

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/1004**

<b><u>Applicant</u></b>	:	Able Power Development Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lot 1291 (Part) in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 6,968m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Proposed Temporary Warehouse (excluding Dangerous Goods Godown) for a Period of Three Years and Associated Filling of Land and Pond

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) for a period of three years and filling of land and pond 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/pond within the “AGR” zone also requires planning permission from the Board. The Site is currently vacant and mainly covered by grass and shrubs, with an existing pond covered by weeds (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Mei Fung Road via local tracks (**Plans A-1 and A-2**). According to the applicant, the proposed use for storage of miscellaneous goods, such as packaged goods, apparel, footwear, electronic goods, furniture, etc., involves 11 single-storey structures with building heights of about 6m and a total floor area of about 2,407m<sup>2</sup> for warehouses and ancillary office in one of the warehouses (**Drawing A-1**). The applicant also applies for proposed filling of pond with an area of 92m<sup>2</sup> and a depth of about 0.5m and proposed filling of land for the rest of the Site with a depth of not more than 0.4m (to levels ranging from +12.8mPD to +13.3mPD) for site formation and vehicular circulation (**Drawing A-2**). The operation hours will be between 9 a.m. and 6 p.m. from Mondays to

Saturdays, with no operation on Sundays and public holidays. Three parking spaces for private car and two loading/unloading spaces for light goods vehicle and medium goods vehicle will be provided within the Site. The site layout plan and land/pond filling plan submitted by the applicant are at **Drawings A-1** and **A-2**.

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

- (a) Application Form with attachments received on 15.3.2024 (**Appendix I**)
- (b) Further Information (FI) received on 16.5.2024\* (**Appendix Ia**)
- (c) FI received on 18.6.2024\* (**Appendix Ib**)
- (d) FI received on 26.6.2024\* (**Appendix Ic**)
- (e) FI received on 29.7.2024\* (**Appendix Id**)
- (f) FI received on 3.9.2024# (**Appendix Ie**)

*\* accepted and exempted from publication and recounting requirements.*

*# accepted but not exempted from publication and recounting requirements.*

1.4 On 10.5.2024 and 5.7.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months each as requested by the applicant.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I** to **Ie**, and can be summarised as follows:

- (a) The proposed use can meet the demand for warehouse in recent years. The application is on a temporary basis and its approval would not jeopardise the long-term planning intention of the “AGR” zone. The proposed use is not incompatible with the surrounding areas which are occupied by open storage and temporary structures. There were similar applications approved by the Committee in the vicinity of the Site within the same “AGR” zone.
- (b) The pond at the Site has been dried for years. The proposed filling of land and pond is necessary for site formation and vehicular circulation purposes to meet the operational needs of the proposed use.
- (c) Infrequent trips generated by the proposed use are anticipated. The applicant will follow the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and ‘Professional Persons Environmental Consultative Committee Practice Notes’ to minimise the potential environmental nuisance. Besides, the applicant has submitted a drainage proposal in support of the application. Adverse traffic, environmental and drainage impacts on the surrounding areas arising from the proposed use are not anticipated.
- (d) The applicant would use both the Site and its adjoining site to the west, which has been approved for temporary open storage under application No. A/YL-KTN/994 (**Plan A-2**) submitted by the same applicant, to support the local warehouse and logistics industries. The applicant will be responsible for the construction and management of these two sites which will be rented to separate business operators specialising in the respective industries. The proposed access under the current application will be made via the site of application No. A/YL-KTN/994. Regarding the right-of-way issue as raised in the public comments on the proposed access

which involves other private lots, the applicant will liaise with respective land owners and occupants to address their concerns and minimise any nuisance to them.

### 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 posting site notice and sending notice to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

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

### 5. **Previous Application**

There is no previous application involving the Site.

### 6. **Similar Applications**

- 6.1 There are 23 similar applications for temporary warehouse (excluding dangerous goods godown) with filling of land (including one also involving open storage) within the same “AGR” zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee between May 2022 and October 2024 mainly on the considerations that the application would not frustrate the long-term planning intention or the proposed use on a temporary basis could be tolerated; the proposed use was not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comment or the concerns could be addressed by approval conditions. The planning permissions under applications No. A/YL-KTN/824, 852, 890, 898 and 938 were subsequently revoked between January and September 2024 due to non-compliance with approval conditions.
- 6.2 Details of the similar applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.
- 6.3 Other than the similar applications as stated in paragraph 6.1 above, application No. A/YL-KTN/1017 for the same use as the current application and within the same “AGR” zone will be considered at the same meeting (**Plan A-1**).

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

### **7.1 The Site is:**

- (a) currently vacant and mainly covered by grass and shrubs, with an existing pond covered by weeds; and
- (b) accessible from Mei Fung Road via local tracks.

