

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1033

<u>Applicant</u>	: Mr. LAM Tung Man represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 925 RP (Part), 926 RP (Part), 927, 954 S.A and 954 RP (Part) in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 2,426m 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 OZP (**Plan A-1a**). 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 partly fenced-off and paved, and largely vacant with some temporary structures (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Mei Fung Road (**Plans A-2 and A-3**). According to the applicant, the proposed use for storage of miscellaneous goods such as packaged food, apparel, footwear, electronic goods and furniture involves five structures of one storey with building heights of about 9m and a total floor area of about 988m² for warehouse, ancillary site office and washroom (**Drawing A-1**). No storage of dangerous goods, workshop, recycling, cleansing, dismantling and other workshop activities will be carried out. The applicant also applies for regularisation of filling of land and proposed additional filling of land. According to the applicant, the existing hard-paved area (883m² or 36%) is cracked and uneven. Upon approval of the application, the existing hard-paved area will be removed and the Site will be filled to the proposed extent of for 2,382m² (98%)

with concrete of not more than 0.2m in depth (to level of not more than 10.4mPD) for site formation and vehicular circulation (**Drawing A-2**). Two parking spaces for private car and two loading/unloading (L/UL) spaces for light goods vehicle will be provided. Two existing trees within the Site will be felled and five new trees will be planted along the northern boundary of the Site for compensation. The operation hours will be between 7 a.m. and 7 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The site layout plan, land filling plan and landscape proposal submitted by the applicant are at **Drawings A-1 to A-3**.

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

- (a) Application Form with attachments received on 12.7.2024 (**Appendix I**)
- (b) Further Information (FI) received on 7.8.2024* (**Appendix Ia**)
- (c) FI received on 3.10.2024[#] (**Appendix Ib**)
- (d) FI received on 6.11.2024* (**Appendix Ic**)

** accepted and exempted from publication and recounting requirements*

[#] accepted but not exempted from publication and recounting requirements

1.4 On 8.9.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months 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 can meet the demand for warehouse in recent years. It is temporary in nature and approving the current application will not frustrate the long-term planning intention of the “AGR” zone. The proposed use is also not incompatible with the surrounding areas. There were similar applications approved by the Committee in the vicinity of the Site.
- (b) Sufficient space is provided for vehicle circulation, L/UL and parking to accommodate smooth and safe manoeuvring.
- (c) No Old and Valuable or protected trees are found within the Site. Two existing trees within the Site will be felled and new trees will be planted near the proposed ingress/egress.
- (d) Regarding the concern on unauthorized structure(s) within the Site, the applicant will follow up with the Lands Department (LandsD) regarding Short Term Waiver (STW) application for the proposed use at the Site.

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

4. Background

The Site is subject to planning enforcement action (No. E/YL-KTN/698) against unauthorized development (UD) involving use for place for holiday camp, use for eating place, use for place for parking of vehicles and storage use (**Plan A-2**). Enforcement Notice was issued on 30.7.2024 requiring discontinuation of the UD by 30.9.2024. Site inspection on 3.10.2024 revealed that the Site was largely vacant.

5. Previous Applications

- 5.1 Various parts of the Site are involved in nine previous applications (No. A/YL-KTN/474, 520, 562, 665, 670, 695, 772, 817 and 859) for temporary animal boarding establishment, and temporary hobby farm and/or holiday camp (three with ancillary canteen/eating place) which are not relevant to the current application as different use is involved.
- 5.2 Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1b**.

6. Similar Applications

- 6.1 There are 28 similar applications for temporary warehouse (including one renewal of temporary approval granted, 27 with filling of land/pond, and 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 June 2020 and November 2024 mainly on the considerations that the proposed/applied use on a temporary basis would not frustrate the long-term planning intention or could be tolerated; the proposed/applied use was not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comment or their technical 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 their locations are shown on **Plan A-1a**.

- 6.3 Other than the similar applications mentioned in paragraph 6.1 above, applications No. A/YL-KTN/1031 for temporary warehouse and No. A/YL-KTN/1054 for temporary warehouse and open storage within the same “AGR” zone will be considered at the same meeting (**Plan A-1a**).

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

- 7.1 The Site is:

- (a) partly fenced-off and paved, and largely vacant with some temporary structures; and
- (b) accessible from Mei Fung Road.

- 7.2 The surrounding areas are rural in character with an intermix of open storage/storage yards, parking of vehicles, works site, restaurant, residential structures, hobby farm, farmland 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 or have adverse comments on the application:

Land Administration

- 9.2.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):
- (a) has adverse comment on the application;

- (b) the Site comprises Old Schedule Agricultural Lot Nos. 925 RP, 926 RP, 927, 954 S.A and 954 RP all in D.D. 107 held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) Lot No. 926 RP in D.D. 107 is covered by STW No. 4477 for the purpose of “Temporary Hobby Farm”. Lot Nos. 954 S.A and 954 RP in D.D. 107 are covered by STW Nos. 5007 and 5008 respectively for the purpose of “Temporary Animal Boarding Establishment”;
- (d) LandsD has reservation on the planning application since there is/are unauthorized structure(s) and/or uses on Lot Nos. 925 RP and 927 in D.D. 107 which is/are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD; and
- (e) if the planning application is approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) shall apply to his office for a STW to permit the structure(s) erected within Lot Nos. 925 RP and 927 in D.D. 107. The application(s) for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered.

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 Comments Received During Statutory Publication Periods

On 19.7.2024 and 15.10.2024, the application and FI were published for public inspection. During the statutory public inspection periods, five public comments including two from

Kadoorie Farm and Botanic Garden, one from The Conservancy Association and two from a same individual were received, all objecting to the application mainly on the grounds that approval conditions under the previous application at the Site were not complied with; the demand for industrial facilities is declining; the proposed use is not in line with the planning intention of the “AGR” zone; the proposed filling of land is unjustified; and there will be adverse environmental impacts (**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-1a**). 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 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 reinstatement of the Site to an amenity area 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 which are rural in character within an intermix of open storage/storage yards, parking of vehicles, works site, restaurant, residential structures and hobby farm. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no objection to the application from landscape planning perspective considering that significant landscape impact is not anticipated.
- 11.4 Regarding DLO/YL, LandsD’s concern on the unauthorized structure(s) and/or uses on the concerned lots within the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. 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. 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 by the proposed use.
- 11.5 There are 28 approved similar applications for temporary warehouse use within the same “AGR” zone in the vicinity of the Site in the past five years 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 mentioned in paragraph 10, the previous applications for temporary animal boarding establishment and temporary hobby farm and/or holiday camp with ancillary canteen/eating place involved at the Site are not relevant to the current application for temporary warehouse. 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 above and having taken into account the public comments mentioned in paragraph 10 above, 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 22.11.2027. 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 22.5.2025;
- (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 22.8.2025;
- (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 22.5.2025;
- (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 22.8.2025;
- (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 attachments received on 12.7.2024
Appendix Ia	FI received on 7.8.2024
Appendix Ib	FI received on 3.10.2024
Appendix Ic	FI received on 6.11.2024
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	Land filling plan

Drawing A-3	Landscape proposal
Plan A-1a	Location plan
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & 4b	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2024**