

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/904

<u>Applicant</u>	:	Ms. CHAN Pui Ling represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 1222 S.A (Part) and 1224 S.B in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 516m 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) with Ancillary Facilities 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) with ancillary facilities 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 deposited with construction materials (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed temporary warehouse is for storage of construction materials such as tiles and pipes, etc. The proposed development involves the erection of one single-storey structure with a total floor area of about 222m² and building height of about 8.23m for warehouse and ancillary office uses. The whole site has been paved with concrete and it will involve additional

132m² of paving of concrete by not more than 0.1m in depth for site formation of structure (from about +10.3mPD to +10.4mPD). A maximum of five staff members will be stationed at the Site to support the warehouse operation. One private car parking space and 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 Fung Kat Heung Road via 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 received on 29.3.2023 (Appendix I)

(b) Further Information (FI) received on 11.5.2023 (Appendix Ia)

**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** 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 to meet the pressing demand for warehouse use. 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 and environmental 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 the sole “current land owner” of the Site. 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 the subject of two previous applications (No. A/YL-KTN/745 and 814) submitted for proposed temporary hobby farm use and land filling and proposed temporary animal boarding establishment and filling of land, which were approved with conditions by the Committee in February 2021 and February 2022 mainly for the reasons that temporary approval would not frustrate the long-term planning intention of “AGR” zone; the developments were not incompatible with the surrounding land uses; and relevant departments consulted in general had no objection to or no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions. However, the planning permission for Application No. A/YL-KTN/745 was revoked in May 2022 owing to non-compliance with approval conditions. For Application No. A/YL-KTN/814, the planning permission is valid until 18.2.2027.

5.2 Details of the previous applications are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

6. **Similar Applications**

6.1 There are four similar applications (No. A/YL-KTN/709, 824, 852 and 890) 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 (three 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 March 2023 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. Details of the applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.

- 6.2 Other than similar applications as stated in paragraph 6.1 above, Application No. A/YL-KTN/905 for proposed temporary warehouse use will be considered in this same meeting (**Plan A-1**).

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

- 7.1 The Site is:

- (a) currently paved, fenced and deposited with construction materials; and
- (b) accessible by a local track leading from Mei Fung Road.

- 7.2 The surrounding areas have the following characteristics:

- (a) to its east, north and northeast are residential structures / dwellings (the nearest one at a distance of 50m to the northeast), grassland and vacant land. To its further northeast are a storage yard, a car service, residential structures / dwellings and vacant land within “Industrial (Group D)” zone;
- (b) to the south and southwest are an open storage yard (with valid planning permission under Application No. A/YL-KTN/775), an animal boarding establishment, a plant nursery, an orchard, grassland, a dog kennel, vacant land (including the sites approved for temporary animal boarding establishments under Application No. A/YL-KTN/752, 769 and 815), and construction works in progress at the site under Application No. A/YL-KTN/771 approved for animal boarding establishment. To the further south is a dried pond and grassland; and
- (c) to the west and northwest are open storage yards, residential structures / dwellings, fallow agricultural land, a hobby farm (with valid planning permission under Application No. A/YL-KTN/758), vacant land and a stream course section.

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 Board should take into consideration the cumulative impact of approving the application.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of 3 years and filling of land (by not more than 0.1m in depth) for site formation in the “AGR” zone (**Plan A-1**). While 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 and DAFC does not support the application as the Site falling within the “AGR” zone has potential for agricultural rehabilitation, it is considered that approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone. 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 objection from the drainage and environmental perspectives.

- 11.2 The Site is located in a rural landscape character comprising farmlands, vacant lands, temporary structures and scattered tree groups. The Chief Town Planner/Urban Design and Landscape of Planning Department considers that 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 construction materials 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 the Environmental Protection Department (EPD) to minimize any possible environmental nuisance, and the relevant Practice Note for Professional Person PN 5/93 on “Drainage Plans subject to Comment by the EPD” including percolation test if septic tank and soakaway system will be used at the Site.
- 11.4 There are four similar applications (No. A/YL-KTN/709, 824, 852 and 890) for temporary warehouse use (or renewal of the planning approval granted by the Committee) within the same “AGR” zone in the vicinity of the Site (three of which involve filling of land) (**Plan A-1**) approved by the Committee between June 2020 and March 2023 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 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 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 19.11.2023;
- (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 19.2.2024;
- (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 19.11.2023;
- (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 19.2.2024;
- (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, 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 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

Appendix I	Application form with supplementary information received on 29.3.2023
Appendix Ia	FI received on 11.5.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments

Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Land filling 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
MAY 2023**