

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

**APPLICATION NO. A/YL-KTN/907**

<b><u>Applicant</u></b>	: Mr. TANG Lam Piu represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lot 748 (Part) in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 179m <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) 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 three 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. According to the covering Notes of the OZP, temporary use or development 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 fenced off, paved, partly vacant and partly occupied by a structure.
- 1.2 According to the applicant, the warehouse is for storage of miscellaneous goods (kitchenwares, toiletries, furniture, consumer electronics, etc.). The proposed development involves an existing two-storey structure with floor area of about 121m<sup>2</sup> and building height of about 5.5m for warehouse, ancillary office and rain shelter uses. The entire Site has been paved with concrete from about +14.1mPD to +14.2mPD. A 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. No medium or heavy goods vehicles exceeding 5.5 tonnes, including container

tractors/trailers, will be allowed to be parked/stored on or enter/exit the Site. The Site is accessible from Mei Fung Road via a local track (**Plans A-1 and A-2**). The site layout and land filling plans 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 with attachments received on 11.4.2023 (Appendix I)
- (b) Further Information (FI) received on 16.8.2023\* (Appendix Ia)
- (c) FI received on 5.10.2023\* (Appendix Ib)

*\* exempted from publication and recounting requirements*

1.4 On 9.6.2023, 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, attachments and FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) The application is on a temporary basis and the proposed development is small in scale. The approval of the application would not jeopardise the long term planning intention of the “AGR” zone. The proposed development can better utilise deserted agricultural land to meet demand for warehouse use.
- (b) Land filling is necessary to meet the operation needs and it has been kept to minimal. After the planning approval period, the applicant will reinstate the Site to an amenity area.
- (c) As the surrounding area is dominated by open storage and workshop premises, the proposed use is considered not incompatible with the surrounding area.
- (d) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out at the Site at any time during the planning approval period.
- (e) The applicant will remedy the unauthorised building works (UBWs) under lease and submit Short Term Waiver (STW) application to the Lands Department (LandsD).
- (f) The applicant will follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department (EPD) and the ‘Professional Persons Environmental Consultative Committee Practice Notes’ for sewage treatment at the Site. The

proposed development would not create significant nuisance to the surrounding area.

### 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 notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

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

### 5. **Previous Applications**

The Site is involved in two previous applications (No. A/YL-KTN/616 and 763) for proposed temporary animal boarding establishment which are not relevant to the current application. Details of the previous applications are summarised at **Appendix II** and the locations are shown on **Plan A-1**.

### 6. **Similar Applications**

6.1 There are twelve similar applications (No. A/YL-KTN/709, 824, 852, 880, 890, 898, 904, 905, 920, 937, 938 and 939) for temporary warehouse (including renewal of planning approval granted by the Committee) within/straddling the same “AGR” zone in the vicinity of the Site (11 of which involve filling of land) in the past five years. All the applications were approved with conditions by the Committee between June 2020 and August 2023 mainly on the considerations that temporary approval of the application would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; departments consulted in general had no adverse comments on the application and/or their technical concerns could be addressed through relevant approval conditions.

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

### 7. **The Site and Its Surrounding Areas (Plans A-1 to A-4)**

7.1 The Site is:

- (a) fenced off, paved, partly vacant and partly occupied by a structure; and

- (b) accessible from Mei Fung Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north across a local track are open storage/ storage yards, vehicle workshop, warehouse and residential structures/ dwellings;
- (b) to its east and south are residential structures/ dwellings, open storage/ storage yards, vehicle repair workshop, active farmland, orchard and vacant land. To its southwest is a storage site approved for proposed animal boarding establishment (No. A/YL-KTN/845); and
- (c) to its immediate west is an open storage yard. To its further west is the “Industrial (Group D)” zone with warehouse, residential structures/ dwellings and vacant sites approved for shop and services (No. A/YL-KTN/741 and 734).

## **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 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 objection to/adverse comment on the application.

### Land Administration

Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) he has adverse comment on the application;
- (b) the Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government; and

- (c) he has grave concerns given that there are unauthorised building works and/or uses on Lot No. 748 in D.D. 107 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.

#### Agriculture and Nature Conservation

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

- (a) the agricultural infrastructures such as road accesses and water source are 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 comment on the application.

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

The application was published for public inspection. During the statutory publication period, a public comment was received from an individual objecting to the application mainly on the grounds that the proposed development is not a genuine operation; the applicant failed to fulfill the approval conditions of the previous application; and approval of the application would induce adverse impact on the environment.

### **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 three years and filling of land at the Site zoned “AGR”. Although the proposed development is not in line with the planning intention of the “AGR” zone which is intended 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 from agricultural perspective, taking into account the planning assessments below, the proposed development on a temporary basis of three years could be tolerated.
- 11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which are mixed with open storage/storage yards, warehouse, vehicle

workshops, residential structures/ dwellings and vacant land. The Chief Town Planner/Urban Design and Landscape of the Planning Department (CTP/UD&L, PlanD) considers that significant adverse impact on landscape character and landscape resources arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective.

- 11.4 Relevant departments consulted including the Commissioner for Transport, CE/MN of DSD, DEP and the Director of Fire Services (D of FS) have no objection to or no adverse comments on the application. To 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 revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP to minimise possible environmental nuisances on the surrounding areas. Regarding the existing UBWs and/or uses as advised by DLO/YL, LandsD, the applicant states that remedial action will be followed-up and STW application will be submitted to LandsD. Relevant advisory clause on need for application to LandsD for regularisation for UBWs is recommended.
- 11.5 There are twelve similar applications in the vicinity of the Site approved in the past five years as stated in paragraph 6 above. Approving the current application is in line with the Committee's previous decisions.
- 11.6 A public comment objecting to the application was received during the statutory publication period. In this regard, the departmental comments and planning assessments 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 comment mentioned in paragraph 10 above, the Planning Department considers that the proposed development could be tolerated for a period of three 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 13.10.2026. 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 revised 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 13.4.2024;
- (e) in relation to (d) above, the implementation of the revised 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 13.7.2024;
- (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 implementation of the accepted 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 13.7.2024;
- (h) 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;
- (i) if any of the above planning condition (d), (e) 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, 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 primarily 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. There is no strong planning justification 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 attachments received on 11.4.2023
<b>Appendix Ia</b>	FI received on 16.8.2023
<b>Appendix Ib</b>	FI received on 5.10.2023
<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 comment
<b>Drawing A-1</b>	Site layout plan
<b>Drawing A-2</b>	Land filling plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
OCTOBER 2023**