

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

APPLICATION NO. A/YL-KTS/858

<u>Applicant</u>	: Messrs. PONG Wai-chi and PONG Wai-kwong
<u>Site</u>	: Lot 467 RP in D.D. 106, Kam Sheung Road, Yuen Long
<u>Site Area</u>	: About 501 m 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>	: “Agriculture” (“AGR”)
<u>Application</u>	: Renewal of Planning Approval for Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek renewal of planning permission to use the application site (the Site) for temporary open storage of vehicles (pending repair and insurance compensation) and spare parts for a period of 3 years. The Site is zoned “AGR” on the Kam Tin South OZP and the applied use is neither a Column 1 nor Column 2 use in the “AGR” zone. According to the Notes of the OZP, temporary use or development not exceeding a period of three years may be permitted upon application, notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use with valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of 9 previous applications for similar open storage uses. All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) from 1999 to 2017 on a temporary basis for 1 to 3 years. The last application (No. A/YL-KTS/750) for the same applied use submitted by the same applicants was approved with conditions by the Committee on 22.9.2017 for a period of 3 years up to 31.10.2020. All of the approval conditions have been complied with.

- 1.3 According to the applicants, one single-storey structure with total floor area of 25.6m² and building height not exceeding 2.28m is erected at the Site for resting room use. About 50 vehicles will be stored within the Site. No vehicles exceeding 5.5 tonnes will enter/exit the Site. The operation hours are between 9am and 6pm on Mondays to Saturdays, no operation on Sundays and public holidays. The Site is abutting Kam Sheung Road. The layout plan submitted by the applicants is at **Drawing A-1**.
- 1.4 Compared with the last approved application (No. A/YL-KTS/750), the current application submitted by the same applicants is the same in terms of site area/boundary, applied use, floor area and site layout.
- 1.5 In support of the application, the applicants have submitted the following documents:
- (a) Application form with plan received on 3.9.2020 (Appendix I)
 - (b) Supplementary information (SI) received on 9.9.2020 (Appendix Ia)
 - (c) Further Information (FI) received on 30.9.2020 in response to departmental comments (Appendix Ib)
[exempted from publication requirement]
 - (d) FI received on 9.10.2020 providing clarification (Appendix Ic)
[exempted from publication requirement]

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in the application form and FI at **Appendices I to Ic**. They can be summarized as follows:

The current application is the same as the previous approved application in terms of site area, applied use, floor area and layout. The trees planted at the Site are maintained in good condition.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

4.1 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. 34C) are relevant to this application. The relevant criteria are extracted 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 any 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.

4.2 The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 is relevant to the application. The Site falls within the Category 3 areas under the TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site was involved in 9 previous applications for similar open storage uses. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 All the applications were approved with conditions by the Committee between 1999 and 2017 on similar considerations that temporary approval would not frustrate the long-term planning intention; previous approvals were granted and the applicant had fulfilled all the planning conditions; the developments were not incompatible with the surrounding uses; it was unlikely that the developments would cause adverse traffic and environmental impacts; and there was no adverse

comment from relevant departments. However, the planning permission for A/YL-KTS/209 was revoked due to non-compliance with planning conditions. For the last approved application No. A/YL-KTS/750, all the approval conditions had been complied with, and the planning permission is valid until 31.10.2020.

7. Similar Applications

- 7.1 There are five similar applications for temporary open storage of vehicles and vehicle parts use adjoining the Site within the same “AGR” zone on the OZP since the promulgation of TPB PG-No. 13E on 17.10.2008. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 Applications No. A/YL-KTS/450, 474, 579, 678 and 798 located at the same location were approved with conditions by the Committee for a period of three years between 2009 and 2018 on similar considerations that temporary approval would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding uses; it was unlikely that the developments would cause adverse impacts and possible impacts could be addressed by imposition of approval conditions; and there was no adverse comment from relevant departments. However, planning permission of application No. A/YL-KTS/450 was revoked due to non-compliance with approval conditions.

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

- 8.1 The Site is:
- (a) currently hard paved, fenced off and used for the applied use with valid planning permission; and
 - (b) abutting Kam Sheung Road.
- 8.2 The surrounding areas are mainly rural in character and intermixed with open storage/storage yards, a warehouse, a workshop, residential dwellings/structures, fallow/cultivated agricultural land and vacant/unused land:
- (a) to its immediate north are an open storage yard and a residential dwelling/structure (about 10 m away). To its further north are unused land and residential dwellings/structures;
 - (b) to its west across Kam Sheung Road are a warehouse, open storage yards, workshop and unused land;
 - (c) to its south are open storage yards and unused land; and

- (d) to its immediate east is an approved open storage yard, and fallow/cultivated agricultural land.

9. Planning Intention

The planning intention of the “AGR” zone 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.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises 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.
- (b) Lot 467 RP in D.D.106 is covered by Short Term Waiver (STW) No. 2785 permitted for “Ancillary Use to Open Storage of Vehicles and Spare Parts” use.
- (c) Should planning approval be given to the application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by the LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/ from public road at any time during the planning approval period should be included.
- (c) 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.

