

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/976

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| <u>Applicant</u> | : | TANG Tsz Ki |
| <u>Site</u> | : | Lot 1371 in D.D. 109, Kam Tin North, Yuen Long |
| <u>Site Area</u> | : | About 1,557.5m ² |
| <u>Lease</u> | : | Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | : | Approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/11 |
| <u>Zoning</u> | : | “Agriculture” (“AGR”) |
| <u>Application</u> | : | Proposed Temporary Warehouse (excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of Three Years and Filling of Land |

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities 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-1**). 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 largely vacant, paved, fenced-off and erected with a few temporary structures without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed temporary warehouse is for storage of construction materials. It involves erection of two single-storey structures with a total floor area of about 432m² and building height of not more than 8m for warehouse and ancillary office uses (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the whole Site with concrete with a depth of not more than 0.3m from about +6.2mPD to not more than +6.5mPD for site formation (**Drawing A-2**). The operation hours will be between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. Four parking spaces for private cars and four loading/unloading spaces for light goods vehicles will be provided. The Site is accessible from Kong Po Road via a local

track (**Plans A-1 and A-2**). 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 has submitted the following documents:

- (a) Application form with supplementary information received (**Appendix I**) on 12.12.2023
- (b) Further Information (FI) received on 4.3.2024* (**Appendix Ia**)
* *accepted and exempted from publication and recounting requirements*

1.4 On 26.1.2024, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for 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 proposed use is temporary in nature and approval of the current application will not frustrate the long-term planning intention of the “AGR” zone.
- (b) The proposed use can meet the demand for warehouse in recent years, and there were similar applications approved by the Committee in the vicinity of the Site within the same “AGR” zone.
- (c) No dangerous goods will be stored and the proposed use is anticipated to generate infrequent trips. The applicant undertakes to avoid affecting the nearby watercourse and to reinstate the Site upon expiry of the planning approval. Hence, the proposed use will not induce adverse environmental, traffic and drainage impacts on the surrounding areas.
- (d) The Site is the subject of an approved previous application for temporary animal boarding establishment submitted by the same applicant as the current application. The applicant finds the market demand for warehouse use more significant than animal boarding establishment and thus proposes to change the use of the Site.

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

The applicant is not the 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 site notice and notifying the Pat Heung Rural Committee by registered mail. 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**

5.1. The Site is the subject of a previous application (No. A/YL-KTN/856) covering a larger site area for temporary animal boarding establishment with filling of land which was submitted by the same applicant as the current application and approved with conditions by the Committee in September 2022 mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the proposed use was not incompatible with the surrounding land uses; and the departments consulted in general had no adverse comment or their concerns could be addressed by relevant approval conditions. The planning permission was subsequently revoked in December 2023 due to non-compliance with approval conditions.

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

6. **Similar Applications**

6.1 There are 23 similar applications for temporary warehouse use with filling of land 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 Committee between May 2022 and April 2024 mainly on the similar considerations as mentioned in paragraph 5.1 above. Five of the approved similar applications (No. A/YL-KTN/925, 928, 940, 959 and 988) are within about 300m from the Site. The planning permissions under applications No. A/YL-KTN/824 and 852 were revoked in February and March 2024 respectively due to non-compliance with approval conditions.

6.2 Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6.3 Other than the similar applications as stated in paragraph 6.1 above, applications No. A/YL-KTN/970 and 996 for the same use as the current application and within the same “AGR” zone will be considered at the same meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) largely vacant, paved, fenced-off and erected with a few temporary structures without valid planning permission; and

(b) accessible from Kong Po Road via a local track.

- 7.2 The surrounding areas are rural in character intermixed with vacant land (including sites with planning permissions for temporary warehouse use under applications No. A/YL-KTN/925, 928, 940 and 959), open storage yards, parking of vehicles, residential structures/dwellings, grassland and plant nursery. To the north within about 50m is the village settlement of Cheung Kong Tsuen within “Village Type Development” zone. To the south within about 50m across Kam Tin North River is a residential development namely Seasons Monarch within “Residential (Group C)2” zone.

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 for the “AGR” zone, 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 occupied by some 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 Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, three public comments were received from Kadoorie Farm & Botanic Garden Corporation and two individuals. Kadoorie Farm & Botanic Garden Corporation raises concerns on the reinstatement status of the previous application and the nature of the current application, and the two individuals object to the application mainly on the grounds that there would be adverse traffic impact; the authentic use of the Site is not clear; and the approval conditions under the previous application have not been complied with.

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 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 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 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 surrounding areas. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department and the Director of Environmental Protection (DEP) have no objection to or no comment on 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 mainly intermixed with plant nursery, open storage yards, parking of vehicles and residential structures/dwellings. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant landscape impact is not anticipated and has no objection to the application from landscape planning perspective.
- 11.4 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 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 the Environmental Protection Department.

- 11.5 There are 23 approved similar applications within the same “AGR” zone in the vicinity of the Site 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 comments as 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 comments mentioned in paragraph 10, the Planning Department considers that the proposed 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 19.4.2027. 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 on the site at any time during the planning approval period;
- (b) no dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities shall be carried out 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 19.10.2024;
- (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 19.1.2025;
- (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 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 19.10.2024;
- (g) in relation to (f) 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 19.1.2025;
- (h) 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;

- (i) if any of the above planning condition (c), (d), (f) or (g) 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
- (j) 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 with filling of land 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

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| Appendix I | Application form with supplementary information received on 12.12.2023 |
| Appendix Ia | FI received on 4.3.2024 |
| Appendix II | Previous and similar applications |
| Appendix III | Government departments' general comments |
| Appendix IV | Recommended advisory clauses |
| Appendix V | Public comments |

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| Drawing A-1 | Site layout plan |
| Drawing A-2 | Land filling plan |
| Plan A-1 | Location plan with previous and similar applications |
| Plan A-2 | Site plan |
| Plan A-3 | Aerial photo |
| Plans A-4 | Site photos |

**PLANNING DEPARTMENT
APRIL 2024**