

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/42

<u>Applicant</u>	Mr. Hau Yuet Kau represented by Mr. Leung Hang Nin
<u>Site</u>	Lots 1049 and 1050 in D.D. 95 and adjoining Government Land, Kwu Tung North, Sheung Shui
<u>Site Area</u>	2,086.2 m ² (including 1,034 m ² of Government land)
<u>Lease</u>	Old Schedule Lots held under the Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2
<u>Zoning</u>	“Agriculture (1)” (“AGR(1)”)
<u>Application</u>	Renewal of Planning Approval for Temporary Soya Products Processing Workshop, Retailing and Outside Seating Accommodation for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary soya products processing workshop, retailing and outside seating accommodation for a period of 3 years at the application site (the Site) within an area zoned “AGR(1)” on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). The Site is currently used for the applied use with planning permission granted under Application No. A/KTN/11. The planning permission is valid until 30.3.2018 and all approval conditions have been compiled with.
- 1.2 According to the submission, the development comprises 17 structures including canopies, workshops, storages, plant room, storeroom, retailing, interview room, meter room, cold store, rest room, office, pump room and spare part room. 2 parking spaces for private cars and 4 loading/unloading areas are provided within the Site (**Drawing A-1**). 4 tourist bus parking spaces are provided outside the Site. The Site is accessible through a local access road leading to Ho Sheung Heung Pai Fung Road. The number of vehicle to and from the Site per day is low. There would only be vehicles to and from the Site from 10:00a.m. to 4:00p.m.. The operation hour is from 8:00a.m. to 8:00p.m.. The current application is the same as the last application in terms of site area/boundary, applied use and site layout.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with attachments received on 2.2.2018 **(Appendix I)**
- (b) Supplementary information received on 7.2.2018 **(Appendix Ia)**
- (c) Further information (FI) dated 20.2.2018 **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
- (d) FI dated 2.3.2018 **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)
- (e) FI dated 6.3.2018 **(Appendix Id)**
(accepted and exempted from publication and recounting requirements)
- (f) FI dated 7.3.2018 **(Appendix Ie)**
(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 in Part 8 of the Application Form at **Appendix I**. They are summarized as follows:

The renewal application is supported by the Sheung Shui District Rural Committee and Ho Sheung Heung Village Office. Short Term Wavier (STW) and Short Term Tenancy (STT) were granted by the Lands Department (LandsD). All the required licences have been acquired for the Site. All the approval conditions in the previously approved application No. A/KTN/11 were complied with. Renewal of planning permission can enhance the convenience of picnickers, boost local industries and create job opportunities.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not the subject of any active enforcement case.

5. Town Planning Board Guidelines

Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Uses or Development (TPG PG-No.34B) are relevant to the application. The relevant assessment criteria are summarized below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are many adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

6. Previous Applications

- 6.1 The Site is the subject of 5 previous applications (Nos. A/NE-KTN/68, A/NE-KTN/123, A/NE-KTN/144, A/NE-KTN/151 and A/KTN/11) submitted by the same applicant as the current application. Details of the applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/NE-KTN/68 for temporary covered structures within existing Chinese soya products processing workshop for a period of 3 years was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 14.1.2000 mainly on considerations that the applied use was small in scale and within clusters of existing temporary structures, was not incompatible with the adjacent land uses and would not have significant adverse traffic and drainage impacts. Besides, there was no adverse departmental comment.
- 6.3 Application No. A/NE-KTN/123 for temporary soya products processing workshop for a period of 3 years was approved by the Committee on 18.1.2008 on consideration that the workshop was not incompatible with the surrounding land uses, there was no major change in planning circumstances since the approval of the previous application No. A/NE-KTN/68, approval of the workshop would not affect the site formation and engineering works for the Kwu Tung North New Development Area (NDA), there was no adverse departmental comment and no local objection received.
- 6.4 Application No. A/NE-KTN/144 for temporary soya products processing workshop, retailing and outside sitting accommodation for a period of 3 years was approved by the Committee on 1.4.2011 on similar considerations of the previous approved application A/NE-KTN/123 and the previous planning permission for similar use was granted and there was no change in planning circumstance. The planning permission, however, was revoked on 1.7.2012 due to for non-compliance with approval condition.
- 6.5 Application No. A/NE-KTN/151 for temporary soya products processing workshop, retailing and outside seating accommodation for a period of 3 years was approved by the Committee on 30.3.2012 on consideration that DAFC had no strong view; part of

the site had been used for soya production workshop before the Kwu Tung North Interim Development Permission Area Plan No. IDPA/NE-KTN/1 gazetted in 1990; the applied use and layout of the application were similar to the previously approved scheme; concerned Government departments had no comment on or objection to the application; the temporary uses under application were not incompatible with the surrounding rural land uses; no pollution complaint relating to the Site was received and approval conditions were recommended to minimize the possible environmental nuisance. The applicant has complied with all the approval conditions.