10.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting to the Site and Kam Sheung Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Agriculture

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

Considering that the previous applications for the same use as the current application were approved by the Board, he has no strong view against the application for renewal of planning approval.

Environment

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

There was no environmental complaint covering the Site received in the past three years. The applicants are advised to follow the relevant mitigation measures and requirement in the latest Code of Practice on

Handling the Environmental Aspects of Temporary Uses and Open Storage Sites (the COP) issued by DEP.

Landscape

10.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) He has no objection to the application from the landscape planning perspective.
- (b) Based on the aerial photo taken on 29.9.2020, the Site is situated in an area of rural landscape character comprising scattered tree groups, open storages and temporary structures. The development is considered not incompatible with the surrounding environment. Referring to the site visit dated 15.9.2020, existing landscape plantings are in acceptable condition. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the application was last approved. Further significant adverse impact on landscape resources due to the development is not anticipated.
- (c) Should the application be approved, the approval condition to maintain the existing trees and landscape plantings within the Site in a healthy condition at all times during the planning approval period should be included.

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 development. Based on the applicants' submission, the applicants would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTS/750.
- (b) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTS/750 and the submission of records of the existing drainage facilities on-site should be included.

Fire Safety

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

He has no in-principle objection to the renewal application subject to the existing fire service installations (FSIs) implemented on the Site being maintained in efficient working order at all times.

Building Matters

10.1.9 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 for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) 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 application.
- (c) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, 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.
- (d) 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.
- (e) 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.
- (f) 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.

Food and Environmental Hygiene

10.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) Such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from the such activities or operations, the applicants should arrange disposal properly at their own expenses.

District Officer's Comments

10.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comment from locals upon close of consultation and he has no particular comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 11.9.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments were received from individuals (**Appendices V-1 and V-2**) objecting to the application mainly on the grounds that the development would increase the traffic flow and affect the safety of residents and living quality; and the long-term plan for the Site should be considered.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning permission for temporary open storage of vehicles (pending repair and insurance compensation) and spare parts for a period of 3 years within "AGR" zone. The planning intention of the "AGR" zone is primarily to retain and safeguard good quality agricultural land/farm/fish

ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The applied use is not in line with the planning intention of the “AGR” zone. Nevertheless, DAFC has no strong view on the application. It is considered that temporary permission would not frustrate the long-term planning intention of the “AGR” zone.

- 12.2 The applied use abutting Kam Sheung Road is considered not incompatible with the surrounding areas which are rural in character and intermixed with residential dwellings/structures, fallow and cultivated agricultural land, open storage yards and vacant/unused land.
- 12.3 The Site falls within Category 3 area under TPB PG-No. 13F where “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. The application is generally in line with TPB PG-No. 13F and TPB PG-No. 34C in that previous approvals for the same/similar open storage use have been granted since 1999 and all approval conditions under the last approved application No. A/YL-KTS/750 have been complied with. Also, relevant departments consulted, including C for T, DEP, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no adverse comment on the application. Compared with the last approved application, the current application submitted by the same applicants is the same in terms of site area/boundary, applied use, total floor area and site layout. Besides, there is no change in planning circumstances since the last approval. Sympathetic consideration could be given to the current application.
- 12.4 To minimize any possible environmental nuisance, approval conditions restricting the operation hours and vehicle types and prohibiting workshop activities are recommended in paragraph 13.2 below. The applicant will also be advised to adopt the environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CTP/UD&L, PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2.
- 12.5 The Site is subject to 9 previous applications for open storage use and all were approved by the Committee as set out in paragraph 6. Moreover, there are also 5 similar applications for temporary open storage use within the same “AGR” zone which were approved by the Committee as detailed in paragraph 7 above. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 Two public comments were received during the statutory publication period objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and the planning considerations and assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary open storage of vehicles (pending repair and insurance compensation) and spare parts could be tolerated for a 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 and be renewed from 1.11.2020 to 31.10.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00pm and 9:00am, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Roads Traffic Ordinance, are allowed to be stored/parked at or enter/exit the Site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the stacking height of vehicles and vehicle parts should not exceed the height of the peripheral fence of the site at any time during the planning approval period;
- (g) the existing trees and landscape plantings on the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a 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 1.2.2021;

- (j) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (k) if any of the above planning condition (a), (b), (c), (d), (e), (f), (g), (h) or (j) 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;
- (l) if the above planning condition (i) 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
- (m) upon 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.

[The above approval conditions are similar to those in the planning approval of the last Application No. A/YL-KTS/750, except those on FSIs are revised based on D of FS's comments.]

Advisory Clauses

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

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

the development 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. This zone 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 for a departure from the planning intention, even on a temporary basis.

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 received on 3.9.2020
Appendix Ia	SI received on 9.9.2020
Appendix Ib	FI received on 30.9.2020
Appendix Ic	FI received on 9.10.2020
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous applications covering the Site
Appendix IV	Similar Applications within the same “AGR” zone in the Kam Tin South OZP
Appendices V-1 and V-2	Public comments
Appendix VI	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 and 4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2020**