

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/YL-KTN/951 and 953

<u>Applicants</u>	:	Excel Link Development Limited (Application No. A/YL-KTN/951 represented by R-riches Property & 953) Consultants Limited
<u>Sites</u>	:	Lots 1508 RP, 1509, 1517, 1518, (Application No. A/YL-KTN/951) 1519 RP, 1520 RP, 1522 RP, 1523, 1525, 1555 S.B RP (Part) and 1556 RP in D.D. 107 and adjoining Government Land Lots 1505 RP, 1506 RP, 1510 and (Application No. A/YL-KTN/953) 1511 in D.D. 107 Kam Tin North, Yuen Long, New Territories
<u>Site Areas</u>	:	About 17,052m ² (including (Application No. A/YL-KTN/951) Government Land of about 171m ²) (1%) About 8,154m ² (Application No. A/YL-KTN/953)
<u>Leases</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North OZP No. S/YL-KTN/10
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Applications</u>	:	Proposed Temporary Warehouse (excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of 3 Years and Filling of Land

1. The Proposals

- 1.1 The applicants seek planning permissions to use each of the application sites (the Sites), located adjoining to each other, for proposed temporary warehouse

(excluding dangerous goods godown) with ancillary facilities for a period of 3 years and filling of land. The Sites are 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 3 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 Sites are currently vacant, partly paved and partly covered by weeds, with a few temporary structures deposited at the Site of Application No. A/YL-KTN/953. Part of the Site of Application No. A/YL-KTN/953 is used for storage of vehicles without valid planning permission (**Plans A-2 to A-4b**).

1.2 Major development parameters of the two applications are summarised as follows:

Parameters	A/YL-KTN/951	A/YL-KTN/953
Site Area (m ²)(about)	17,052m ²	8,154m ²
No of Structures	3	1
No. of Storey	1	1
Building Height (m)	Not more than 13m	Not more than 13m
Total Floor Area (m ²)	About 9,554m ²	About 3,776m ²
Use of the Structures	<ul style="list-style-type: none"> • warehouse (excluding dangerous goods godown) • ancillary office 	<ul style="list-style-type: none"> • warehouse (excluding dangerous goods godown) • ancillary office
No. of Staff	15	10
Operation Hours (with stationed staff)	9:00 a.m. to 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays	9:00 a.m. to 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays
No. of Private Car Parking Spaces	6	5
No. of Loading/ Unloading Space for Light Goods Vehicles	4	3
No. of Loading/ Unloading Space for Medium Goods Vehicles	4	3
Extent of Proposed Land Filling	Whole site to be filled with concrete by not more than 0.4m in depth (from +3.3mPD to +3.7mPD)	Whole site to be filled with concrete by not more than 0.5m in depth (from +3.2mPD to +3.7mPD)

1.3 According to the applicants, no workshop, recycling, cleansing, dismantling and other workshop activities will be carried out at the Sites. The Site of Application No. A/YL-KTN/951 is accessible from Castle Peak Road – Tam Mei via a local access; and the Site of Application No. A/YL-KTN/953 is accessible via the Site

of Application No. A/YL-KTN/951 (**Plans A-1a and A-2**). According to the submission, 20 nos. of new trees are proposed along the southern boundary of the Site of Application No. A/YL-KTN/951; for Application No. A/YL-KTN/953, two existing trees within site will be felled and 6 nos. of new trees are proposed along the southern boundary of the Site. The site layout plans and paving plans submitted by the applicants are at **Drawings A-1 to A-4**.

1.4 In support of the applications, the applicants have submitted the following documents:

- (a) Application form (No. A/YL-KTN/951) with (Appendix Ia) supplementary information received on 14.8.2023
- (b) Application form (No. A/YL-KTN/953) with (Appendix Ib) supplementary information received on 22.8.2023
- (c) Further Information (FI) for Application No. A/YL-KTN/951 received on 28.9.2023* (Appendix Ic)
- (d) FI for Application No. A/YL-KTN/951 received on 16.10.2023* (Appendix Id)
- (e) FI for Application No. A/YL-KTN/953 received on 4.10.2023* (Appendix Ie)
- (f) FI for Application No. A/YL-KTN/953 received on 16.10.2023* (Appendix If)