- 6.6 The last application No. A/KTN/11 for renewal of planning approval under application No. A/NE-KTN/151 for a period of 3 years was approved by the Committee on 27.3.2015 on similar considerations of the previous approved application A/NE-KTN/151. The applicant has complied with all the approval conditions. The planning permission is valid until 30.3.2018.

7. Similar Application

There is no similar application for temporary workshop/retailing/outside seating accommodation in the vicinity of the Site within the same “AGR(1)” zone.

8. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3, A-4a, A-4b and A-4c)

8.1 The Site is:

- (a) formed and hard-paved;
- (b) currently being used for soya products processing workshop, retailing and outside seating accommodation;
- (c) located to the immediate southwest of a recognized village of Ho Sheung Heung; and
- (d) accessible through a local access road leading to Ho Sheung Heung Pai Fung Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its east is Sheung Yue River (River Beas) and to its northeast are vacant land, cycling track and cycle parking space;
- (b) to its south and southwest are vacant land, domestic structure, several village houses under construction, vehicle park and vehicle repair workshop;
- (c) to its west are refuse collection point, public convenience, fallow agricultural land, storages and vehicle park; and
- (d) to its northwest and north are vehicle park, retail shop, several domestic structures and storage.

9. Planning Intentions

The planning intention of the “AGR(1)” zone is primarily to retain and safeguard the agricultural land/farm/fish ponds for agricultural purposes and to serve as a buffer to give added protection to the Long Valley Nature Park.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/ North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Lots Nos. 1049 and 1050 in D.D. 95 and the adjoining Government land. The lots are Old Schedule Lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access;
- (b) the lots are covered by Short Term Waiver (STW) No. 1522 for the purpose of a soya products processing workshop, retailing and seating accommodation with a total built-over area of the structures erection thereon not exceeding 592 m²;
- (c) the Government land within the Site is covered by Short Term Tenancy (STT) No. 1491 for the purpose of wastewater treatment plant, storage, emergency vehicular access (EVA) and such other use ancillary to the soya products processing workshop as may be approved by the District Lands Officer on Lots Nos. 1049 and 1050 in D.D. 95. The total built-over area of the structures erected on STT No. 1491 shall not exceed 625 m²;
- (d) the actual occupation area is larger than the Site. Some portions of the adjoining Government land, which are fenced off by hoardings outside the Site, is occupied without LandsD’s approval. It is not acceptable and the applicant should clear off those hoardings. His office reserves the right to take necessary tenancy enforcement and land control actions against the aforesaid structures. It is also noted that although the total built-over area of the structures is within the permitted one under respective STW and STT, the total built-over area is larger than the one mentioned in the development parameters of the planning application. Meanwhile, the applicant should make his own arrangements for acquiring access. The Government shall accept no responsibility in such arrangements; and
- (e) if the planning application is approved, the owner(s) of the lots concerned shall in parallel clear off those hoardings erected on adjoining Government land outside the Site to the satisfaction of his

office. Otherwise, tenancy enforcement and land control actions against the aforesaid irregularities would be taken by his office.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) it is noted that the Site was the subject of 5 previous approved applications. In view of the confirmation by the applicant that there would be no additional vehicular traffic to be generated from or attracted to the subject development, during the peak hours (07:00-10:00) and (16:00-19:00) from Monday to Friday (except public holidays), he has no in-principle objection to the application;
- (b) however, since the rural access road, which is not managed by Transport Department (TD), is narrow and substandard, should the Board approved the application, the inclusion of the same approval condition as for the previous application (No. A/KTN/11) is required:

no medium/heavy goods vehicles exceeding 5.5 tonnes, including container vehicles, and buses exceeding 10 metres long as defined in the Road Traffic Ordinance are allowed to enter/exit the Site during the planning approval period; and

- (c) the rural access road to the Site is via an unnamed village track and Ho Sheung Heung Pai Fung Road. The unnamed village track and Ho Sheung Heung Pai Fung Road are not under TD's management. In this regard, the land status of the access leading to the Site should be checked with the lands authority. The management and maintenance responsibilities for the same access should also be clarified with the relevant lands and maintenance authorities accordingly.

