

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

**APPLICATION NO. A/YL-KTN/882**

<b><u>Applicant</u></b>	:	Xinyi Automobile Glass Co., Ltd. represented by Top Bright Consultants Ltd.
<b><u>Site</u></b>	:	Lot 160 RP in D.D. 110, Kam Tin, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 2,702 m <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 at the time of submission  Draft Kam Tin North OZP No. S/YL-KTN/10 currently in force [The zoning and development restrictions for the Site remain unchanged on the current draft OZP No. S/YL-KTN/10]
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services (Retail Shop for Auto Glass) with Ancillary Office and Service Centre for a Period of 3 Years and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (retail shop for auto glass) with ancillary office and service centre for a period of 3 years and filling of land at the application site (the Site). The Site is zoned “AGR” on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 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 vacant and partly covered with weeds (**Plans A-2 and A-4b**).
- 1.2 According to the applicant, the proposed development involves four 1 to 2-storey temporary structures with building heights ranging from about 3m to 7m and a total floor area of about 699m<sup>2</sup> for shop and services (retail of auto glass and related products) and ancillary sales office, service centre

(inspection of auto glass) and washroom uses. The Site will be paved by concrete by not more than 20cm in depth (from about +10.8mPD to +11mPD) for site formation, loading/unloading space and circulation. Three private car parking spaces for staff / visitors and a loading/unloading space for light goods vehicle will be provided within the Site. The operation hours will be from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. No dismantling, cleansing, paint spraying of vehicles or other workshop activities will be carried out at the Site. The Site is accessible from Kam Tai Road/ Kam Tin Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.

1.3 The Site is the subject of a previous application (No. A/YL-KTN/450) (details at paragraph 5 below).

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

- (a) Application form with supplementary information (**Appendix I**) received on 3.1.2023
- (b) Supplementary planning statement (**Appendix Ia**)
- (c) Further Information (FI) received on 16.2.2023\* (**Appendix Ib**)
- (d) FI received on 21.2.2023, 23.2.2023 and 27.2.2023\* (**Appendix Ic**)
- (e) FI received on 27.3.2023\* (**Appendix Id**)
- (f) FI received on 4.5.2023\* (**Appendix Ie**)

*\*exempted from publication and recounting requirements*

1.5 On 3.3.2023, the Rural and New Town Planning Committee (the Committee) 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, supplementary planning statement and FIs at **Appendices I to Ie** and are summarised as follows:

- (a) The proposed development is on a temporary basis which will not jeopardise the long-term planning intention of the “AGR” zone. The proposed use is not incompatible with the surrounding land uses.
- (b) The applicant is a specialist auto glass service provider. Whilst the Site is intended for retailing of auto glass to drivers in the Yuen Long district including local drivers in the Kam Tin area, on-site replacement service will occasionally be provided under circumstances that the auto glasses are chipped seriously which may affect road safety.

- (c) The applicant's original base at Kam Tin Road needs relocation owing to lease enforcement action by the Lands Department (LandsD). To continue providing auto glass retailing service to its customers, the applicant would like to relocate the operation base to the Site.
- (d) Applications for various temporary uses, including open storage, shop and services and goods vehicle park, have been approved by the Committee with their sites located in proximity to the Site. Approval of the application would not set an undesirable precedent for other similar applications.
- (e) Land filling at the Site is required for meeting the operational need of the proposed development. The applicant undertakes to reinstate the Site upon expiry of the planning approval.
- (f) Only light goods vehicles not exceeding 5.5 tonnes will be used for delivery. The proposed development would not generate adverse traffic, environmental and drainage impacts to the surrounding areas.

### **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

### **4. Background**

The Site is currently not subject to any active planning enforcement action.

### **5. Previous Application**

- 5.1 The Site involves a previous application (No. A/YL-KTN/450) submitted by the same applicant for temporary auto glass replacement service depot. The application, with its nature and mode of operation akin to a vehicle workshop and involved the use of heavy goods vehicles, was rejected by the Committee in October 2014 mainly on the grounds that the applicant had failed to demonstrate that the development would not generate adverse environmental impact on the surrounding areas.
- 5.2 Details of the previous application are summarised in **Appendix II** and the location is shown on **Plan A-1**.

### **6. Similar Applications**

- 6.1 There are two similar applications (No. A/YL-KTN/629 and 699) for temporary shop and services use within the same "AGR" zone in the vicinity of the Site in the past 5 years. The former application was rejected by the Committee in November 2018 as the applicant failed to demonstrate that the development would not result in adverse environmental impact on the

surrounding areas. As regards application No. A/YL-KTN/699, which was for renewal of a planning approval for temporary shop and services (plant showroom) approved by the Committee in May 2017, it was approved by the Committee in April 2020 mainly on the grounds that temporary approval of the application would not frustrate the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; concerned departments had no adverse comment on the renewal application; and the application was in line with the then Town Planning Board Guidelines No. 34C for renewal of temporary planning approval.

- 6.2 Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

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

- 7.1 The Site is:

- (a) vacant and partly covered with weeds; and
- (b) accessible from Kam Tai Road/ Kam Tin Road via a local track.

- 7.2 The surrounding areas have the following characteristics:

- (a) to its west are an open storage yard and a residential dwelling / structure;
- (b) to its north and northwest are open storage yards, residential dwellings / structures and grassland. To its further northwest is a nullah;
- (c) to its immediate east, northeast and southeast are residential dwellings / structures, grassland and active farmland; and
- (d) to its south and southwest are residential dwellings, storage yards, grassland, a garden, a solar facility, active farmland and an open storage yard (with valid planning permission under application No. A/YL-KTN/706).

