

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1005

<u>Applicant</u>	:	LAM Tung Man represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 973 RP (Part) in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 502m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/11
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Warehouse (Excluding Dangerous Goods Godown) for a Period of Three Years and Associated Filling of Land

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 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 of land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is currently paved, partly fenced and partly occupied by construction materials and a container structure without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Mei Fung Road via a short section of local track (**Plans A-1 to A-3**). According to the applicant, the proposed use for storage of miscellaneous goods such as packaged food, apparel, footwear, electronic goods and furniture, but no dangerous goods involves one single-storey structure with building height of about 8.23m and a floor area of about 220m² for warehouse and covered loading/unloading (L/UL) area (**Drawing A-1**). One L/UL space for light goods vehicle will be provided. The proposed operation hours will be between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The applicant also applies for regularisation of filling of land for the entire Site with concrete with a depth of not more than 0.2m (to about 5.8mPD) for site formation and vehicular circulation (**Drawing A-2**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is the subject of two previous applications, including the last approved application No. A/YL-KTN/898 which is the same as the current application in terms of applicant, proposed use, site area, layout and development parameters (as detailed in paragraph 5 below). The planning permission under application No. A/YL-KTN/898 was subsequently revoked in January 2024 due to non-compliance with the approval conditions.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 18.3.2024 **(Appendix I)**
 - (b) Further Information (FI) received on 17.6.2024* **(Appendix Ia)**
 - (c) FI received on 19.8.2024* **(Appendix Ib)**
 - (d) FI received on 24.9.2024* **(Appendix Ic)**
- *accepted and exempted from publication and recounting requirements*
- 1.5 On 10.5.2024 and 16.8.2024, 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 Ic**, and can be summarised as follows:

- (a) The proposed use is temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone.
- (b) The proposed use can meet the demand for warehouse in recent years, and there are similar applications approved by the Committee in the vicinity of the Site within the same “AGR” zone.
- (c) The planning permission under the last application was revoked due to non-compliance with the approval conditions related to submission of a condition record of the existing drainage facilities and implementation of fire service installations (FSIs) proposal. The applicant did not have sufficient time to comply with the approval conditions due to shortage of workers for the construction works. In support of the current application, the applicant has already employed another contractor for the remaining works and submitted relevant drainage record and FSIs proposal under the current application. The proposed use is anticipated to generate infrequent trips. It will not induce adverse environmental, traffic and drainage impacts on the surrounding areas.

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 registered mail to the Kam Tin Rural Committee by registered mail. 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. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

5. **Previous Applications**

5.1. The Site is the subject of two previous applications (No. A/YL-KTN/636 and 898). Application No. A/YL-KTN/636 for temporary place of recreation, sports or culture (hobby farm) is not relevant to the current application. Application No. A/YL-KTN/898 for temporary warehouse for a period of three years and filling of land, which is the same as the current application in terms of applicant, site area, layout and development parameters, was approved with conditions by the Committee on 21.4.2023 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of “AGR” zone; the proposed use was not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comment or their concerns could be addressed by approval conditions. The planning permission under application No. A/YL-KTN/898 was subsequently revoked in January 2024 due to non-compliance with the approval conditions related to submission of a condition record of the existing drainage facilities and implementation of FSI proposal.

5.2. Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. **Similar Applications**

6.1 There are 23 similar applications for temporary warehouse (including one for renewal of temporary approval granted, 22 with filling of land/pond, and one with 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 June 2020 and September 2024 on the similar considerations as mentioned in paragraph 5.1 above. The planning permissions under applications No. A/YL-KTN/824, 852 and 938 were revoked between February and August 2024 due to non-compliance with the 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, applications No. A/YL-KTN/989 and 1010 for the same proposed 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-4)

- 7.1 The Site is:
- (a) currently paved, partly fenced and partly occupied by construction materials and a container structure without valid planning permission; and
 - (b) accessible from Mei Fung Road via a short section of local track.
- 7.2 The surrounding areas are rural in character with an intermix of vacant land, grassland, farmland, residential structures, storage yards and parking of vehicles.

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. Comment from Relevant Government Departments

- 9.1 Apart from the government department 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 department does not support 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 occupied by some sundries. 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 perspective.

10 Public Comments Received During Statutory Publication Period

On 26.3.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual raising concern on the non-compliance with approval conditions under the previous application (**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 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. While the proposed use is not in line with the planning intention of the “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 in 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 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 is recommended should the Committee decide to approve the application.
- 11.3 The Site is paved and partly occupied by construction materials and a container structure. The proposed use is considered not incompatible with the surrounding land uses which are rural in character with an intermix of vacant land, grassland,

residential structures, storage yards and parking of vehicles. The Chief Town Planner/Urban Design and Landscape of Planning Department considers that significant landscape impact arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective.

- 11.4 Other relevant government departments consulted, including the Commissioner for Transport and Director of Fire Services (D of FS), 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. The applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance caused by the proposed use.
- 11.5 The planning permission under the last approved application (No. A/YL-KTN/898), which was submitted by the same applicant for the same use on the same Site with the same development parameters as stated in paragraph 5.1, was revoked due to non-compliance with the approval conditions related to submission of a condition record of the existing drainage facilities and implementation of FSIs proposal. In this regard, the applicant has submitted the relevant drainage record and FSIs proposal in support of the current application, and the FSIs proposal is considered acceptable by D of FS. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 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 comment as mentioned in paragraph 10, the departmental comments and planning assessments 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 comment mentioned in paragraph 10, the Planning Department 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 4.10.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (b) the submission of a condition record of the existing drainage facilities on the site within **3** months from the date of planning approval to the

satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.1.2025;

- (c) the implementation of the accepted 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 4.7.2025;
- (d) if the above planning condition (a) 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;
- (e) if any of the above planning condition (b) or (c) 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
- (f) 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 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

Appendix I	Application form with attachments received on 18.3.2024
Appendix Ia	FI received on 17.6.2024
Appendix Ib	FI received on 19.8.2024
Appendix Ic	FI received on 24.9.2024
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan with previous and similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
OCTOBER 2024**