

RNTPC Paper No. A/YL-KTN/974
For Consideration by
the Rural and New Town
Planning Committee
on 26.1.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/974

- Applicant** : Wing Ho Yuen Landscaping Company Limited represented by R-riches Property Consultants Limited
- Site** : Lots 84 (Part), 85 S.A RP (Part), 85 S.C (Part), 86 RP (Part) and 113 (Part) in D.D. 110, Kam Tin, Yuen Long, New Territories
- Site Area** : About 3,565m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : 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]
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Site Office for a Period of Three Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary site office for a period of three years and filling of land. The Site is zoned “AGR” on the Kam Tin North OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use 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 fenced, partly paved and erected with some temporary structures used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use involves eight single-storey structures with a total floor area of about 332m² and building heights of 2.8m to 4.5m for site office and ancillary toilet and guard room, gardener resting room and storage of farm tools and fertilizer (**Drawing A-1**). The applicant also applies for

regularisation of filling of land paved with a depth of not more than 0.2m (to levels ranging from +7.4mPD to +7.5mPD) for about 851m² (or 24%) of the Site for site formation of structures and vehicular circulation. A major part of the Site (about 76%) will remain as soil ground mainly for farmland and plant nursery. The applicant is a landscape company and the applied site office is for supporting both the on-site agricultural operation as well as other landscape/plant nursery projects outside the Site. The operation hours are from 9:00 a.m. to 6:00 p.m. daily, including public holidays. Four private car parking spaces and one loading/unloading space for light goods vehicle will be provided within the Site. The Site is accessible from Kong Po Road via a local track (**Plan A-2** and **A-3**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 to A-2**

- 1.3 The Site is the subject of two previous applications (details in paragraph 5 below) including the last approved application (No. A/YL-KTN/760) for the same use and submitted by the same applicant as the current application, with the planning permission revoked in October 2023. Compared with the last approved application, the current application is the same in terms of site boundary/area and major development parameters (total floor area and building height) but with minor changes to the layout and addition of two ancillary structures.
- 1.4 In support of the application, the applicant has submitted the following documents :
 - (a) Application form with attachments received on **(Appendix I)**
5.12.2023
 - (b) Further Information (FI) received on 11.1.2024* **(Appendix Ia)**
**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, attachments and FI in **Appendices I** and **Ia**. They can be summarised as follows:

- (a) As the majority of the Site is used for agricultural use and the filling of land has been kept to a minimum for operation needs, the approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “AGR” zone. The applicant undertakes to reinstate the Site to an amenity area after expiry of the temporary planning approval.
- (b) No medium nor heavy goods vehicles including container tractors/trailers, as defined in the Road Traffic Ordinance, would be allowed to access to the Site at any time. It is estimated that eight staff members will work at the Site and no visitor is anticipated, as such the traffic generated would be minimal. The applicant will strictly follow the ‘Code of Practice on Handling the

Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimise all possible environmental impacts on any nearby sensitive receivers. All the existing trees within the Site will be preserved. The development will not create significant adverse traffic, environmental, landscape and drainage impacts on the surrounding areas.

- (c) The planning permission under the last application (No. A.YL-KTN/760) was revoked due to non-compliance with approval condition. In the current application, the applicant submitted the drainage proposal accepted by the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) under the previous application and an updated fire service installations proposal in support of the application. The applicant will also submit Short Term Waiver (STW) application to the Lands Department (LandsD) for the structures under the applied use. No domestic use will be involved.

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

The applicant is not the “current land owner” of the private land portion of the Site but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notice and sending registered mail to the Kam Tin Rural Committee. 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 Applications

- 5.1 The Site is the subject of two previous applications (No. A/YL-KTN/552 and 760). Application No. A/YL-KTN/552 for temporary open storage is not relevant to the current application. Application No. A/YL-KTN/760 submitted by the same applicant for the same temporary use as the current application was approved by the Rural and New Town Planning Committee (the Committee) in May 2021 for a period of three years until May 2024, 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 there was no adverse departmental comments and the technical concerns could be addressed by approval conditions. The planning permission was subsequently revoked in October 2023 due to non-compliance with the

approval condition on implementation of the drainage proposal within the time limit.

