

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

**APPLICATION NO. A/YL-KTN/940**

<b><u>Applicant</u></b>	:	Mr. TANG Tsz Ki
<b><u>Site</u></b>	:	Lots 1354 (Part), 1356 (Part), 1373 (Part) and 1374 (Part) in D.D. 109, Kam Tin, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 2,437.8m <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 3 years and filling of land at the application site (the Site), which 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 of land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is currently vacant, fenced and partly paved (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed temporary warehouse is for storage of construction materials and repair parts, etc.. The proposed development involves erection of four single-storey structures with a total floor area of about 840m<sup>2</sup> and building heights of not more than 6m for warehouse use (**Drawing A-1**). The applicant also applies for filling of land for the whole site with concrete by not more than 0.3m in depth (from +6.9mPD to not more than +7.2mPD) for site formation, parking, drainage and vehicular circulation. A maximum of 8 staff members will be stationed at the Site to support the warehouse operation. 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 workshop, recycling, cleansing, dismantling and other workshop activities will be carried out at the Site. Two private car parking spaces and four loading/unloading (L/UL) spaces for light goods

vehicles will be provided at the Site. The Site is accessible from Kong Po Road via a local access (**Plans A-1 and A-2**). The site layout plan and paving 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 with supplementary information received on 7.7.2023 (**Appendix I**)
- (b) Further Information (FI) received on 14.8.2023\* (**Appendix Ia**)
- (c) FI received on 15.8.2023\* (**Appendix Ib**)

*\* accepted and 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, supplementary information and FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) The proposed development is temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone. The proposed development is not incompatible with the surrounding environment.
- (b) The proposed development can meet the demand for small-scale warehouse. 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) The filling of land of 0.3m in depth is necessary for site formation, parking, drainage and vehicular circulation purposes and has been kept minimal to meet the operational needs of the proposed development. The Site will be reinstated upon expiry of the planning approval.
- (d) Consent from relevant land owners has been obtained for using the adjacent lots for vehicular access connecting Kong Po Road and the Site.
- (e) The proposed development will not induce adverse environmental, landscape and drainage impacts to the surrounding areas.

## **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not the “current land owner” of the Site 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 currently not subject to any active planning enforcement case. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

#### 5. **Previous Application**

The Site is not involved in any previous application.

#### 6. **Similar Applications**

- 6.1 There are eight similar applications (No. A/YL-KTN/709, 824, 852, 890, 898, 904, 905 and 920) (including renewal of temporary planning approval) for various temporary warehouse uses (seven of which with filling of land) within the same “AGR” zone in the past 5 years. All the applications were approved with conditions by the Committee between June 2020 and July 2023 mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; and relevant departments consulted in general had no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions.
- 6.2 Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.
- 6.3 Other than similar applications as stated in paragraph 6.1 above, applications No. A/YL-KTN/937, 938 and 939 for the same use as the current application will be considered at the same meeting.

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

7.1 The Site is:

- (a) currently vacant, fenced and partly paved; and
- (b) accessible from Kong Po Road via a local access.

7.2 The surrounding areas have the following characteristics:

- (a) to its north is the village settlement of Cheung Kong Tsuen within the “Village Type Development” zone;
- (b) to its east and south are open storage of vehicles/construction materials (長江村) with planning permissions for proposed temporary animal boarding establishment under applications No. A/YL-KTN/779 and 798) and vacant land; and

- (c) to its west are residential structures/dwellings, open storage of vehicles/ construction materials (with planning permissions for proposed temporary animal boarding establishment under applications No. A/YL-KTN/856 and 889), grassland and vacant land.

## **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 departments do not support/have concern on the application:

### **Landscape**

9.2.1 Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) based on the aerial photo of 2022, the Site is located in miscellaneous rural fringe landscape character comprising temporary structures, vacant lands, farmlands and scattered tree groups;
- (b) there is concern that approval of the application may alter the landscape character of area within the “AGR” zone; and
- (c) according to the site photos taken in July 2023, the Site is vacant and with a temporary structure. No existing tree is observed within the Site. Significant adverse landscape impact arising from the proposed use is not anticipated.

### **Agriculture and Nature Conservation**

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is vacant. The 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.; and
- (c) no comment on the application from nature conservation perspective.

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

The application was published for public inspection. During the statutory public inspection period, three public comments from Kadoorie Farm and Botanic Garden Corporation and individuals were received objecting to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; warehouse should be accommodated in purpose-built industrial estate; the surrounding area will be more susceptible to flooding upon filling of land at the Site; and there is no vehicular access linking the Site and Kong Po Road unless the adjacent lots are trespassed.

## **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 0.3m in depth at the Site zoned “AGR” (**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. Whilst the proposed development is not in line with the planning intention of “AGR” zone 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 3 years could be tolerated. Filling of land within the “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 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.
- 11.2 While there is concern on altering the landscape character of the area, CTP/UD&L of PlanD considers that significant adverse landscape impact arising from the proposed use is not anticipated. The proposed development is considered not incompatible with the surrounding areas which are primarily rural in character predominated by residential structures/dwellings, open storage/storage yards, grassland and vacant land.

- 11.3 Relevant departments consulted including the Commissioner for Transport, DEP, CE/MN of DSD and the Director of Fire Services have no objection to or no adverse comment 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 the Environmental Protection Department (EPD) to minimise any possible environmental nuisance.
- 11.4 There are eight similar approved applications as mentioned in paragraph 6.1 above. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Regarding the three public comments objecting the application as mentioned in paragraph 10, 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 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 25.8.2026. 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, cleansing, 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 25.2.2024;
- (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 25.5.2024;
- (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 25.2.2024;
- (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 25.5.2024;
- (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 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. There is no strong planning 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 7.7.2023
<b>Appendix Ia</b>	FI received on 14.8.2023
<b>Appendix Ib</b>	FI received on 15.8.2023
<b>Appendix II</b>	Similar application(s)
<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>	Paving 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  
AUGUST 2023**