

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1025

<u>Applicant</u>	: Mr. LAI Kwok Man represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	: Lot 1020 (Part) in D.D. 109, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 1,647m 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 Private Vehicle Park (Excluding Container Vehicle) for a Period of Three Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary private vehicle park (excluding container vehicle) for a period of three years and 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 within the “AGR” zone also requires planning permission from the Board. The Site is fenced, paved and largely vacant (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed use involves 32 parking spaces for private car and six parking spaces for light goods vehicle (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the entire Site with a depth of 0.1m to 1.1mPD (**Drawing A-2**). The proposed operation hours will be 24 hours daily including Sundays and public holidays. The Site is accessible from Kong Tai Road via a local track (**Plans A-2 and A-3**). The layout plan and paving 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 supplementary information received (**Appendix I**) on 12.6.2024
- (b) Further Information (FI) received on 17.7.2024* (**Appendix Ia**)
- (c) FI received on 23.7.2024* (**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 the application form, supplementary information and FI at **Appendices I to Ib**. They can be summarised as follows:

- (a) The proposed use is mainly intended to provide parking spaces to meet the parking demand of nearby villagers in Cheung Kong Tsuen and Tai Kong Po. There are insufficient parking spaces in the surrounding areas to cater for the demand and the proposed use can help alleviate the problem of illegal parking. Only villagers registered with the operator are allowed to park at the Site. The temporary nature of the application will not frustrate the long-term planning intention of the “AGR” zone.
- (b) A vehicular access is provided to the west of the Site and sufficient space is allowed for vehicle manoeuvring within the Site. No container vehicles and vehicles exceeding 5.5 tonnes will be allowed to be parked/stored or enter/exit the Site. No car beauty services, vehicle repairing, dismantling or other workshop activities will be allowed at the Site.
- (c) The previously approved hobby farm at the Site had not been implemented. The applicant will comply with the approval condition(s) should planning approval be granted.

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 largely subject to planning enforcement action (No. E/YL-KTN/676) against unauthorised development (UD) involving storage use and parking of vehicles. An Enforcement Notice was issued on 16.4.2024 requiring discontinuation of the UD by 16.7.2024. As revealed in site inspection on 17.7.2024, the Site was vacant.

5. Previous Application

The Site is the subject of one previous application (No. A/YL-KTN/812) for temporary place of recreation, sports or culture (hobby farm) which is not relevant to the current application. Details of the previous application are summarised in **Appendix II** and its location is shown on **Plan A-1**

6. Similar Application

6.1 There is one similar application (No. A/YL-KTN/961) for temporary vehicle park with filling of land within the same “AGR” zone in the vicinity of the Site in the past five years. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in April 2024 mainly on the considerations that the applied use on a temporary basis could be tolerated; the applied use was not incompatible with the surrounding uses; and the relevant departments consulted had no adverse comments or their technical concerns could be addressed by approval conditions.

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

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

7.1 The Site is:

- (a) fenced, paved and largely vacant; and
- (b) accessible from Kong Tai Road via a local track.

7.2 The surrounding areas are rural in character mainly intermixed with animal boarding establishments, residential dwellings/structures, farmland, hobby farms and open storage/storage yards. Except the site for temporary animal boarding establishment with valid planning permission under application No. A/YL-KTN/861, other animal boarding establishments, hobby farms and open storage/storage yards are without valid planning permission. To the south of the Site within about 20m is the village settlement of Cheung Kong Tsuen within the “Village Type Development” zone and to the further east to the Site is the village settlement of Tai Kong Po.

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 “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 paragraphs 9.2 and 9.3 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.

- 9.3 The following government department supports the application:

Transport

Comments of the Commissioner for Transport (C for T):

- (a) supports the application from traffic engineering perspective to address the local demand for parking spaces; and
- (b) detailed advisory comments are at **Appendix IV**.

10. Public Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, four public comments were received from three individuals and Kadoorie Farm & Botanic Garden. An individual and Kadoorie Farm & Botanic Garden object to the application mainly on the grounds of traffic impacts and that the proposed use is not in line with the planning intention of the “AGR” zone. The remaining comments from two other individuals raise concerns on the extent of land filled; the

genuine intention of the applicant; and making use of government land for private business.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary private vehicle park (excluding container vehicle) for a period of three years and 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. 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. Nonetheless, according to the applicant, the proposed use is intended to meet the needs of villagers nearby and C for T supports the application for addressing the local parking demand. 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 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 the Drainage Services Department and the Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives. 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 proposed use is considered not incompatible with the surrounding land uses intermixed with animal boarding establishments, residential dwellings/structures, open storage/storage yards, hobby farms and farmland. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant adverse landscape impact is not anticipated and has no objection from landscape planning perspective.
- 11.4 Other relevant departments consulted, including the District Lands Officer/Yuen Long of the Lands Department and the 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 Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimise any potential environmental nuisance by the proposed use.
- 11.5 There is one approved similar application in the vicinity of the Site as mentioned in paragraph 6.1. Approving the current application is in line with the Committee’s previous decision.
- 11.6 For the public comments mentioned in paragraph 10, the departmental comments and planning assessments above are relevant. Regarding the comment that the

application is making use of government land for private business, the Site involves no government land.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and taking into account the public comments 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 2.8.2027. 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 2.2.2025;
- (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 2.5.2025;
- (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 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 2.5.2025;
- (e) 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;
- (f) if any of the above planning condition (a), (b) 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 ~~***immediately***~~ without further notice; and
- (g) 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 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purpose. There is no strong planning justification 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 12.6.2024
Appendix Ia	FI received on 17.7.2024
Appendix Ib	FI received on 23.7.2024
Appendix II	Previous and 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	Paving plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
AUGUST 2024**