## **8. Planning Intention**

- 8.1 The planning intention of the “AGR” zone is 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 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 have reservation on / do not support the application:

### **Agriculture**

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

the Site falls within the “AGR” zone and is vacant. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries. As the Site possesses potential for agricultural rehabilitation, he does not support the application from agricultural point of view.

### **Heritage Conservation**

- 9.2.2 Comments of the Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(AM), AMO):
- (a) the Site is situated within the Tsat Sing Kong Site of Archaeological Interest (SAI) (**Plan A-2**). Having reviewed the FI submitted (**Appendix Ic**), it is noted that the temporary structures, fencing and landscaping will not involve ground excavation. However, she has concern on the adverse impact on the Tsat Sing Kong SAI arising from the proposed drainage works of the proposed development; and
  - (b) should the application be approved, approval conditions should be stipulated requiring (i) the submission of a drainage proposal; and (ii) the implementation of the drainage proposal for the development to the satisfaction of ES(AM), AMO or of the Board.

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

The application was published for public inspection. During the statutory publication period, two public comments from the Kadoorie Farm & Botanic Garden Corporation and an individual were received. 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; the Site was involved in a previous application for temporary auto glass replacement depot use which was rejected by the

Committee in 2014; and a business for selling auto glass should be accommodated in industrial premises.

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

- 11.1 The application is for proposed temporary shop and services (retail shop for auto glass) with ancillary office and service centre for a period of 3 years in the “AGR” zone, with filling of land at the Site by not more than 20cm in depth. The proposed use is not in line with the planning intention of the “AGR” zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and it is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, it is considered that approval of the application on a temporary basis for 3 years would not frustrate the long-term planning intention of the “AGR” zone. Filling of land within “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 (CE/MN of DSD) and Director of Environmental Protection (DEP) have no adverse comment from the drainage and environmental perspectives. An approval condition on reinstatement of the Site upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 11.2 The Site is situated in an area of rural landscape character comprising farmland, vacant land, open storage, temporary structures and scattered tree groups. The Chief Town Planner / Urban Design and Landscape of Planning Department (CTP/UD&L of PlanD) considers that the proposed use is not incompatible with the surrounding landscape setting and has no objection to the application from landscape planning perspective.
- 11.3 According to the applicant, the proposed use is for retailing of auto glass and related products intended mainly to serve local drivers in the Kam Tin and Yuen Long area. Taking into account the nature of the proposed use, the application would unlikely cause significant adverse traffic, environmental and drainage impacts to the surrounding areas. Relevant departments consulted including the Commissioner for Transport, DEP and CE/MN of DSD have no adverse comment on the application. Taking into account the concern of ES(AM) of AMO, approval conditions on the submission and implementation of drainage proposal are recommended in paragraph 12.2 below. In addition, to minimise any possible environmental nuisance, appropriate approval conditions (operation hours, no medium and heavy goods vehicles and no workshop activities) are also recommended. The applicant will also be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimise the possible environmental nuisance generated by the proposed use.
- 11.4 The Site is involved in a previous application (No. A/YL-KTN/450) submitted by the same applicant which was rejected by the Committee in

2014 as stated in paragraph 5.1 above. Compared with the current application, the previous application was for a different use (i.e. temporary auto glass replacement service depot) which involved workshop related activities, whilst the current application is for retailing of auto glass and related products only. There are two similar applications for temporary shop and services use in the vicinity of the Site (**Plan A-1**), one of which is for renewal of temporary planning permission for a plant showroom (No. A/YL-KTN/699) which was approved by the Committee in 2020, and the other one is for a temporary plant showroom (No. A/YL-KTN/629) which was rejected by the Committee in 2018 as the applicant failed to demonstrate that the development would not cause adverse environmental impacts as stated in paragraph 6.1 above. The planning circumstances of the current application are similar to the approved similar application in that the development is not incompatible with the surroundings and the concerned departments have no adverse comment. Approval of this application is in line with the Committee's previous decision.

- 11.5 Regarding the public comments received during the statutory publication period objecting to the application as stated in paragraph 10 above, the departmental comments and planning considerations and 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 as mentioned in paragraph 10 above, the Planning Department considers that the proposed use 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 3 years until 19.5.2026. 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 medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (d) no dismantling, cleansing, paint spraying of vehicles or other workshop activities, as proposed by the applicant, shall be carried out on the site at any time during the planning approval period;

- (e) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services and the Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office or of the Town Planning Board by 19.11.2023;
- (f) in relation to (e) 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 and the Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office or of the Town Planning Board by 19.2.2024;
- (g) in relation to (f) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (h) 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 19.11.2023;
- (i) in relation to (h) 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 19.2.2024;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning condition (e), (f), (h) or (i) 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
- (l) 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 attached 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 agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong 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**

<b>Appendix I</b>	Application form with supplementary information received on 3.1.2023
<b>Appendix Ia</b>	Supplementary planning statement
<b>Appendix Ib</b>	FI received on 16.2.2023
<b>Appendix Ic</b>	FI received on 21.2.2023, 23.2.2023 and 27.2.2023
<b>Appendix Id</b>	FI received on 27.3.2023
<b>Appendix Ie</b>	FI received on 4.5.2023
<b>Appendix II</b>	Previous application and similar applications within the same “AGR” zone in the vicinity of the Site
<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>Plan A-1</b>	Location plan with similar applications
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a &amp; A-4b</b>	Site photos

**PLANNING DEPARTMENT  
MAY 2023**