** accepted and exempted from publication and recounting requirements*

1.5 On 13.10.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the applications for two months as requested by the applicant.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of their applications are detailed in the application forms, supplementary information and FIs at **Appendices Ia to If**. They can be summarised as follows:

- (a) The proposed developments are temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone. The proposed developments are not incompatible with the surrounding environment.
- (b) The proposed developments can meet the demand for warehouse. There are similar applications approved in the vicinity of the Sites within the same “AGR” zone.
- (c) The land filling areas within the Sites are for site formation, parking, drainage and vehicular circulation purposes to meet the operational needs of the proposed developments. The Sites will be reinstated upon expiry of the planning approvals.

- (d) The proposed developments will not induce adverse traffic, landscape and visual impacts on the surrounding areas. The Site of Application A/YL-KTN/953 can be accessed via the Site of Application A/YL-KTN/951 as both applications are submitted by the same applicant.

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

The applicants are not the “current land owner” of their respective lots but have complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/ Notification” Requirements under Sections 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notices and sending notices to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. Regarding the portion of the Sites falling within Government Land, the “Owner’s Consent / Notification” Requirements are not applicable.

4. Background

The Sites are 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 Applications

The Sites are involved in six previous applications (No. A/YL-KTN/609, 666, 869, 870, 871 and 911) for temporary hobby farm, animal boarding establishment and holiday camp which are not relevant to the current applications for temporary warehouse uses. Details of the previous applications are summarized at **Appendix II** and the locations are shown on **Plan A-1b**.

6. Similar Applications

- 6.1 There are 12 similar applications (No. A/YL-KTN/709, 824, 852, 890, 898, 904, 905, 907, 920, 937, 938 and 939) (including renewal of temporary planning approval) for temporary warehouse uses (11 of which with filling of land) within the same “AGR” zone in the vicinity in the past 5 years. All the applications were approved with conditions by the Committee between June 2020 and October 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-1a**.
- 6.3 Other than the similar applications as stated in paragraph 6.1 above, application No. A/YL-KTN/963 for the same use as the current application will be considered at the same meeting.

7. The Sites and Their Surrounding Areas (Plans A-1 to A-4b)

7.1 The Sites are:

- (a) vacant, partly paved and partly covered by weeds, with a few temporary structures deposited at the Site of Application No. A/YL-KTN/953. Part of the Site of Application No. A/YL-KTN/953 is used for storage of vehicles without valid planning permission; and
- (b) accessible from Castle Peak Road – Tam Mei via a local access for the Site of Application No. A/YL-KTN/951; and the Site of Application No. A/YL-KTN/953 is accessible via the Site of Application No. A/YL-KTN/951.

- 7.2 The surrounding areas are rural in character mainly intermixed with grasslands, farmlands, plant nurseries, animal boarding establishment (with valid planning permission under Application No. A/YL-KTN/916), vacant land, open storage yards and residential structures/dwellings. To the south of the Sites are Shui Mei Road and a nullah.

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 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) the Sites are located in a rural inland plains landscape character comprising vacant lands, ponds, farmlands, temporary structures, village houses and scattered tree groups. Noting that active farming is observed in vicinity, there is concern that approval of the application would alter the landscape character of the “AGR” zone;
- (b) the Site of Application No. A/YL-KTN/951 is vacant and partly covered by wild grass with no existing tree observed. The Site of Application No. A/YL-KTN/953 is mainly covered by self-seeded vegetation with some temporary structures, and some existing trees of common species in the northern part of the Site are observed;
- (c) with reference to the submissions, 20 nos. of *Bauhinia blakeana* are proposed along the southern boundary of the Site of Application No. A/YL-KTN/951 and 6 nos. of *Bauhinia blakeana* are proposed along the southern boundary of the Site of Application No. A/YL-KTN/953. None of the existing trees within the Site will be retained; and
- (d) the proposed use is not incompatible with the landscape character. Significant adverse landscape impact on landscape resources 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 applications from agricultural perspective as the Sites possess potential for agricultural rehabilitation;

- (b) the Sites fall within the “AGR” zone and are generally abandoned. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.;
- (c) no comment on the applications from nature conservation perspective; and
- (d) should the applications be approved, the applicants shall be reminded to avoid polluting or disturbing the adjacent watercourse during filling of land and operation.

