

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/963

<u>Applicant</u>	:	Mr. Yau Siu Fai represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 1151 in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<u>Site area</u>	:	About 215m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</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 applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of 3 years and filling of land (**Plan A-1**). The Site is zoned “AGR” on the Kam Tin North OZP. 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 mainly vacant and paved, with a few temporary structures deposited at the Site (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed use involves a single-storey temporary warehouse structure with a total floor area of about 186m² and BH about 8.23m for storage of miscellaneous goods (including packaged food, apparel, footwear, electronic goods, furniture, etc.). No dangerous goods will be stored and no

workshop activities will be carried out within the Site. The applicant also applies for regularisation of filling of land at a depth of not more than 0.2m (from 16.8mPD to 17mPD) for the whole site for site formation and circulation area. The operation hours will be between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. A light goods vehicles loading/unloading space is proposed within the Site. The Site is directly accessible from Mei Fung Road via a local access. The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2**.

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

- (a) Application form with supplementary information received on 17.10.2023 (Appendix I)
 - (b) Further Information (FI) received on 20.11.2023* (Appendix Ia)
 - (c) FI received on 4.12.2023* (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 FI at **Appendices I, Ia** and **Ib**. They can be summarised as follows:

- (a) The proposed use is temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone. The proposed use is not incompatible with the surrounding environment.
- (b) The proposed use can meet the demand for 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 land filling area within the Site is for site formation and vehicular circulation. The Site will be reinstated upon expiry of the planning approval.
- (d) The proposed use will not induce adverse traffic, landscape and visual impacts on the surrounding areas. No medium or heavy goods vehicles including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed within the Site.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **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.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Applications**

6.1 There are 13 similar applications (including renewal of temporary planning approval granted by the Board) for temporary warehouse uses (12 of which with filling of land) within the same “AGR” zone in the vicinity of the Site in the past 5 years. All the applications were approved with conditions by the Committee between June 2020 and August 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 application are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6.3 Other than the similar applications as stated in paragraphs 6.1 and 6.2 above, applications No. A/YL-KTN/951 and 953 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-4b)**

7.1 The Site is:

- (a) mainly vacant and paved with a few temporary structures deposited at the Site; and

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

7.2 The surrounding areas are rural in character, mainly occupied by residential structures/dwellings, open storage yards, warehouse, grassland and vacant lands (including a site with valid planning permission for temporary warehouse under application No. A/YL-KTN/905).

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 department does not support the application:

Agriculture and Nature Conservation

9.2.1 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 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 Comment Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory publication period, a public comment from an individual was received. The commenter objects to the application mainly on the ground that the proposed use will change the character of the area from farming to brownfield operations.

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 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 use 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 use 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 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 rural in character intermixed with residential structures/dwellings, open storage yards, warehouse, grassland and vacant lands. The Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD) considers that significant adverse landscape impact arising from the proposed use is not anticipated.
- 11.4 Other 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. 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 There are 13 approved similar application as mentioned in paragraph 6.1 above. Approving the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the public comment 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 comment 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 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 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 works nor other workshop activities 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 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. 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

Appendix I	Application form with supplementary information received on 17.10.2023
Appendix Ia	FI received on 20.11.2023
Appendix Ib	FI received on 4.12.2023
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawings A-1 & A-2	Site layout plan and paved area ratio plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
DECEMBER 2023**