- 5.2 Compared with the approved previous application No. A/YL-KTN/760, the current application is the same in terms of site boundary/area, total floor area and building height; and is similar in terms of layout with addition of two structures for ancillary resting room and storage uses.
- 5.3 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application for temporary site office within the same “AGR” zone in the vicinity in the past five years.

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

- 7.1 The Site is:
 - (a) fenced, partly paved and erected with some temporary structures used for the applied use without valid planning permission; and
 - (b) accessible to Kong Po Road via a local track.
- 7.2 The surrounding areas are rural in character mainly intermixed with vacant land, grassland, open storage/storage yards and temporary residential structures/dwellings. To the further west across a nullah is an animal boarding establishment with valid planning permission approved under application No. A/YL-KTN/805.

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 in “AGR” zone 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 have adverse comments on or do not support the application:

Land Administration

- 9.2.1. Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):

- (a) has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lot Nos. 84, 85 S.A RP, 85 S.C, 86 RP and 113 all in D.D. 110 held under the Block Government Lease which contains restriction that no structures are allowed to be erected without the prior approval of the Government; and
- (c) LandsD has reservation on the planning application since there are unauthorised structure(s) or use(s) on Lot Nos. 84, 85 S.A RP, 85 S.C, 86 RP all in D.D. 110 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regulation on the lease breaches as demanded by LandsD.

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 generally occupied by structures. 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 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, one public comment from an individual was received raising concern on the compliance status of approval conditions under the previous planning permission.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary site office for a period of three 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 pond for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The applied use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective. Nevertheless, the applied use is for supporting both on-site agricultural operation and off-site landscape/plant nursery projects. A major part of the Site (about 76%) will remain as soil ground mainly for farmland and plant nursery. 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 the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. According to the applicant, the applied filling of land is for site formation of structures and vehicular circulation and the extent is not excessive covering about 24% of the Site. In this regard, CE/MN of DSD and the Director of Environmental Protection (DEP) have no adverse comment 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 applied use is considered not incompatible with the surrounding land uses which are rural in character intermixed with vacant land, grassland, open storage/storage yards 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 she has no objection to the application from landscape planning perspective.
- 11.4 DLO/YL, LandsD has adverse comments on the application in view of the unauthorised structures or uses on the subject lots. In this regard, the applicant will submit STW application to LandsD for the structures under the applied use. Relevant advisory clause on need for application to LandsD for regularisation for unauthorised structures or uses is recommended.

- 11.5 The Site is the subject of a previous approved application (A/YL-KTN/760) submitted by the same applicant for the same use as the current application and the planning permission was revoked due to non-compliance with approval condition on the implementation of drainage proposal. In this regard, the applicant has submitted a drainage proposal to support the current application. CE/MN of DSD considers the drainage proposal acceptable and has no objection to the application subject to relevant approval conditions. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, no sympathetic consideration may be given to any further application.
- 11.6 Other relevant departments consulted, including the Commissioner for Transport and the Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of the 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 to minimise any possible environmental nuisance.
- 11.7 Regarding the public comment mentioned 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 and having taken into account the public comment mentioned in paragraph 10, 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 26.1.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference.

Approval Conditions

- (a) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (b) the implementation of the accepted 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 26.10.2024;

- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a revised 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 26.7.2024;
- (e) in relation to (d) above, the implementation of the revised 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 26.10.2024;
- (f) if any of the above planning conditions (a) or (c) 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;
- (g) if any of the above planning conditions (b), (d) or (e) 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
- (h) 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 attached 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 attachments received on 5.12.2023
Appendix Ia	FI received on 11.1.2024
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan with previous applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JANUARY 2024**