

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1010

<u>Applicant</u>	: Mr. TSOI Tak Lee represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	: Lots 209 S.A ss.1, 209 S.A ss.2 and 209 S.A RP in D.D. 110, Tsat Sing Kong, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 1,145m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) 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 approved Kam Tin North OZP No. S/YL-KTN/11 (**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 in the “AGR” zone also requires planning permission from the Board. The Site is currently fenced, partly paved and vacant, and partly occupied by temporary structures and some vehicles (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kong Po Road via local tracks (**Plans A-2 and A-3**). According to the applicant, the proposed use for storage of construction materials such as bamboo, scaffoldings, bricks, metals and sand involves two single-storey structures with building heights of 9m and a total floor area of about 450m² for warehouse, ancillary office and covered parking area (**Drawing A-1**). The applicant also applies for regularisation of filling of land for part of the Site (about 578 m² or 50.5%) and proposed filling of land for the remaining part of the Site (about 567 m² or 49.5%) with a depth of about 0.1m (from 15.5mPD to 15.6mPD) for site formation and vehicle manoeuvring (**Drawing A-2**). No workshop activities will be involved at the Site. The proposed operation hours will be

between 9 a.m. and 7 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. Two parking spaces for medium goods vehicle (MGV) will be provided. MGV less than 7m long will be used in view of the vehicle length restriction at Kong Po Road. The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.3 The Site is the subject of a previous application (No. A/YL-KTN/923) approved for temporary animal boarding establishment and filling of land which was submitted by the same applicant as the current application. Details of the previous application are given in paragraph 5.1 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 8.4.2024 (Appendix I)
 - (b) Further Information (FI) received on 2.7.2024* (Appendix Ia)
 - (c) FI received on 5.7.2024* (Appendix Ib)
 - (d) FI received on 22.8.2024* (Appendix Ic)
 - (e) FI received on 17.9.2024* (Appendix Id)
- * accepted and exempted from publication and recounting requirements*
- 1.5 On 7.6.2024 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 a period of 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 **Id**, and can be summarised as follows:

- (a) The proposed use is intended to meet the strong demand for warehouses in the Yuen Long area. The proposed use is temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone. There were similar applications approved by the Committee in the vicinity of the Site. In support of the current application, the applicant has submitted drainage and fire service installations (FSIs) proposals.
- (b) The proposed parking spaces for MGV are for supporting the daily operation and the staff will access the Site by public transport. The proposed use is considered not incompatible with the surrounding areas. Significant adverse drainage, traffic, fire safety and environmental impacts on the surrounding areas are not anticipated.
- (c) The approved temporary animal boarding establishment under the previous application No. A/YL-KTN/923 at the Site was not implemented as the applicant considers that there is an increasing demand for warehouse in the area.

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

The applicant is not a ‘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 obtaining consent from the ‘current land owner’. Detailed information would be deposited at the meeting for Member’s 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 Application

5.1 The Site is the subject of a previous application (No. A/YL-KTN/923) for temporary animal boarding establishment for a period of five years and filling of land submitted by the same applicant as the current application. It was approved with conditions by the Committee in August 2023. The considerations are not relevant to the current application which involves a different use.

5.2 Details of the previous application are summarised in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

6.1 There are eight similar applications (No. A/YL-KTN/925, 928, 940, 959, 976, 978, 988 and 1000) for temporary warehouse (excluding dangerous goods godown) and filling of land 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 August 2023 and July 2024 mainly on the considerations that 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 comments or the concerns could be addressed by approval conditions.

6.2 Details of the similar applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6.3 Other than the similar applications mentioned in paragraph 6.1 above, applications No. A/YL-KTN/989 and 1005 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-4)

7.1 The Site is:

- (a) currently fenced, partly paved and vacant, and partly occupied by temporary structures and some vehicles; and
- (b) accessible from Kong Po Road via local tracks.

7.2 The surrounding areas are rural in character with an intermix of open storage/storage yards, residential structures (the nearest is within about 50m to the south of the Site), plant nursery, grassland and vacant land.

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 the 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 involve the use of heavy vehicles, thus environmental nuisance is expected;
- (b) no comment on the applied filling of land; and
- (c) there was no environmental complaint concerning the Site received in the past three years.

Agriculture and Nature Conservation

9.2.2 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 and plant nurseries; and
- (c) no comment on the application from nature conservation perspective.

10. Public Comment Received During Statutory Publication Period

On 16.4.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds that there is no justification for the proposed use as port activities are declining; and the approval conditions would not be fulfilled (**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 with 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. Whilst 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 for a period 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 DEP have no objection to or no comment on the applied filling of land from drainage and environmental perspectives respectively, and the former also considers the drainage proposal submitted by the applicant acceptable. An approval condition requiring reinstatement of the Site upon expiry of the planning permission is recommended should the Committee decide to approve the application.

- 11.3 The Site is partly paved and vacant, and partly occupied by temporary structures and some vehicles. The proposed use is considered not incompatible with the surrounding land uses which are rural in character with an intermix of open storage/storage yards, residential structures and plant nursery. 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 she has no objection to the application from landscape planning perspective.
- 11.4 DEP does not support the application as the proposed use involves the 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 Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance generated 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 eight approved similar applications for temporary warehouse use within the same "AGR" zone in the vicinity of the Site as mentioned in paragraph 6.1 above. Approving the current application is in line with the Committee's previous decisions.
- 11.7 Regarding the public comment 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 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 4.10.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the implementation of the accepted 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 4.7.2025;
- (b) in relation to (a) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;

- (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 (b) 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 (a) 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 purpose. 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

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| Appendix I | Application form with attachments received on 8.4.2024 |
| Appendix Ia | FI received on 2.7.2024 |

Appendix Ib	FI received on 5.7.2024
Appendix Ic	FI received on 22.8.2024
Appendix Id	FI received on 17.9.2024
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
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
OCTOBER 2024**