

Previous Application covering the Application Site

Rejected Application

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration</u> <u>(RNTPC)</u>	<u>Rejection</u> <u>Reason(s)</u>
1	A/YL-KTN/570	Temporary Place of Recreation, Sports or Culture (Electric Power Radio Control Car Track and Ancillary Facilities) for a Period of 3 Years	20.4.2018	(1), (2), (3)

Rejection Reasons

- (1) the use is not in line with the planning intention of the “Agriculture” (“AGR”) zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- (2) the applicant fails to demonstrate that the use would not cause adverse landscape and environmental impacts on the surrounding areas.
- (3) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar uses to proliferate into the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

**Similar Applications within the same “AGR” zone on
Kam Tin North OZP**

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
1	A/YL-KTN/413	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	6.9.2013 [revoked on 6.1.2014]	(1), (2), (3), (4), (5), (6), (7)
2	A/YL-KTN/446	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	22.8.2014 [revoked on 22.11.2015]	(1), (2), (3), (4), (5), (6), (7), (8)
3	A/YL-KTN/447	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	22.8.2014 [revoked on 22.11.2015]	(1), (2), (3), (4), (5), (6), (7), (8)
4	A/YL-KTN/448	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	17.10.2014 [revoked on 12.1.2016]	(1), (2), (3), (4), (5), (6), (7), (8)
5	A/YL-KTN/540	Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	11.11.2016	(1), (2), (3), (4), (5), (6), (7), (8), (9)
6	A/YL-KTN/541	Proposed Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	12.5.2017	(1), (2), (3), (4), (5), (6), (7), (8), (9)

Approval conditions

- (1) Restriction on operation hours/time
- (2) no medium or heavy goods vehicles exceeding 5.5/24 tonnes including container tractors/trailers were allowed to be parked/stored on or enter/exit the site
- (3) Submission and implementation of landscaping/ tree preservation proposal
- (4) Submission and implementation of drainage proposal
- (5) Submission and implementation of fire service installations proposal
- (6) Revocation of the planning approval if any of the planning conditions is not complied with by the specified dated or during the planning approval period
- (7) Reinstatement of the site to an amenity area or to the original state
- (8) Provision of boundary fencing
- (9) No reversing of vehicle into or out from the site is allowed

Rejected Application

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejection Reason(s)</u>
1	A/YL-KTN/624	Proposed Temporary Shop and Services (Plant Showroom) for a Period of 3 Years	19.10.2018	(1), (2)

Rejection Reasons

- (1) the proposed development is not in line with the planning intention of the “AGR” zone. No strong justification has been given in the submission for a departure from the planning intention, even on temporary basis.
- (2) the applicant fails to demonstrate that the proposed development would not generate environmental nuisance on the surrounding areas.

Advisory Clauses

- (a) resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (b) the permission is given to the development/use under application. It does not condone any other development/use which are not covered by the application;
- (c) note DLO/YL, LandsD's comments that the Site comprises Government Land (GL) and an Old Schedule Agricultural Lot 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. No permission is given for occupation of GL (about 112.8m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government's prior approval is not allowed. The Site is accessible from Kong Tai Road via GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA. The lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a direct grant STT for use of the Site. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD;
- (d) note C for T's comments that the Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (e) note CHE/NTW, HyD's comments that his department does not and will not maintain any access connecting the Site and Kong Tai Road. The applicant should be responsible for his own access arrangement. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;

- (f) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses" issued by the DEP;
- (g) note CBS/NTW, BD's comments that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application. 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. Before any new building works (including containers/ open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. 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 B(P)R at the building plan submission stage; and
- (h) note D of FS's comments that in consideration of the design/nature of the proposals, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. If the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.