Future Development

10.1.3 Comments of the Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD):

He has no comment on the application from the project interface point of view.

Environmental

10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as there are sensitive uses in the vicinity of the Site (the nearest domestic structure is in the immediate southwest of the Site). Environmental nuisance to nearby residents is anticipated;
- (b) there is no environmental complaint case related to the Site from 2015

to 2017; and

- (c) the applicant is advised to follow the environmental mitigation measures as recommended in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the potential environmental impacts on the adjacent area.

Landscape Aspect

10.1.5 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):

- (a) he has no objection to the application from the landscape planning perspective;
- (b) the Site is the subject of a few previously approved applications for the same use and the latest was application No. A/KTN/11 to which he had no objection from the landscape point of view. The current application is to renew planning permission for the same use in the same site for a period of 3 years;
- (c) compared the aerial photo of 2017 to photo of 2015, there is no significant change in the rural landscape character where the Site is located. It comprises of workshops, open storages, lorry parks and scattered tree groups. The applied use is not incompatible with the existing surrounding environment;
- (d) according to his site record dated 27.2.2018, the Site is occupied by low-rise building, temporary structures and open cafeteria area. It is noted that 2 mature *Celtis sinensis* (required to be preserved under previous approval condition) were felled. Noting that the applicant states that the removal of one tree was due to damage of typhoon in 2017 and the other due to potential tree failure as advised by arborist (**Appendices Id and Ie**) and that both tree removals were reported to LandsD, he has no objection to the application from the landscape planning perspective. He considers the proposed replacement planting in the existing narrow planter can enhance the surrounding environment; and
- (e) should the Board approve the application, he would recommend the submission and implementation of landscape proposal as approval condition.

Fire Safety

10.1.6 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of Fire Services Department (FSD); and

- (b) EVA arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by Buildings Department (BD).

Drainage

10.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection in principle to the application from the public drainage point of view;
- (b) the Site is in an area where no public sewer connection is available;
- (c) should the application be approved, the following conditions should be included to request the applicant to:
 - (i) submit a condition record of the existing drainage facilities implemented on the Site in the last planning application No. A/KTN/11 within three months. The condition record shall include photos clearly showing the current conditions of the existing drainage facilities; and
 - (ii) maintain these existing drainage facilities properly and rectify those facilities if they are found inadequate/ineffective.

Building Matters

10.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) there is no record of approval by the Building Authority (BA) for the structures existing at the Site except structure D (annotated “新工場” on **Drawing A-1**). For the structures without record, BD is not in a position to offer comments on their suitability for the use related to the application;
- (b) in accordance with his record, building plans for a single storey temporary building (i.e. abovementioned structure D) was approved by the BA on 2.6.2009. However, no Temporary Occupation Permit was issued up-to-dated, thus, the construction of the temporary building has not been completed;
- (c) if the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the captioned application;
- (d) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior

approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;

- (e) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
- (f) if the applied use is subject to the issue of a licence, please be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
- (g) in connection with (f) above, the Site shall be provided with means of obtaining access thereto from a street and EVA in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively; and
- (h) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

Water Supply

10.1.9 Comments of the Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD):

- (a) he has no objection to the application;
- (b) the Site is located within the flood pumping gathering ground; and
- (c) water mains in the vicinity of the Site cannot provide the standard pedestal hydrant.

Agriculture and Nature Conservation

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

- (a) as the Site has been paved and is used for the applied uses for some years, he has no strong view on the application from an agricultural development point of view; and
- (b) a water-course connected to the River Beas runs in the proximity of the Site. Should the application be approved, precautionary measures should be undertaken to avoid any water pollution, particularly in

terms of surface runoff/discharges, to the surrounding environment.

District Officer's Comments

10.1.11 Comment of the District Officer/North, Home Affairs Department (DO/N, HAD):

he has consulted the locals from 14.2.2018 to 28.2.2018. The Chairman of Sheung Shui District Rural Committee (SSDRC) and the North District Council (NDC) member of the subject Constituency had no comment on the application. The Indigenous Inhabitant Representative (IRR) and Resident Representative (RR) of Ho Sheung Heung supported the application mainly on the grounds that the applied use can provide recreation place for tourists.

