

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1054

<u>Applicant</u>	: Tsun Sing Engineering Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 1223 S.A (Part), 1224 S.A, 1226 S.A, 1226 S.B and 1227 S.A (Part) in D.D. 107, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 766m 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 and Open Storage of Construction Materials and Machineries 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 and open storage of construction materials and machineries 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 currently fenced-off, paved and largely vacant with some temporary structures (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Mei Fung Road via local tracks (**Plans A-2 and A-3**). According to the applicant, the proposed use for storage of construction materials (including bricks, tiles, screws, paint and glass) and machineries (including elevated platforms, generators, chain-saws and drills) involves two single-storey structures with building heights of not more than 8.23m and a total floor area of about 443m² for warehouse and one covered loading/unloading space for light goods vehicle, and an open area of about 65m² (8.5% of the Site) for storage yard (**Drawing A-1**). No dangerous goods and workshop activities will be involved at the Site. A buffer area of 3m in width and fence wall with height of about 2.5m along the site boundary are proposed to minimise the potential impact on the

nearby watercourse. The applicant also applies for regularisation of filling of land for the entire Site with concrete of not more than 0.2m in depth (to level of not more than +10.9mPD) for site formation and vehicular circulation (**Drawing A-2**). 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. 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 3.10.2024 (**Appendix I**) and 8.10.2024
- (b) Further Information (FI) received on 13.11.2024* (**Appendix Ia**)

** 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 and FI at **Appendices I** and **Ia** and can be summarised as follows:

- (a) The proposed use is to support the operation of an engineering company. The temporary use will not frustrate the long-term planning intention of the “AGR” zone. The Site falls within Category 2 areas under the Town Planning Board Guidelines for application for open storage and port back-up uses. The proposed use is not incompatible with the surrounding areas and there were similar applications approved in the vicinity of the Site.
- (b) The applied filling of land is required to meet the operational needs. Sufficient space is allowed for vehicle manoeuvring within the Site and infrequent trip generation is anticipated.

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

The applicant is the sole ‘current land owner’ of the Site. 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. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls

within Category 2 areas under TPB PG-No. 13G, and relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Applications

- 6.1 Part of the Site is the subject of two previous applications (No. A/YL-KTN/745 and 815) for temporary hobby farm and temporary animal boarding establishment, which are not relevant to the current application.
- 6.2 Details of the previous applications are summarised in **Appendix III** and their locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 There are 27 similar applications for temporary warehouse (including one for renewal of temporary approval granted and 26 with filling of land/pond) and four similar applications for temporary open storage with filling of land (one of which also involved warehouse use) 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 Rural and New Town Planning Committee (the Committee) of the Board 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; the relevant government departments consulted generally had no adverse comments or their technical concerns could be addressed by approval conditions; and the application was in line with the Town Planning Board Guidelines for application for open storage and port back-up uses (for the four similar applications for temporary open storage). The planning permissions under six of these applications (No. A/YL-KTN/824, 852, 890, 898, 938 and 962) were subsequently revoked between January and September 2024 due to non-compliance with approval conditions.
- 7.2 Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1a**.
- 7.3 Other than the similar applications mentioned in paragraph 7.1 above, applications No. A/YL-KTN/1031 and 1033 for proposed temporary warehouse within the same “AGR” zone will be considered at the same meeting (**Plan A-1a**).

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

- 8.1 The Site is:
 - (a) currently fenced-off, paved and largely vacant with some temporary structures; and
 - (b) accessible from Mei Fung Road via local tracks.

- 8.2 The surrounding areas are rural in character with an intermix of open storage/storage yards, animal boarding establishment, holiday camp, plant nursery, parking of vehicles, residential structures, grassland and vacant land. A nullah is located to the south of the Site.

9. Planning Intention

- 9.1 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.
- 9.2 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.

10. Comments from the Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 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 IV and V** respectively.
- 10.2 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 with 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 and plant nurseries; and
- (c) no comment on the application from nature conservation perspective.

11. Public Comments Received During Statutory Publication Period

On 15.10.2024, the application was published for public inspection. During the statutory public inspection period, four public comments were received from World Wide Fund For Nature Hong Kong, The Conservancy Association, Kadoorie Farm and Botanic Garden and an individual objecting to the application mainly on the grounds that unauthorized vegetation clearance and filling of land were carried out without prior

approval; the proposed use would set an undesirable precedent for other similar applications; the proposed use is not in line with the planning intention of the “AGR” zone; there will be adverse environmental impacts; and the approval conditions under the previous application at the Site were not complied with (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary warehouse and open storage of construction materials and machineries 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 for a period of three years could be tolerated.
- 12.2 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 upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 12.3 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, animal boarding establishment, parking of vehicles, residential structures, grassland and vacant land. 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 surrounding landscape character and significant adverse impact on the landscape resources arising from the proposed use is not anticipated.
- 12.4 The Site falls within Category 2 areas under TPB PG-No. 13G. The following considerations in the Guidelines are relevant:
- Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.
- 12.5 The application is considered generally in line with TPB PG-No. 13G in that the 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 13.2 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.

- 12.6 There are 31 approved similar applications for temporary warehouse and/or open storage uses within the same "AGR" zone in the vicinity of the Site in the past five years as mentioned in paragraph 7.1 above. Approving the current application is in line with the Committee's previous decisions.
- 12.7 Regarding the public comments mentioned in paragraph 11 above, the previous applications for temporary hobby farm and temporary animal boarding establishment involved at the Site are not relevant to the current application which involves different use. The departmental comments and planning assessments above are also relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments in paragraph 11 above, PlanD considers that the proposed use could be tolerated for a period of three years.
- 13.2 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 provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 3.1.2025;
- (e) 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;

- (f) in relation to (e) 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;
- (g) 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;
- (h) if any of the above planning condition (a), (b), (d), (e) or (f) 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
- (i) 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 V**.

- 13.3 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with attachments received on 3.10.2024 and 8.10.2024
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Appendix Ia	FI received on 13.11.2024
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Appendix VII	Fire Services Department's good practice guidelines for open storage sites
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1a	Location plan
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2024**