

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/548

<u>Applicant</u>	:	J.A.M. Building Products (HK) Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 424 S.A (Part) in D.D. 94, Kwu Tung South, Sheung Shui, New Territories
<u>Site Area</u>	:	789m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/21
<u>Zoning</u>	:	“Agricultural” (“AGR”)
<u>Application</u>	:	Proposed Temporary Warehouse (excluding Dangerous Goods Godown) with Ancillary Office for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) with ancillary office for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within “AGR” zone also requires planning permission from the Board. The Site is fenced-off, hard-paved with concrete without planning permission, and the northern part of it is occupied by some temporary structures (**Plans A-3 and A-4**).
- 1.2 The Site is accessible from Hang Tau Road via a local access (**Plans A-1 to A-3**). According to the applicant, the proposed use comprises one two-storey structure with a total gross floor area (GFA) of about 1,326m² and a building height (BH) of about 13m for warehouse (for storage of construction materials, i.e. bricks, tiles, glass, etc.), ancillary office and toilet. The operation hours will be between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. No storage of dangerous goods nor workshop, recycling, cleansing, dismantling and other workshop activities will be carried out at the Site. One parking space for private car and one loading/unloading space for light goods vehicles will be provided within the Site.

The applicant also applies for regularisation of filling of land of the entire Site (i.e. 789m²) with finished level at +10.2mPD, and no further filling of land will be carried out. The layout plan and filling of land plan submitted by the applicant is at **Drawings A-1** and **A-2**.

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

- (a) Application Form and Supplementary Information (SI) received (**Appendix I**)
on 18.12.2024 and 27.12.2024 respectively
- (b) Further Information (FI) received on 6.2.2025[#] (**Appendix Ia**)
- (c) FI received on 10.2.2025[#] (**Appendix Ib**)

[#] *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 Application Form with SI and FI at **Appendices I** to **Ib**, and can be summarised below:

- (a) Although the proposed use is not in line with the planning intention of “AGR” zone, there is no active agricultural use within the Site. Therefore, approval of the application on a temporary basis of three years would better utilise precious land resources, as well as to create new employment opportunities in Sheung Shui.
- (b) The proposed use with one low-rise structure is considered not incompatible with the surrounding areas, which are predominated by temporary structures for warehouses, vehicle repair workshops, open storage and animal boarding establishments, etc.
- (c) The proposed filling of land is necessary to meet the operation need and has been kept to minimal. No further filling of land will be carried out at the Site. The applicant will reinstate the Site to amenity area after the planning approval period.
- (d) The applicant will strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP), all environmental protection/pollution control ordinances and Professional Persons Environmental Consultative Committee Practice Notes to minimise adverse environmental impacts. Hence, the proposed uses would not create significant environmental nuisance to the surrounding areas.
- (e) As traffic generated and attracted by the proposed use is minimal, adverse traffic impact would not be anticipated. ‘Stop and Give Way’ and ‘Beware of Pedestrians’ signs will be erected to ensure pedestrian safety to/from the Site.
- (f) Illegal occupation of Government Land (GL) will be rectified after planning approval is obtained and no structure will be erected on GL. The unauthorised structures will be demolished and the applicant will submit application for Short Term Waiver (STW) after planning approval is obtained to facilitate the proposed scheme.

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

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

4. Background

4.1 The Site was mostly covered by temporary structures for livestock farming purpose which existed before the first statutory plan covering the Kwu Tung South area (i.e. Kwu Tung South Interim Development Permission Area Plan No. IDPA/NE-KTS/1) gazetted in 1990. The Site was hard-paved with concrete after the incorporation of land filling control to the Notes for the “AGR” zone on the draft Kwu Tung South OZP No. S/NE-KTS/10 gazetted on 1.4.2005.

4.2 The Site is currently not subject to any planning enforcement action.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Application

There is no similar application within the same “AGR” zone.

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

7.1 The Site is:

- (a) fenced-off, hard-paved with concrete without planning permission, and the northern part of it is occupied by some temporary structures; and
- (b) accessible from Hang Tau Road via a local access.

