

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/852**

<b><u>Applicant</u></b>	:	Mr. TANG Chun Pang represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lots 960 RP (Part) and 961 RP (Part) in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	:	About 1,873m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Proposed Temporary Warehouse (excluding Dangerous Goods Godown) for a Period of 3 Years and 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 3 years and filling of land at the application site (the Site). The Site falls within an area zoned “AGR” on the approved Kam Tin North 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) notwithstanding that the use or development is not provided for in terms of the OZP. Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is formed, paved, fenced and mainly vacant (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of two previous applications (No. A/YL-KTN/513 and 705) for temporary hobby farm but unrelated to the current application as detailed in paragraph 5 below.

- 1.3 According to the applicant, the proposed temporary warehouse is for storage of metal products such as metal furniture and metal kitchenware, etc. The proposed development involves the erection of one 1-storey structure with floor area of about 996m<sup>2</sup> and building height of about 8m for warehouse, fire service installations, washroom and ancillary office uses. The whole site has been filled with concrete by not more than 0.2m in depth for site formation of structure (from about +8.6mPD to +8.8mPD), and circulation space (from about +8.6mPD to +8.7mPD). Three private car parking spaces and two loading / unloading spaces for light goods vehicle will be provided at the Site. The operation hours are between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is accessible from Fung Kat Heung Road via a local access (**Plans A-1a** and **A-2**). The site layout and paved ratio plans submitted by the applicant are at **Drawings A-1** and **A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received on 25.7.2022 **(Appendix I)**
  - (b) Further Information (FI) received on 15.9.2022 **(Appendix Ia)**

## 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 and Ia** respectively as summarized below:

- (a) the application is temporary in nature and would not frustrate the long-term planning intention of the “AGR” zone. The proposed development can also better utilize the Site for providing employment opportunities;
- (b) the land filling is for site formation of structure and circulation space, which is essential for the daily operation of the proposed warehouse. The applicant will reinstate the Site to an amenity area after the planning approval period;
- (c) the proposed development is not incompatible with the surrounding area. Similar approved application for warehouse is located in the immediate north of the Site. Approval of the application will not set an undesirable precedent; and
- (d) the proposed development would not generate adverse traffic, environmental landscape and drainage impacts to the surrounding areas. No recycling, cleaning, repairing, dismantling work nor other workshop activities will be carried out at the Site. The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department, and the Professional Persons Environmental

Consultative Committee Practice Notes for sewage treatment 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. 31A) by posting site notice and sending notice to the Kam Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is currently not the subject of any active enforcement action.

**5. Previous Applications**

- 5.1 The Site is involved in two previously approved applications (No. A/YL-KTN/513 and 705) submitted by different applicants for proposed temporary hobby farm which are not relevant to the current application. Both applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) in March 2016 and May 2020.
- 5.2 Details of the previous applications are summarized at **Appendix II** and the locations are shown on **Plan A-1b**.

**6. Similar Applications**

- 6.1 There are four similar applications (No. A/YL-KTN/565, 709, 786 and 824), involving 3 sites, for similar temporary warehouse use (or renewal of the planning approval granted by the Committee) within the “AGR” zone in the vicinity of the Site (one of which involves filling of land) in the past 5 years (**Plan A-1a**). All applications were approved with conditions by the Committee between July 2017 and May 2022 mainly on the grounds that temporary approval of the applications would not frustrate the long-term planning intention; the applied uses were not incompatible with the surrounding land uses; the developments would unlikely cause significant adverse impacts and/or relevant departments’ technical concerns could be addressed through appropriate approval conditions.
- 6.2 Details of the similar applications are summarized at **Appendix II** and the locations are shown on **Plan A-1a**.

## **7. The Site and Its Surrounding Areas (Plans A-2 to A-4)**

### **7.1 The Site is:**

- (a) formed, paved, fenced and currently vacant; and
- (b) accessible from Fung Kat Heung Road via a local access.

### **7.2 The surrounding areas have the following characteristics:**

- (a) to its immediate north is an open storage yard (but the site is approved for temporary warehouse under Application No. A/YL-KTN/824) and a vacant site approved for temporary holiday camp use (Application No. A/YL-KTN/850);
- (b) to its further north and northeast are parking of vehicles, a caravan holiday camp covered with valid planning permission (No. A/YL-KTN/817), an animal boarding establishment covered with valid planning permission (No. A/YL-KTN/695), a vacant site approved for temporary animal boarding establishment use (Application No. A/YL-KTN/651), a restaurant, residential dwellings / structures, and cultivated agricultural land;
- (c) to its east, southeast and south are a storage yard, cultivated/fallow agricultural land, residential dwellings / structures (the nearest about 10m to the southeast), a plant nursery and vacant land; and
- (d) to its west, across Mei Fung Road, are a vacant site approved for animal boarding use (Application No. A/YL-KTN/807), a hobby farm, cultivated/fallow agricultural land, residential dwellings / structures 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, 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 has objection to / reservation on the application.

### Agriculture and Nature Conservation

Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the agricultural activities are active in the vicinity and agricultural infrastructures such as road accesses and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed development falling within the “AGR” zone is not supported from agricultural perspective; and
- (b) from nature conservation point of view, DAFC has no adverse comment on the application.

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

The application was published for public inspection. During the statutory public inspection period, three public comments were received from the Kadoorie Farm and Botanic Garden Corporation and two individuals. The commenters object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone and approval of the application will set an undesirable precedent for similar applications; the proposed warehouse development would affect the living quality of the nearby villagers and even the ecology of the area should it be used for storage of dangerous goods; and the previous planning approval granted for the Site was revoked due to non-compliance with approval conditions.

## 11. **Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) for a period of 3 years and filling of land (by not more than 0.2m in depth) for site formation and circulation space in the “AGR” zone (**Plan A-1a**). The proposed use 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. DAFC does not support the application as the Site falling within the “AGR” zone has potential for agricultural rehabilitation. Nevertheless, it is considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention. Filling of land in the “AGR” zone requires planning permission from the Board. In this regard, CE/MN of DSD and DEP have no adverse comment from the drainage and environmental perspectives.

- 11.2 The Site is situated in an area of rural landscape character comprising vacant land, farmland, temporary structures, village houses and scattered tree groups. The proposed use is considered not incompatible with the surrounding landscape setting. Significant adverse impact on landscape resources arising from the proposed use is not anticipated and the CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective.
- 11.3 The proposed use, involving the storage of metal products and only light goods vehicles will be used, will unlikely result in significant adverse traffic, environmental, drainage and landscape impacts to the surrounding areas. Other relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, the applicant will also be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas.
- 11.4 There are four similar applications (No. A/YL-KTN/565, 709, 786 and 824) within the same “AGR” zone approved for similar temporary warehouse use in the vicinity of the Site (**Plan A-1a**). All applications were approved with conditions by the Committee between 2017 and 2022 for reasons as stated in paragraph 6 above. The planning circumstances of the current application are similar to the approved similar applications. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comments on the application as detailed in paragraph 10 above, government departments’ 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 comments mentioned in paragraph 10, the Planning Department

considers that the proposed temporary warehouse (excluding dangerous goods godown) and filling of land could be tolerated for a period of 3 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 23.9.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no recycling, cleaning, repairing, dismantling work nor other workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) 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 23.3.2023;
- (e) in relation to (d) 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 23.6.2023;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 23.3.2023;
- (h) in relation to (g) 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 23.6.2023;
- (i) if any of the above planning condition (a), (b), (c) or (f) 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;
- (j) if any of the above planning condition (d), (e), (g) or (h) 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

- (k) 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 development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land/farm/fish pond for agricultural purposes. The zone is also intended to retain fallow arable land with good potential for rehabilitation. No strong planning justification has been 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 reasons for rejection should be given to the applicant.

### **14. Attachments**

<b>Appendix I</b>	Application form with supplementary information received on 25.7.2022
<b>Appendix Ia</b>	FI received on 15.9.2022
<b>Appendix II</b>	Previous and similar applications
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comments

<b>Drawing A-1</b>	Site layout plan
<b>Drawing A-2</b>	Paved ratio plan
<b>Plan A-1a</b>	Location plan with similar applications
<b>Plan A-1b</b>	Previous application plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
SEPTEMBER 2022**