### **7.2 The surrounding areas are rural in character with an intermix of vacant land, animal boarding establishments (including the site with valid planning permission under application No. A/YL-KTN/811), piggy farm, war game centre, residential structures (the nearest is about 10m to the west of the Site) and grassland. To the immediate west is a vacant site with valid planning permission for temporary open storage of construction materials under application No. A/YL-KTN/994 which was submitted by the same applicant as the current application (**Plan A-2**).**

## **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/pond 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 are provided in **Appendices III** and **IV** respectively.
- 9.2 The following government departments do not support the application:

### **Environment**

#### **9.2.1 Comments of the Director of Environmental Protection (DEP):**

- (a) according to the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application as sensitive receivers, i.e. residential structures, are found in the vicinity of the Site and the proposed use will cause traffic of heavy vehicles, thus environmental nuisance is expected;

- (b) no comment on the proposed filling of land and pond; and
- (c) there was one environmental complaint related to the Site on air aspect in the past three years.

### **Agriculture and Nature Conservation**

#### **9.2.2 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):**

- (a) the proposed use is not supported 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.;
- (c) no relevant records of fish culture operations of the pond at the Site; and
- (d) no comment on the application with land and pond filling from nature conservation and fisheries perspectives.

## **10 Public Comments Received During Statutory Publication Periods**

On 22.3.2024 and 13.9.2024, the application and FI were published for public inspection. During the statutory public inspection periods, 11 public comments were received from Kadoorie Farm & Botanic Garden, the Conservancy Association and individuals objecting to the application mainly on the grounds that the proposed use is not in line with the planning intention of “AGR” zone; the Site is intended for agricultural use; the proposed use will hinder agricultural development; the proposed use is not justified; the Site may involve unauthorised developments; approval of the application will set an undesirable precedent; there would be adverse drainage and environmental impacts; the Committee should take into account the developments at the adjoining lots; and there is no consent given by the nearby lot occupants for right-of-way of the proposed access (**Appendix V**).

## **11 Planning Considerations and Assessments**

11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) for a period of three years and associated filling of land and pond at the Site zoned “AGR” (**Plan A-1**). 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. Whilst the proposed use is not in line with the planning intention of “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the

planning assessments below, the proposed use on a temporary basis of three years could be tolerated.

- 11.2 Filling of land/pond within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and DEP have no objection to or no comment on the proposed filling of land and pond from drainage and environmental perspectives respectively. An approval condition requiring the reinstatement of the Site to an amenity area is recommended, should the Committee decide to approve the application.
- 11.3 The proposed use is considered not incompatible with the surrounding areas which are rural in character with an intermix of vacant land, animal boarding establishments and residential structures. To the immediate west is a vacant site with valid planning permission for temporary open storage of construction materials under application No. A/YL-KTN/994 which was submitted by the same applicant as the current application. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that significant adverse landscape impact arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective.
- 11.4 DEP does not support the application as the proposed use involves use of heavy vehicles and there are sensitive receivers in the vicinity of the Site. To address DEP’s concerns, the applicant will be advised to follow the revised ‘Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites’ to minimise any potential environmental nuisance by the proposed use. The operation of the proposed use will also be subject to the relevant pollution control ordinances.
- 11.5 Other relevant government departments consulted including the Commissioner for Transport and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below.
- 11.6 There are 23 approved similar applications within the same “AGR” zone in the vicinity of the Site as mentioned in paragraph 6.1. Approving the current application is in line with the Committee’s previous decisions.
- 11.7 Regarding the public comments on the proposed access as mentioned in paragraph 10 above, the applicant indicates that he will liaise with the respective land owners and occupants for the proposed access to minimise any nuisance to them. For other public comments, 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 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 25.10.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a revised 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 25.4.2025;
- (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 25.7.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site 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 25.4.2025;
- (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 25.7.2025;
- (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 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 with associated filling of land and pond 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and

other agricultural purposes. There is no strong planning justification 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 applicant.

### **14 Attachments**

<b>Appendix I</b>	Application form with attachments received on 15.3.2024
<b>Appendix Ia</b>	FI received on 16.5.2024
<b>Appendix Ib</b>	FI received on 18.6.2024
<b>Appendix Ic</b>	FI received on 26.6.2024
<b>Appendix Id</b>	FI received on 29.7.2024
<b>Appendix Ie</b>	FI received on 3.9.2024
<b>Appendix II</b>	Similar applications
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comments
<b>Drawing A-1</b>	Site layout plan
<b>Drawing A-2</b>	Land/pond filling plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a and 4b</b>	Site photos

**PLANNING DEPARTMENT  
OCTOBER 2024**