

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/898

<u>Applicant</u>	:	Mr. LAM Tung Man represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 973 RP (Part) in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 502m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	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 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) 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, partly covered with weeds, fenced and deposited with a few containers (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed temporary warehouse is for storage of furniture. The proposed development involves the erection of a single-storey structure with floor area of about 220m² and building height of about 8.23m for warehouse and covered loading and unloading space uses. The Site is to be filled with concrete for site formation of structure (from about +5.7mPD to +5.9mPD), and for circulation space (from about +5.7mPD to +5.8mPD). A covered loading / unloading space for light goods vehicle will be provided at the Site. The

operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is accessible from Fung Kat Heung Road via Mei Fung Road (**Plans A-1 and A-2**). The site layout and paved ratio plans submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is involved in a previous application (No. A/YL-KTN/636) for proposed temporary hobby farm approved by the Rural and New Town Planning Committee (the Committee) in December 2018 (details at paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the following documents:

Application form with supplementary information received on **(Appendix I)**
23.2.2023

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form with supplementary information at **Appendix I**. They can be summarised as follows:

- (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 utilise land resources.
- (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 applications for warehouse are located to the northeast of the Site. Approval of the application will not set an undesirable precedent.
- (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 subject to any active planning enforcement action.

5. Previous Application

5.1 The Site is the subject of a previously approved application No. A/YL-KTN/636 submitted by the same applicant for proposed temporary hobby farm, which is not relevant to the current application. The application was approved with conditions by the Committee in December 2018. However, the application was subsequently revoked in May 2021 due to non-compliance with approval conditions.

5.2 Details of the previous application is summarised at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Applications

6.1 There are three similar applications (No. A/YL-KTN/709, 824 and 852), involving separate 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 (two of which involve filling of land) in the past 5 years (**Plan A-1**). All applications were approved with conditions by the Committee between June 2020 and September 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 summarised at **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) formed, paved, partly covered with weeds, fenced and deposited with a few containers; and
- (b) accessible from Fung Kat Heung Road via Mei Fung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north are parking of vehicles and fallow/ cultivated agricultural land. To its further north and northeast are open storage/ storage yard, residential dwellings/ structures and vacant land;
- (b) to its southeast and south are residential dwellings / structures (the nearest about 5m to the south). To its further southeast and south are the site for proposed flat, shop and services, eating place, school, social welfare facilities and public transport terminus or station uses approved under Application No. A/YL-KTN/604 in an area zoned “Comprehensive Development Area (1)”, parking of vehicles, grassland and a nullah; and
- (c) to its west are the village settlement of Sha Po Tsuen, cultivated agricultural land and grassland in an area zoned “Village Type Development”.

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 publication 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 and approval of the application will set an undesirable precedent for similar applications; there are active farmland in the vicinity of the Site; 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-1**). 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. The applied use is not in line with the planning intention of the “AGR” zone, and DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, approval of the application on a temporary basis for a period of three 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 adjacent areas. In this regard, CE/MN of DSD and 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 as proposed by the applicant is recommended should the Committee decide to approve the application.
- 11.2 The Site is situated in an area of rural inland plains landscape character comprising farmlands, temporary structures, village houses, car parks and scattered tree groups. The applied use is considered not incompatible with the surrounding land uses. The Chief Town Planner/Urban Design and Landscape of Planning Department (CTP/UD&L, PlanD) considers that significant adverse impact on landscape resources arises from the applied use is not anticipated and has no objection to the application from the landscape planning perspective.

- 11.3 In view of the nature and scale of the applied use, it is anticipated that the development would not cause significant adverse traffic, environmental and drainage 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 three similar applications (No. A/YL-KTN/709, 824 and 852) within the same "AGR" zone approved for similar temporary warehouse use in the vicinity of the Site (**Plan A-1**). All applications were approved with conditions by the Committee between June 2020 and September 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 on similar applications.
- 11.5 Two public comments objecting to the application were received during the statutory publication period. In this regard, the departmental comments and planning assessments and considerations as stated 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 21.4.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 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 existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of condition records of the existing drainage facilities on the Site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 21.7.2023;
- (f) 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 21.10.2023;
- (g) in relation to (f) 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 21.1.2024;
- (h) if any of the above planning condition (a), (b), (c) or (d) 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;
- (i) if any of the above planning condition (e), (f) or (g) 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
- (j) upon expiry of the planning permission, the reinstatement of the Site to an amenity area, as proposed by the applicant, 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 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 ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with supplementary information received on 23.2.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix VI	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Paved ratio plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
APRIL 2023**