

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

APPLICATION NO. A/YL-KTS/984

<u>Applicant</u>	:	Hang Tone Drainage Engineering Ltd. represented by Top Bright Consultants Ltd.
<u>Site</u>	:	Lot 455 RP (Part) in D.D.106, Kam Sheung Road, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 1,650m 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>	:	“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 Site Office and Service Depot for Drainage and Sewerage Works for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary site office and service depot for drainage and sewerage works for a period of three years. The Site falls within an area zoned “OU(RU)” on the Kam Tin South OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site comprises northern and southern portions separated by a local track. It is currently paved, fenced, erected with temporary structures and used for the applied use (**Plans A-2 to A-4**) with valid planning permission under the previous application No. A/YL-KTS/875, with all the approval conditions complied with and the planning permission is valid until 26.2.2024.
- 1.2 According to the applicant, the applied use involves 3 single to double-storey structures/canopy with heights of not more than 6m for site office and ancillary pantry, washroom, staff parking (private cars), fire service pump room and water tank in the northern portion; and 12 single to double-storey structures/canopies with heights of not more than 5.5m for site office and ancillary storage and meter room in the southern portion. The total floor area is about 878m². 9 parking spaces

(including 7 for private cars; 1 for light goods vehicle; and 1 for medium goods vehicle) will be provided within the Site. No cleaning or workshop activities will be carried out at the Site and no vehicles exceeding 24 tonnes will enter the Site. The operation hours are from 7 a.m. to 7 p.m. on Mondays to Saturdays and there is no operation on Sundays and public holidays. The Site is accessible via a local track leading to Kam Sheung Road. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in two previous applications (details at paragraph 6 below). Compared with the last approved application No. A/YL-KTS/875, the current application is the same in terms of applicant, applied use, site area/boundary, layout and major development parameters.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received (**Appendix I**) on 19.12.2023 and 28.12.2023
 - (b) Further Information (FI) received on 30.1.2024* (**Appendix Ia**)
 - (c) FI received on 2.2.2024* (**Appendix Ib**)
- * 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 Ib**. They can be summarised as follows:

- (a) As increasing infrastructural projects in the area spearheaded by the Government's Northern Metropolis initiative are anticipated, temporary work sites with ancillary office to facilitate public works will be in great demand. The applied use can facilitate such projects in the New Territories and meet the demand for the specialist services provided by the applicant.
- (b) The Site is an ideal location for the applied use as it is served by Kam Sheung Road without passing through village houses. There is no alternative location that the applicant could find to meet the operational need of the applied use.
- (c) Approval of the application will not contravene the planning intention of the "OU(RU)" zone. The development is compatible with the surrounding land uses and it maximises the use of abandoned land. The potential environmental, visual, traffic and drainage impacts caused by the applied use are anticipated to be insignificant. The applicant will submit Short Term Waiver (STW) application to regularise the unauthorised structures under lease.
- (d) 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/875. All the approval conditions of the last planning permission were complied with.

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.31B) 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 Member’s inspection.

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) are relevant to this 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 also 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 two previous applications (No. A/YL-KTS/754 and 875) for the same use and submitted by the same applicant as the current application. The applications were approved by the Rural and New Town Planning Committee (the Committee) in January 2018 and February 2021 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 relevant departments consulted generally had no adverse comment or their technical concerns could be addressed by relevant approval conditions. The planning permission under application No. A.YL-KTS/754 was revoked in 2020 due to non-compliance with the approval conditions.

6.2 Compared with the last approved application No. A/YL-KTS/875, the current application is the same in terms of site area/boundary, layout and major development parameters. All the approval conditions of the planning permission under application No. A/YL-KTS/875 were complied with and the permission is valid until 26.2.2024.

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

7. Similar Application

There is no similar application for temporary site office and service depot within the same “OU(RU)” zone in the vicinity of the Site in the past five years.

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

8.1 The Site is:

- (a) paved, fenced off, erected with temporary structures, and currently used for the applied use with valid planning permission under the previous application No. A/YL-KTS/875; and
- (b) separated into northern and southern portions by a local track serving the uses/developments to the west. The Site is accessible from Kam Sheung Road on the east via a short section of the local track.

8.2 The surrounding areas are rural in character intermixed with open storage/storage yards, warehouses, workshop, residential dwellings/structures (the nearest one in about 10m to the west), farmland and vacant land.

9. Planning Intention

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 departments 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 departments have adverse comment on/do not support the application:

Land Administration

- 10.2.1 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 Old Schedule Agricultural Lot No. 455 RP in D.D. 106 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) the irregularities of unauthorised structure(s) within the said private lot(s) covered by the planning application have been detected by his office. LandsD has reservation on the planning application since there are unauthorised structures and uses on the private lot which is already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD; and
- (d) if the planning application is approved, the lot owner(s) shall apply to his office for STW to permit the structure(s) erected within the said private lot. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered.

Environment

- 10.2.2 Comments of the Director of Environmental Protection (DEP):

- (a) does not support the application as heavy vehicle is involved in the application and sensitive receivers are within 100m from the Site;
- (b) should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisances on the surrounding area; and it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances; and
- (c) there was no environmental complaints concerning the Site received in the past three years.

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 and fire safety issue.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary site office and service depot for drainage and sewerage works for a period of three years at the Site zoned “OU(RU)” (**Plan A-1**). 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 in line with the planning intention of the “OU(RU)” zone, there is no known programme for long-term development at the Site. It is considered that approval of the application on a temporary basis for a further period of three 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 intermixed with open storage/storage yards, warehouses, workshop, residential dwellings/structures, farmland and vacant land. 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 unauthorised structures within the subject lot. In this regard, the applicant states that STW application will be submitted to LandsD to regularise the structures. Relevant advisory clause on need for application to LandsD for regularisation of the unauthorised structures is also recommended.
- 12.4 DEP does not support the application as the applied use involves use of heavy vehicle and there are sensitive receivers in the vicinity. In this regard, the access to the Site is via a short section of local track leading to Kam Sheung Road without passing through the residential dwellings/structures on the west. There was also no environmental complaint received concerning the Site in the past three years. To address DEP’s concerns, approval conditions restricting the operation hours and prohibiting workshop activities 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 possible environmental nuisance generated by the applied use, and to meet the statutory requirements under relevant pollution control ordinances.

- 12.5 Other relevant departments consulted, including the Commissioner for Transport (C for T), 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 generally 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 it 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.
- 12.6 The application is also generally in line with TPB PG-No. 34D in that all the approval conditions of the last planning permission under application No. A/YL-KTS/875 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.
- 12.7 Regarding the public comment mentioned in paragraph 11, the departmental comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and taking into account the public comment in paragraph 11, the Planning Department considers that the applied use could be tolerated for a further period of three 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 three years and be renewed from 27.2.2024 to 26.2.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the site at any time during the planning approval period;
- (d) no heavy goods vehicles exceeding 24 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;

- (e) the existing 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 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 27.5.2024;
- (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 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/875, except deletion/revision to the conditions on traffic, fire safety and landscape aspects based on the latest comments from C for T, Chief Highway Engineer/New Territories West of the Highways Department, D of FS and CTP/UD&L of PlanD.]

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 19.12.2023 and 28.12.2023
Appendix Ia	FI received on 30.1.2024
Appendix Ib	FI received on 2.2.2024
Appendix II	Relevant extract of TPB PG-No. 34D
Appendix III	Previous applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & 4b	Site photos

**PLANNING DEPARTMENT
FEBRUARY 2024**