Environment

9.2.3 Comments of the Director of Environmental Protection (DEP):

- (a) does not support the applications as there are sensitive receivers, i.e. residential dwellings / structures located in the vicinity (the nearest one at about 10m to the east) (**Plan A-2**) and the proposed developments involve the use of heavy vehicles, environmental nuisance is expected;
- (b) there were five substantiated environmental complaints related to the Sites on waste and air aspects in the past three years; and
- (c) has no objection to the proposed filling of land.

10. Public Comments Received During Statutory Publication Period

The applications were published for public inspection. During the statutory publication period, three public comments from Kadoorie Farm & Botanic Garden Corporation, the Hong Kong Bird Watching Society and an individual were received on Application No. A/YL-KTN/951 and 953 respectively (**Appendices Va and Vb**). All the commenters object to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; the scales of the proposed developments and the extent of land filling are excessive; filling of the Sites by concrete would affect the future use of the Sites for farming purpose; and the setting of undesirable precedents for similar applications in the area.

11. Planning Considerations and Assessments

- 11.1 The applications are for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of 3 years and filling of land at the Sites 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 developments are not in line with the planning intention of “AGR” zone and DAFC does not support the applications from agricultural perspective, taking into account the planning assessments below, the proposed developments on a temporary basis of 3 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 surrounding areas. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and DEP have no objection to the application from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Sites to an amenity area is recommended should the Committee decide to approve the applications.
- 11.3 While there is concern on altering the landscape character of the area, CTP/UD&L of PlanD considers that the proposed use is not incompatible with the landscape character and significant adverse landscape impact arising from the proposed use is not anticipated. The proposed developments are considered not incompatible with the surrounding land uses which are rural in character intermixed with vacant land, farmlands and open storage yards.
- 11.4 DEP does not support the applications as the use of heavy vehicles would be involved and environmental nuisance is expected as there are sensitive receivers in the vicinity. In this regard, the proposed ingress/egress to the Sites do not pass through the nearby domestic structures. Besides, according to the applicants, there will be no workshop activities at the Sites. To address DEP’s concerns, relevant approval conditions restricting the operation hours and prohibiting workshop activities are recommended in paragraph 12.2 below. To minimise any potential environmental nuisances, the applicant will also be advised to follow the revised ‘Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites’ issued by DEP.
- 11.5 Other relevant departments consulted including Commissioner for Transport, CE/MN of DSD and the Director of Fire Services have no objection to or no adverse comment on the applications. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below.

- 11.6 There are 12 approved similar applications as mentioned in paragraph 6.1 above. Approving the current application is in line with the Committee's previous decisions.
- 11.7 Regarding the six public comments objecting the applications 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 above, the Planning Department considers that the proposed use could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid on a temporary basis for a period of 3 years until 8.12.2026. 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, 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 8.6.2024;
- (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 8.9.2024;
- (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 8.6.2024;

- (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 8.9.2024;
- (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 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 applications, 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 applications and decide whether to grant or refuse to grant permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the period of which the permissions should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. **Attachments**

Appendix Ia	Application form (No. A/YL-KTN/951) with supplementary information received on 14.8.2023
Appendix Ib	Application form (No. A/YL-KTN/953) with supplementary information received on 22.8.2023
Appendix Ic	FI for Application No. A/YL-KTN/951 received on 28.9.2023
Appendix Id	FI for Application No. A/YL-KTN/951 received on 16.10.2023
Appendix Ie	FI for Application No. A/YL-KTN/953 received on 4.10.2023
Appendix If	FI for Application No. A/YL-KTN/953 received on 16.10.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix Va	Public comments for Application No. A/YL-KTN/951
Appendix Vb	Public comments for Application No. A/YL-KTN/953
Drawings A-1 & A-2	Site layout plan and paved area ratio plan for Application No. A/YL-KTN/951
Drawings A-3 & A-4	Site layout plan and paved area ratio plan for Application No. A/YL-KTN/953
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
DECEMBER 2023**