

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

**APPLICATION NO. A/YL-KTN/890**

<b><u>Applicant</u></b>	:	Creation Prospect Construction Engineering Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lots 913 RP (Part) and 914 in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 509m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<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-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 in the “AGR” zone also requires planning permission from the Board. The Site is currently paved, fenced and occupied by some temporary structures (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicant, the proposed temporary warehouse is for storage of household goods such as furniture and kitchenware, etc. The proposed development involves the erection of two one-storey structures with a total floor area of about 398m<sup>2</sup> and building height of about 8.23m for warehouse use and covered loading/unloading area. The whole site has been filled with concrete by not more than 0.2m in depth for site formation of structure (from about +8.5mPD

to +8.7mPD), and circulation space (from about +8.5mPD to +8.6mPD). A maximum of three staff members will be stationed at the Site to support the warehouse operation. One loading / unloading space for light goods vehicle will be provided at the Site. The operation hours will be 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 San Tam Road via Fung Kat Heung Road and Mei Fung Road (**Plans A-1 and A-2**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form and supplementary information (**Appendix I**) received on 1.2.2023 and 7.2.2023
  - (b) Further Information (FI) received on 22.3.2023 (**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 proposed use is temporary in nature and will not jeopardise the long-term planning intention of the “AGR” zone. The proposed development is not incompatible with the surrounding environment.
- (b) The proposed development can better utilize the Site for providing employment opportunities. There are similar applications approved by the Rural and New Town Planning Committee (the Committee) in the vicinity of the Site within the same “AGR” zone.
- (c) Land filling is essential for site formation of structures and circulation space. The Site will be reinstated to an amenity area upon expiry of the planning approval.
- (d) The proposed development will not induce adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. 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 to minimize any possible environmental nuisance, 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 Application**

There is no previous application at the Site.

**6. Similar Applications**

6.1 There are three similar applications (No. A/YL-KTN/709, 824 and 852) for similar temporary warehouse use (or renewal of the planning approval granted by the Committee) within the same “AGR” zone in the vicinity of the Site (two of which with filling of land) in the past five years (**Plan A-1**). All applications were approved with conditions by the Committee between June 2020 and September 2022 mainly on the grounds that approval of the applications on a temporary basis would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; departments concerned consulted in general had no objection to the application; and/or their technical concerns could be addressed by relevant approval conditions.

6.2 Details of the applications are summarized at **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) currently paved, fenced and occupied by some temporary structures; and
- (b) accessible from San Tam Road via Fung Kat Heung Road and Mei Fung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and northwest are residential dwellings / structures, parking of vehicles, a hobby farm, active farmland, a ruin and vacant land. To its further northwest are residential dwellings / structures and a site approved for temporary shop and services use under Application No. A/YL-KTN/707 within the “Industrial (Group D)” zone;
- (b) to its east and northeast across Mei Fung Road are a storage yard, holiday camps (with valid planning permission under Applications No. A/YL-KTN/817, 850 and 859), residential dwellings / structures, a restaurant, an animal boarding establishment (with valid planning permission under Application No. A/YL-KTN/651), a site with works in progress (approved for temporary holiday camp use under Application No. A/YL-KTN/850) and two open storage yards (the sites of which are approved for temporary warehouse under Applications No. A/YL-KTN/824 and 852); and
- (c) to its south and west are residential dwellings / structures (the nearest one located to the immediate south), active farmland and a vacant site (which is approved for temporary animal boarding establishment under Application No. A/YL-KTN/807).

## **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 / adverse comments on the application:

### Agriculture and Nature Conservation

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

- (a) 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. As the Site possesses potential for agricultural rehabilitation, the proposed development 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, two public comments were received from the Kadoorie Farm and Botanic Garden Corporation and an individual. 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 should be used for agricultural purpose; and the extent of land filling is considered excessive.

### **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-1**). 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, 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.
- 11.2 The Site is situated in an area of rural inland plains landscape character comprising farmland, vacant land, temporary structures and scattered tree groups. The Chief Town Planner/Urban Design and Landscape of Planning Department

considers that the proposed use is not incompatible with the surrounding landscape setting and significant adverse impact arising from the proposed use is not anticipated, and has no objection to the application from the landscape planning perspective.

- 11.3 The proposed development, involving the storage of household goods within the enclosed structures and only light goods vehicles will be used, will unlikely result in significant adverse traffic, environmental and drainage impacts to the surrounding areas. Relevant departments consulted including the Commissioner for Transport, DEP, CE/MN of DSD and Director of Fire Services have no objection to or no adverse comment on the application. To minimize any potential environmental nuisances generated by the proposed development and 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 latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by EPD. Regarding the existing unauthorized building works and/or uses on the private lot(s) within the Site which are already subject to lease enforcement actions according to case priority as advised by DLO/YL of LandsD, the applicant will be advised to apply to LandsD to permit the structures or regularize any irregularities.
- 11.4 There are three similar applications (No. A/YL-KTN/709, 824 and 852) approved for similar temporary warehouse use within the same "AGR" zone in the vicinity of the Site (**Plan A-1**) for reasons as stated in paragraph 6 above. 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 development 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 31.3.2026. 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 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 30.9.2023;
- (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 31.12.2023;
- (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 30.9.2023;
- (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 31.12.2023;
- (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 1.2.2023 and 7.2.2023
<b>Appendix Ia</b>	FI received on 22.3.2023
<b>Appendix II</b>	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>	Land filling 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>Plan A-4a and 4b</b>	Site photos

**PLANNING DEPARTMENT  
MARCH 2023**