7.2 The surrounding areas are rural in nature and predominated by open storage yards, warehouses (some of which existed before the first statutory plan was gazetted), active/fallow agricultural land (including a ganoderma centre to the northwest) and scattered tree groups. Sheung Yue River is to the west of the Site, whereas the residential structures within the “Village Type Development” zone of Hang Tau is located to the further southeast.

8. Planning Intention

8.1 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.

- 8.2 According to the Explanatory Statement of the OZP for the “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government departments as set out in paragraph 9.2 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, if any, are provided in **Appendices II** and **III** respectively.

- 9.2 The following government departments do not support / object to the application:

Agriculture and Nature Conservation

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

- (a) 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. The 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 from nature conservation point of view.

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

- (a) objects to the application;
- (b) the Site comprises 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 right of access via GL is granted to the Site;
- (c) there are unauthorised structures on the private lot of the Site. There are also unauthorised structure extended from the concerned private lot to adjoining lot not covered by the application. The lot owner should immediately rectify/regularise the lease breaches and his office reserves the rights to take necessary lease enforcement against the breaches without further notice;
- (d) the GL adjoining the Site has been fenced off and illegally occupied with unauthorised structures without permission. Any occupation of GL without Government’s prior approval is an offence under Cap. 28. His office reserves the rights to take necessary land control action against the

illegal occupation of GL without further notice; and

- (e) advisory comments are at **Appendix III**.

10. Public Comments Received During Statutory Publication Period

On 31.12.2024, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix IV**), including one from a member of the North District Council indicating no comment on the application, and one from Kadoorie Farm and Botanic Garden Corporation and one from an individual, both providing adverse comments on the application mainly related to the suspected unauthorised uses at the Site; whether any ongoing enforcement action against the Site has been taken; and the concern that approval of the application would set an undesirable precedent of “destroy first, build later”.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary office for a period of three years and associated filling of land at the Site zoned “AGR” (**Plan A-1**). While the proposed use is not in line with the planning intention of “AGR” zone and DAFC does not support the application from agricultural point of view, taking into account the planning assessments below, there is no objection to the proposed use on a temporary basis of three years with associated filling of land.
- 11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from drainage and environmental perspectives respectively. An approval condition requiring the reinstatement of the Site to an amenity area upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 11.3 The Site was mostly covered by temporary structures for livestock farming purpose before the gazetting of the first statutory plan covering the Kwu Tung South area. The proposed use is considered not incompatible with the immediate surrounding land uses, which are predominated by open storage yards, warehouses (some of which existed before the first statutory plan was gazetted), active/fallow agricultural land and scattered tree groups (**Plans A-2 and A-3**). The Chief Town Planner/Urban Design & Landscape of Planning Department (PlanD) has no adverse comment on the application from landscape planning perspective and considers that the proposed use is not incompatible with the landscape setting in the proximity and significant adverse landscape impact within the Site is not anticipated.
- 11.4 Regarding DLO/N, LandsD’s concerns on the unauthorised structure(s) on the Site and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. Other relevant government departments consulted, including the Commissioner for Transport and Director of Fire Services have no objection to/no adverse comment on the application. To address the technical requirements of concerned departments,

appropriate approval conditions are recommended in paragraph 12.2 below. It is also recommended to advise the applicant to follow the COP issued by EPD to minimise possible environmental nuisance generated by the applied use on the surrounding areas.

- 11.5 Regarding the adverse public comments as detailed in paragraph 10 above, the departmental comments and planning considerations above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, PlanD has no objection to the application.
- 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 14.2.2028. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 14.8.2025;
- (b) in relation to (a) 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 14.11.2025;
- (c) 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 14.8.2025;
- (d) in relation to (c) 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 14.11.2025;
- (e) in relation to (d) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (f) if the above planning condition (e) 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), (c) or (d) 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 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 attached at **Appendix III**.

- 12.3 Should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use with associated filling of land is not in line with the planning intention of the "Agriculture" zone which 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. No strong planning justification has been given in the submission for 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 applicants.

14. Attachments

Appendix I	Application form and supplementary information received on 18.12.2024 and 27.12.2024 respectively
Appendix Ia	FI received on 6.2.2025
Appendix Ib	FI received on 10.2.2025
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comments
Drawing A-1	Layout plan
Drawing A-2	Land Filling Plan
Drawing A-3	Vehicular Route Plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos