

RNTPC Paper No. A/YL-KTN/962
For Consideration by
the Rural and New Town
Planning Committee on 8.12.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/962

Applicant : Mr. TANG Wai-ip

Site : Lots 1252 (Part) and 1253 (Part) in D.D. 107, Kam Tin North, Yuen Long

Site Area : About 1,013.5m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10

Zoning : “Agriculture” (“AGR”)

Application : Proposed Temporary Open Storage of Construction Machinery and Materials for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction machinery and materials 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 Kam Tin North OZP. According to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 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 mostly vacant and covered by vegetation and partly used for storage of vehicles without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the Site will be used for open storage of construction machinery and materials without any structure. The applicant also proposes filling of land with concrete by about 0.2m in depth (from the existing +14.2mPD to +14.4mPD) for the entire site. The operation hours are between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. One parking space for private car and one loading/unloading space for light goods vehicle will be provided at the Site. The Site is accessible to Shui Mei Road via local tracks. The site layout and paving 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 attachments received on 18.10.2023 (Appendix I)
- (b) Further Information (FI) received on 28.11.2023* (Appendix Ia)
- (c) FI received on 29.11.2023* (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 and FIs at **Appendices I to Ib**, which could be summarised as follows:

- (a) The proposed development can meet the market demand for storage use. Temporary nature of the application will not frustrate the long-term planning intention of the “AGR” zone. The proposed use is compatible with the surrounding environment.
- (b) The Site will be used for storage of construction machinery and materials only, and no workshop activities will be carried out within the Site. Water spraying system will be installed to minimise dust. The proposed development will not induce adverse environmental and drainage impacts on the surrounding areas.

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

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site is within Category 2 areas under TPB PG-No. 13G. The relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

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

6. **Previous Application**

There is no previous application covering the Site.

7. **Similar Application**

- 7.1 There is one similar application No. A/YL-KTN/790 for temporary open storage straddling the same “AGR” zone in the vicinity of the Site in the past 5 years¹, which was approved by the Rural and New Town Planning Committee (the Committee) mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the development was considered not incompatible with the surrounding land uses; relevant departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by appropriate approval conditions; and the development was generally in line with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses. The planning permission was revoked in May 2023 due to non-compliance with approval conditions.
- 7.2 Details of the application are summarised at **Appendix III** and the location is shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) mostly vacant and covered by vegetation and partly used for storage of vehicles without valid planning permission; and
 - (b) accessible to Shui Mei Road via local tracks.
- 8.2 The surrounding areas are rural in character intermixed with residential dwellings/structures, open storage/storage yards (including sites with planning permissions for temporary warehouse under applications No. A/YL-KTN/920 and 937), animal boarding establishments (including a site with planning permission under application No. A/YL-KTN/758) and vacant lands.

9. **Planning Intention**

- 9.1 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.

¹ The site of application No. A/YL-KTN/790 was within “AGR” zone on the approved Kam Tin North OZP No. S/YL-KTN/9 at the time of consideration. Part of the site was subsequently rezoned to “Residential (Group A)” on the draft Kam Tin North OZP No. S/YL-KTN/10.

- 9.2 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.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 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 IV and V** respectively.

- 10.2 The following government department does not support 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) no comment on the application from nature conservation perspective.

11. Public Comment Received During Statutory Publication Period (Appendix VII)

The application was published for public inspection. During the statutory public inspection period, a public comment from an individual was received objecting to the application mainly on the grounds that there is no approved previous application at the Site; and the proposed development would lead to further proliferation of brownfield uses in the area.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of construction machinery and materials for a period of 3 years and filling of land at the Site zoned “AGR” (**Plan A-1**). The proposed use is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good 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 3 years could be tolerated.
- 12.2 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 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.

- 12.3 The proposed use is not incompatible with the surrounding land uses which are rural in character and intermixed with residential dwellings/structures, open storage/storage yards, animal boarding establishments and vacant lands. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant adverse landscape impact is not anticipated and has no objection to the application from landscape planning perspective.

- 12.4 The Site falls within Category 2 areas under TPB PG-No. 13G (**Appendix II**). The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.5 The application is considered generally in line with TPB PG-No. 13G in that the concerned departments including DEP, the Commissioner for Transport, CE/MN of DSD and the Director of Fire Services have no adverse comments on the application. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 13.2 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 to minimise the possible environmental nuisance generated by the proposed development.

- 12.6 There is one approved similar application for temporary open storage use straddling the same “AGR” zone in the vicinity of the Site in the past 5 years as stated paragraph 7.1 above. Approving the current application is in line with the Committee’s previous decision.

- 12.7 Regarding the public comment objecting to the application as stated in paragraph 11 above, the departmental comments and planning assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment as mentioned in paragraph 11 above, the Planning

Department considers that the proposed development could be tolerated for a period of 3 years.

- 13.2 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 8.12.2026. 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 vehicles exceeding 5.5 tonnes, including container tractors/trailers, are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, shall be carried out on the site at any time during the planning approval period;
- (e) 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;
- (f) in relation to (e) 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;
- (g) in relation to (f) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (h) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.1.2024;
- (i) the submission of a fire service installations 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;
- (j) in relation to (i) 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;
- (k) if any of the above planning condition (a), (b), (c), (d) or (g) 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;

- (l) if any of the above planning condition (e), (f), (h), (i) or (j) 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
- (m) upon the 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 V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

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. The 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form with attachments received on 18.10.2023
Appendix Ia	FI received on 28.11.2023
Appendix Ib	FI received on 29.11.2023
Appendix II	Relevant extract of TPB PG-No. 13G
Appendix III	Similar application

Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	FSD's good practice guidelines for open storage sites
Appendix VII	Public comment
Drawing A-1	Site layout and paving plan
Plan A-1	Location plan with similar application
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
DECEMBER 2023**