

RNTPC Paper No. A/YL-SK/377
For Consideration by the
Rural and New Town
Planning Committee
on 16.8.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/377

Applicant : Chong Kee Development Company represented by Top Planning Property Consultants Limited

Site : Lot 624 S.A (Part) in D.D. 112, Shek Kong, Yuen Long

Site Area : 202m² (about)

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9

Zoning : “Agriculture” (“AGR”)

Application : Proposed Temporary Shop and Services (Real Estate Agency) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (real estate agency) for a period of three years at the application site (the Site) zoned “AGR” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently largely vacant with a temporary structure (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the Site is accessible via a local track leading from Shek Kong Airfield Road (**Plans A-1 and A-3**). The proposed shop and services use is for a real estate agency to serve the nearby residents. As shown on the proposed layout plan at **Drawing A-1**, one single-storey structure (not more than 3.5m in height) with a floor area of about 36m² for real estate agency office is proposed at the Site. One private car parking space would be provided within the Site. The operation hours will be 10:00 a.m. to 6:00 p.m. from Mondays to Saturdays and there is no operation on Sundays and public holidays. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with attachments received on (Appendix I)
18.6.2024
- (b) Further Information (FI) received on 2.8.2024* (Appendix Ia)

**accepted and 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 at **Appendices I** and **Ia**. They can be summarised as follows:

- (a) The proposed use is temporary in nature that would not jeopardise the planning intention of the “AGR” zone in the long term. There are several similar applications approved within the “AGR” zone on the OZP. The Site had been paved before 2005.
- (b) There are a number of dwellings and land in the vicinity of the Site. The proposed use could serve residents in the vicinity. The proposed use is considered not incompatible with the surrounding land uses, and would not generate adverse traffic, environmental and drainage impacts to the surrounding environment. As mesh fences will be erected around the boundary of the Site, drivers’ sightlines at the intersection will not be obstructed.
- (c) The applicant undertakes to comply with relevant approval conditions and to apply for Short Term Waiver (STW) with the Lands Department (LandsD) for the proposed structure if the application is approved. The existing unauthorised structure on-site will be removed.

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

The applicant is not the “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 obtaining consent from the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 The Site was filled before the incorporation of land filling control to the Notes for the “AGR” zone on the draft Shek Kong OZP No. S/YL-SK/7 gazetted on 29.4.2005.
- 4.2 The Site is not subject to any active enforcement action.

5. Previous Application

There is no previous application covering the Site.

6. **Similar Applications**

Two similar applications (No. A/YL-SK/318 and 348) covering the same site for temporary shop and services use within the “AGR” zone of the OZP in the vicinity of the Site were considered by the Rural and New Town Planning Committee (the Committee) of the Board in the past five years. Both applications were approved with conditions mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the proposed 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. However, the planning permission of application No. A/YL-SK/318 was subsequently revoked in June 2023 due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix II** and the location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible via a local track leading from Shek Kong Airfield Road (**Plans A-2 and A-3**);
- (b) currently largely vacant with a temporary structure; and
- (c) situated within the Shui Lau Tin Site of Archaeological Interest (**Plan A-1**).

7.2 The Site is bounded by a nullah to its immediate north and across the nullah is the Shek Kong Barracks Airfield. The surrounding areas are rural in character comprising Shek Kong Barrack Airfield, village type developments intermixed with agricultural land, vacant land, plant nursery, an open storage yard covered by valid planning permission No. A/YL-SK/292) and a site with solar energy panels which is a suspected unauthorized development (UD) subject to planning enforcement action.

8. **Planning Intention**

The “AGR” zone is intended 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.

9. **Comments from Relevant Government Bureau/Departments**

9.1 Apart from the government department as set out in paragraph 9.2 below, other government bureau/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 does not support the application:

Agriculture and Nature Conservation

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

- (a) he does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally vacant. 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.; and
- (c) no comment on the application from nature conservation perspective.

10. Public Comments Received During Statutory Publication Period (Appendix V)

On 2.7.2024, the application was published for public inspection. During the statutory public inspection period, six public comments were received from Kadoorie Farm & Botanic Garden Corporation, and five local villagers and individuals. The local villagers and individuals objected to the application mainly on the grounds that the proposed use might induce adverse traffic impacts and there was suspected UD at the Site. Kadoorie Farm & Botanic Garden Corporation commented that the Board should investigate whether the nearby villages could have space to accommodate the proposed shop and services use which was not necessary to be located within the “AGR” zone.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (real estate agency) for a period of three years within “AGR” zone on the OZP. Whilst the proposed use is not in line with the planning intention of the “AGR” zone, it could serve the demand for shop and services in the area. While DAFC does not support the application from agricultural perspective, there are no active agricultural activities currently at the Site. In view of the above and taking into account the planning assessment below, the proposed use for a temporary period of three years could be tolerated.
- 11.2 The proposed use is considered not incompatible with the surrounding areas which are rural in character comprising Shek Kong Barrick Airfield, village type developments intermixed with agricultural land, vacant land, plant nursery, an open storage yard and a site with solar energy panels. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant impact on the existing landscape resources within the Site is not anticipated and has no objection to the application from landscape planning perspective.

- 11.3 Concerned government departments, including Commissioner for Transport (C for T), Director of Fire Services, Chief Engineer/Mainland North of the Drainage Services Department and Director of Environmental Protection have no objection to or no adverse comment on the application from traffic, fire safety, drainage and environmental perspectives respectively. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, 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” to minimise any potential environmental nuisance on the surrounding areas.
- 11.4 The Committee has approved two similar applications in the “AGR” zone in the vicinity of the Site in the past five years. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comments received during the statutory public inspection period of the application as detailed in paragraph 10 above, the applicant stated that the mesh fences to be erected around the Site would not obstruct drivers’ sightlines, and C for T has no adverse comment on the application. Furthermore, the applicant undertakes to remove the existing unauthorised structure on the Site and to apply for STW with LandsD for the proposed structure if the application is approved. The departmental comments and planning assessments above are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the proposed use could be tolerated for a period of three 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 three years until 16.8.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.2.2025;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.5.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;

- (d) the submission of a 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 16.2.2025;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.5.2025;
- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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
- (h) upon the 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 at **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 use 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission to justify 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 attachments received on 18.6.2024
Appendix Ia	FI received on 2.8.2024
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2024**