10.2 The following Government departments have no comment on/no objection to the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Commissioner of Police (C of P);
- (d) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (e) Chief Estate Surveyor/Acquisition, Lands Department (CES/A, LandsD); and
- (f) Director of Food and Environmental Hygiene (DFEH) (his advisory comments are at **Appendix IV**)

11. Public Comments Received During Statutory Publication Period

On 9.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 2.3.2018, 2 public comments from general public were received (**Appendices IIIa to IIIb**). They both indicate no comment on the application.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning approval for temporary soya products processing workshop, retailing and outside seating accommodation for a period of 3 years. The Site falls within "AGR(1)" on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). The applied use is not in line with the planning intention of the "AGR(1)" zoning. However, DAFC has no strong view on the application from an agricultural development point of view as the Site has been paved and is used for the applied uses for some years.

12.2 The applied use is not incompatible with the existing surrounding land uses which comprise mainly vehicle parks, storages and vehicle repair workshop intermixed with some domestic structures. The renewal of planning approval will unlikely have significant adverse drainage and landscape impact on the surrounding areas. CE/MN, DSD and CTP/UD&L, PlanD have no adverse comment on the application. Although DEP does not support the application as there are sensitive uses near the

Site, there is no environmental complaint received in the past 3 years. The concern of DEP on possible environmental nuisance to surrounding areas could be addressed through the incorporation of approval conditions restricting the operating hours, prohibiting medium/heavy goods vehicles, container vehicles and buses in paragraph 13.2 (a) and (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP in order to minimize any possible environmental nuisances. C for T has no in-principle objection to the application, in view of the confirmation by the applicant that there would be no additional vehicular traffic from/to the development during the peak hours (07:00-10:00) and (16:00-19:00) from Monday to Friday (except public holidays).

- 12.3 The Site is involved in 5 previous approved applications for similar temporary uses (**Plan A-1**). They were approved mainly on considerations that the applied uses were not incompatible to the surrounding land uses; would not have significant adverse traffic and drainage impacts; and there was no adverse departmental comment. The applicant has complied with all approval conditions under the current planning permission (application No. A/KTN/11). The circumstances of these cases were similar to the current application. Approval of the current application is in line with the decision of the Committee on the previous applications.
- 12.4 There is no local objection as conveyed by DO(N) and no public comment objecting to the application.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the local views and public comments in paragraphs 10.1.11 and 11, the Planning Department has no objection to the application for renewal of planning approval for temporary soya products processing workshop, retailing and outside seating accommodation for a further 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 from 31.3.2018 until **30.3.2021**. The following conditions of approval and advisory clauses are also suggested for Member’s reference:

Approval conditions

- (a) no night time operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the application site during the planning approval period;
- (b) no medium goods vehicle/heavy goods vehicle exceeding 5.5 tonnes, including container vehicles, and buses exceeding 10 metres long as defined in the Road Traffic Ordinance are allowed to enter/exit the application site during the planning approval period;
- (c) the existing drainage facilities shall be maintained and rectified if found

inadequate/ineffective during operation at all times during the planning approval period;

- (d) the submission of a conditional 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 **30.6.2018**;
- (e) the submission of proposals for fire service installations and water supplies for fire-fighting within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **30.9.2018**;
- (f) in relation to (e) above, the provision of fire service installations and water supplies for fire-fighting within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **31.12.2018**;
- (g) the submission of landscape proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **30.9.2018**;
- (h) in relation to (g) above, the implementation of landscape proposal within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **31.12.2018**;
- (i) if any of the above planning conditions (a), (b) or (c) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) if any of the above planning conditions (d), (e), (f), (g) or (h) 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.

[Except for the new conditions (g) and (h), other approval conditions are similar to those under the previous application No. A/KTN/11.]

Advisory clauses

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

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection is suggested for Members' reference:

- (a) the temporary use under application is not in line with the planning intention of the "ARG(1)" zone, which is intended primarily to retain and safeguard the agricultural land/farm/fish ponds for agricultural purposes and to serve as a buffer to give added protection to the Long Valley Nature Park; and
- (b) the temporary use would generate adverse environmental on the surrounding

areas as there are residential dwellings in its close proximity.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 attachments received on 2.2.2018
Appendix Ia	Supplementary information received on 7.2.2018
Appendix Ib	FI dated 20.2.2018
Appendix Ic	FI dated 2.3.2018
Appendix Id	FI dated 6.3.2018
Appendix Ie	FI dated 7.3.2018
Appendix II	Previous Applications
Appendices IIIa to IIIb	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**