

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/961

<u>Applicant</u>	:	張銘照
<u>Site</u>	:	Lots 176 (Part), 178 (Part), 179 RP (Part), 205 (Part), 206 (Part) and 207 RP (Part) in D.D. 110, Tsat Sing Kong, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 2,307m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11 (currently in force) Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10 (at the time of submission) [No change to the zoning of the application site on the OZP]
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Temporary Private Vehicle Park (Excluding Container Vehicles) for a Period of Three Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for private vehicle park (excluding container vehicles) for a period of three 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-1a**). 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 within “AGR” zone also requires planning permission from the Board. The Site is largely paved, partly covered by weeds, and currently used for parking of private cars and occupied by some container structures without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use involves 30 parking spaces for private cars to serve the local villagers of Tai Kong Po and Tsat Sing Kong as well as the users of the nearby warehouses. Besides, there will be three one-storey container structures with a total floor area of 44.7m² and building height of not more than 2.62m for ancillary storage of maintenance and cleansing tools and equipment in

support of the operation of the private vehicle park. The applicant also applies for regularisation of filling of land with concrete by not more than 0.1m in depth (from +16.5mPD to +16.6mPD) for the entire Site for parking of vehicles and circulation. The proposed operation hours will be 24 hours daily, including public holidays. The Site is accessible from Kong Po Road via local tracks. The site layout plan submitted by the applicant is at **Drawing A-1**.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with supplementary information received (**Appendix I**) on 12.10.2023 and 18.10.2023
- (b) Further Information (FI) received on 7.2.2024* (**Appendix Ia**)
** accepted and exempted from publication and recounting requirements*

1.4 On 8.12.2023, the Committee agreed to defer making a decision on the application for a period of 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, supplementary information and FI at **Appendices I** and **Ia**. They can be summarised as follows:

- (a) the temporary private vehicle park is only for the use of the local villagers of Tai Kong Po and Tsat Sing Kong and the users of the nearby warehouses as there are insufficient parking spaces to cater for their demand. The temporary private vehicle park will alleviate the problem of illegal parking in the nearby area;
- (b) no vehicles exceeding 5.5 tonnes, including container tractors/trailers, are allowed at the Site; and
- (c) the Short Term Waiver No. 4901 for temporary animal boarding establishment covering Lot No. 207 RP in D.D.110 is not related to the applied use as it only takes up a minor portion of the total site area (about 6m² or 0.3%).

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. 31B) by posting a notice at the Site and sending notice to the Pat Heung Rural Committee (the Committee) by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was subject to a planning enforcement action (No. E/YL-KTN/625) against unauthorised development involving storage use. Reinstatement Notice and Compliance Notice were issued on 16.5.2023 and 7.11.2023 respectively.

5. Previous Applications

5.1 Minor parts of the Site were subject to two previous applications (No. A/YL-KTN/556 and 747) for temporary animal boarding establishment which are not relevant to the current application for private vehicle park.

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

6. Similar Applications

6.1 There are six similar applications (No. A/YL-KTN/648, 694, 710, 827, 888 and 915), involving three sites, for renewal of planning approval for temporary private vehicle park within the same “AGR” zone in the vicinity of the Site in the past five years. All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between May 2019 and June 2023, mainly on the considerations that temporary approval would not frustrate the long-term planning intention of “AGR” zone; the applied use 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 similar applications are summarised in **Appendix II** and their locations are shown on **Plan A-1a**.

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

7.1 The Site is:

(a) largely paved with a minor portion covered by weeds, and currently used for the applied use with some container structures without valid planning permission; and

(b) accessible from Kong Po Road via local tracks.

7.2 The surrounding areas are rural in character intermixed with open storage/storage yards, animal boarding establishment/dog kennel, residential structures/dwellings, grassland and plant nursery. To the further west of the Site within about 75m is the village settlement of Tsat Sing Kong which is 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 departments as set out in paragraphs 9.2 and 9.3 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 supports the application:

Transport

Comments of the Commissioner for Transport (C for T):

- (a) supportive to the planning application from traffic engineering perspective to address the local demand; and
 - (b) detailed advisory comments are at **Appendix IV**.
- 9.3 The following government department does not support the application:

Agriculture and Nature Conservation

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 generally used for car parking. 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 and plant nurseries; 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, two public comments were received. One comment from an individual objects to the application mainly on the grounds that the Site forms part of a brownfield area and the justification for the applied use is questionable as there is no residence nearby; the Site is too large for the applied use; and there were previous non-compliance with approval conditions. The other comment from the Kadoorie Farm & Botanic Garden Corporation provides views that whether it is appropriate to approve the application if there is active enforcement case covering the Site.

11. Planning Considerations and Assessments

- 11.1 The applicant seeks planning permission for temporary private vehicle park (excluding container vehicles) and filling of land at the Site zoned “AGR” (**Plan A-1a**). The applied 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. DAFC does not support the application from agricultural perspective. Nevertheless, the applied use is temporary in nature and intended to meet the car parking space demand of the nearby villages and users. C for T supports the application from traffic engineering perspective to address the local demand. Taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.
- 11.2 Filling of land within “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 and the Director of Environmental Protection (DEP) have no adverse comment on the application from drainage and environmental perspectives. An approval condition on reinstatement of the Site upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 11.3 The applied use is considered not incompatible with the surrounding land uses intermixed with open storage/storage yards, animal boarding establishment/dog kennel and residential structures/dwellings. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant adverse landscape impact arising from the applied use is not anticipated and has no objection to the application from landscape planning perspective.
- 11.4 Other relevant government departments consulted including the Chief Engineer/Construction, Water Supplies Department and the Director of Fire Services have no adverse comment on or no objection to the application. To address the technical requirements of the concerned government departments, relevant approval conditions are also recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised “Code of Practice on Handling

Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisances.

- 11.5 There are six approved similar applications in the vicinity in the past five years as stated in paragraph 6. In this regard, approving the current application is in line with the Committee’s previous decisions.
- 11.6 For the public comments stated in paragraph 10, the departmental comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments as mentioned in paragraph 10 above, the Planning Department considers that the applied use 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 5.4.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no vehicles exceeding 5.5 tonnes, including container tractors/trailers, are allowed to be parked/stored on or enter/exit the site at any time, as proposed by the applicant, during the planning approval period;
- (b) no vehicle without valid licences issued under the Road Traffic Ordinance is allowed to be parked/stored on the site at any time during the planning approval period;
- (c) 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 5.10.2024;
- (d) in relation to (c) 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 5.1.2025;
- (e) in relation to (d) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (f) 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 5.1.2025;
- (g) if any of the above planning condition (a), (b) or (e) 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;

- (h) if any of the above planning condition (c), (d) or (f) 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
- (i) 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 application, the following reason for rejection is suggested for Members' reference:

the applied 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. 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 12.10.2023 and 18.10.2023
Appendix Ia	FI received on 7.2.2024
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
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
APRIL 2024**