

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1017

<u>Applicant</u>	:	Mr. TANG Lam Piu represented by Mr. TANG Lok San
<u>Site</u>	:	Lot 1864 (Part) in D.D. 107 and Adjoining Government Land (GL), Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 794.4m ² (including GL of about 273.7m ² (34.5%))
<u>Lease</u>	:	Lot No. 1864 in D.D. 107 for agriculture purpose
<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 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 the “AGR” zone also requires planning permission from the Board. The Site is currently vacant, formed and partly fenced (**Plan A-4**).
- 1.2 The Site is accessible from Shui Mei Road via a local track (**Plans A-1 and A-2**). According to the applicant, the proposed use for storage of construction equipment, water pipes and repair parts involves two single-storey structures with building heights of not more than 8m and a total floor area of about 227.25m² for a warehouse with ancillary office and an electric meter room (**Drawing A-1**). The applicant also applies for proposed filling of land with concrete for the entire Site with a depth of not more than 0.3m (to level of not more than +13.7mPD) for site formation and vehicular circulation (**Drawing A-2**). The 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 private cars and two loading/unloading spaces for light goods vehicle will be provided within the Site. No vehicles exceeding 5.5

tonnes will be allowed to enter/exit the Site. The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application Form with attachments received on 16.5.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 27.8.2024* (**Appendix Ia**)
- * accepted and exempted from publication and recounting requirements*

1.4 On 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 a period of two months 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 FI at **Appendices I** and **Ia**. They can be summarised as follows:

- (a) The proposed use is intend to serve the market demand for small-scale warehouse. It is temporary in nature and approval of the current application will not frustrate the long-term planning intention of the “AGR” zone.
- (b) The proposed use is not incompatible with the surrounding uses and will not create significant nuisance to the surrounding areas. There were similar applications within the same “AGR” zone approved by the Committee.
- (c) The Site was previously cleared for conducting site boundary survey. Regarding the public comments on the issue of occupation of adjoining private land, the applicant will keep close communication with the concerned stakeholders.

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

The applicant is not a ‘current land owner’ of the private land portion of the Site 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 notices and sending notice to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the ‘Owner’s Consent/Notification’ requirements are not applicable.

4. Background

Part of the Site is subject to planning enforcement action (No. E/YL-KTN/662) against unauthorized development (UD) involving storage use and part of the Site is subject to planning enforcement action (No. E/YL-KTN/687) against UD involving filling of land (**Plan A-2**). Reinstatement Notice(s) were issued on 20.6.2024 and 2.7.2024 respectively requiring reinstatement of the concerned land. Site inspection on 23.9.2024 and 3.10.2024

revealed that the land was partially reinstated. If the notices are not complied with, prosecution would be considered.

5. **Previous Application**

There is no previous application at 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/1004 for the same use as the current application 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 vacant, formed and partly fenced; and
- (b) accessible from Shui Mei Road via a local track.

7.2 The surrounding areas are mainly rural in character with an intermix of vacant land/structures, grassland, warehouse, storage yards, indoor and outdoor recreation centre (with valid planning permission under application No. A/YL-KTN/894), sports training ground, parking of vehicles and residential structures (the nearest is to the immediate northwest of the Site). The village settlements of Pak Wai Tsuen and Shui Mei Tsuen are about 70m away to the south.

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 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

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 perspective.

10. Public Comments Received During Statutory Publication Period

On 24.5.2024, the application was published for public inspection. During the statutory public inspection period, four public comments were received from the Conservancy Association (CA), Kadoorie Farm & Botanic Garden Corporation (KFBG), a Pak Wai Tsuen villager and an individual (**Appendix V**). KFBG raises concerns on the existing site status and whether it is appropriate to approve the application if the Site is still suitable for agricultural use. The CA and the individual object to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; the Site has been subject to “destroy first, build later” activities; and there would be road safety issue. The villager objects to the application mainly on the grounds that there is illegal occupation of adjoining private land and GL.

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. 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 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 Director of Environmental Protection (DEP) have no objection to or no comment on 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 proposed use is considered not incompatible with the surrounding areas which are rural in character with an intermix of vacant land, grassland, storage yards and residential structures. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no objection to the application from landscape planning perspective considering that the proposed use is not incompatible with the surroundings and significant adverse landscape impact arising from the proposed use is not anticipated.
- 11.4 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 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 Aspect of Temporary Uses and Open Storage Sites’ to minimise any potential environmental nuisance caused by the proposed use.
- 11.5 There are 23 approved similar applications 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.
- 11.6 Regarding the public comments on illegal occupation of adjoining private land and GL as mentioned in paragraph 10, the applicant indicates that close communication with the concerned stakeholders would be kept and the District Lands Officer/Yuen Long of Lands Department has no adverse comment on the application. For other concerns raised in the public comments, the departmental comments and planning assessments above are also 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 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 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 supplementary information received on 16.5.2024
Appendix Ia	FI received on 27.8.2024
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
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**