is valid until 15.9.2023.

- 6.3 Details of the previous applications are summarised in **Appendix III** and the locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 There are two similar applications (No. A/YL-KTS/889 and 911) for shop and service uses within the same “OU(RU)” zone in the vicinity of the Site in the past 5 years approved with conditions by the Committee in June 2021 and November 2021 respectively, on similar considerations as stated in paragraph 6.1 above. The planning permission under application No. A/YL-KTS/889 was revoked subsequently due to non-compliance with approval conditions.
- 7.2 Other than the similar applications as stated in paragraph 7.1 above, application No. A/YL-KTS/967 for temporary shop and services (vehicles, caravans and construction materials showroom) use will also be considered in this same meeting (**Plan A-1a**).
- 7.3 Details of the similar applications are summarised in **Appendix III** and the locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
- (a) currently paved, erected with temporary structures, and used for the applied use with valid planning permission under application No. A/YL-KTS/851; and
 - (b) accessible from Kam Sheung Road on the east.
- 8.2 The surrounding areas have the following characteristics:
- (a) to the west and southwest are open storage yard, residential structures/dwellings, parking of vehicles, works sites and farmland;
 - (b) to the southeast and south are a car services shop, residential structures/dwellings, open storage/storage yards and works site;
 - (c) to the north are residential structures/dwellings and a church; and
 - (d) to the east across Kam Sheung Road are residential structures/dwellings, warehouse and car services shop.

9. Planning Intentions

The planning intention of the “OU(RU)” is primarily for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 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 IV and V** respectively.

10.2 The following government department has adverse comment on the application:

Land Administration

Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD):

- (a) LandsD has adverse comment on the application;
- (b) the Site comprises GL and 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;
- (c) no permission is given for occupation of GL (about 53m² subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed; and
- (d) LandsD has grave concerns given that there are UBWs and/or uses on Lots 565 and 566 RP in D.D.106 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.

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

The application was published for public inspection. During the statutory publication period, one public comment was received from an individual raising concerns on the compliance status of the previous planning permission as well as drainage and fire safety issues.

12. Planning Considerations and Assessments

- 12.1 The application is for the renewal of planning permission for temporary shop and services for a period of 3 years at the Site zoned “OU(RU)”. The planning intention of the “OU(RU)” zone is primarily for the preservation of the character of the rural area, and uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities. Whilst the applied use is not entirely in line with the planning intention of the “OU(RU)” zone, there is no known proposal for long-term development at the Site. It is considered that approval of the application on a temporary basis for a further period of 3 years would not frustrate the long-term planning intention of the “OU(RU)” zone.
- 12.2 The applied use is not incompatible with the surrounding areas which are predominated by residential dwellings/structures, open storage/storage yards and car services shop/showroom. The Chief Town Planner/Urban Design and Landscape of the Planning Department (CTP/UD&L of PlanD) considers that significant adverse landscape impact arising from the continuous use is not anticipated and has no objection to the application from landscape planning perspective.
- 12.3 DLO/YL of LandsD has adverse comments on the application in view of the existing UBWs at the Site. In this regard, the applicant states that STW application will be submitted to LandsD to regularise the UBWs. Relevant advisory clause on need for application to LandsD for regularisation for UBWs is also recommended.
- 12.4 The application is generally in line with TPB PG-No. 34D in that the current application is the same as the last approved application No. A/YL-KTS/851 in terms of the applied use, site area/boundary, layout and major development parameters; all the approval conditions have been complied with; 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 the planning circumstances since the granting of the previous approval.
- 12.5 Other relevant departments consulted including the Commissioner for Transport (C for T), the Director of Environmental Protection (DEP), the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Fire Services (D of FS) have no objection to or no adverse comment on the application. The application is also in line with TPB PG-No. 38 in that the applied use would not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings, nor would not overstrain the capacity of existing and planned infrastructure. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to follow the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by DEP to minimise any potential environmental nuisances.

- 12.6 There are two approved previous applications for the same use at the Site and two approved similar applications within the same “OU(RU)” zone as stated in paragraphs 6.1 and 7.1 above. Approving the current application is in line with the Committee’s previous decisions.
- 12.7 Regarding the public comment mentioned in paragraph 11 above, the departmental comments and planning 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 as mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 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 16.9.2023 to 15.9.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 8:00 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 implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the existing fire service installations implemented on the site shall be maintained in efficient working order 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.

[The above approval conditions are the same as those under the last approved planning Application No. A/YL-KTS/851, except deletion/revision to the conditions on traffic, drainage and fire safety aspects based on the latest comments from C for T, CE/MN of DSD and D of FS.]

Advisory clauses

The recommended advisory clauses are 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 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 30.6.2023
Appendix Ia	FI received on 24.7.2023
Appendix Ib	FI received on 28.7.2023
Appendix Ic	FI received on 10.8.2023
Appendix II	Relevant extract of TPB PG-No. 34D
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Site layout plan
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous applications plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
AUGUST 2023**