

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/979

<u>Applicant</u>	:	TANG Lam Piu represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 1434 (Part) in D.D. 107, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 498m 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 and Pond

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 and pond at the application site (the Site), which falls within an area zoned “AGR” on the approved Kam Tin North OZP No. S/YL-KTN/11 (**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/pond within the “AGR” zone also requires planning permission from the Board. The Site is fenced-off, paved and deposited with construction materials without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed temporary warehouse is for storage of miscellaneous goods including packaged food, apparel, footwear, electronic goods, and furniture. It involves erection of two single-storey structures with a total floor area of about 379m² and building heights of about 7m for warehouse and covered loading/unloading area (**Drawing A-1**). The applicant also applies for regularisation of filling of pond for an area of about 248m² with a depth of about 1.2m and regularisation of filling of land for the rest of the Site at a depth of not more than 0.2m (to a level of +9.8mPD) for site formation and circulation (**Drawing A-2**). 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 loading/unloading space for light goods vehicle will be provided. The Site is

accessible from Shui Mei Road via local tracks (**Plans A-1 and A-2**). The site layout plan and the land and pond 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 attachments received on 4.1.2024 (Appendix I)
- (b) Further Information (FI) received on 22.3.2024* (Appendix Ia)
- (c) FI received on 15.4.2024* (Appendix Ib)
- (d) FI received on 22.4.2024* (Appendix Ic)
- (e) FI received on 16.5.2024* (Appendix Id)
- (f) FI received on 31.5.2024* (Appendix Ie)

** accepted and exempted from publication and recounting requirements*

1.4 On 1.3.2024 and 10.5.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months each 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, attachments and FIs at **Appendices I to Ie**. They can be summarised as follows:

- (a) There is no active agricultural use at the Site. The proposed use can meet the demand for warehouse in recent years. 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. There were similar applications approved by the Committee in the vicinity of the Site.
- (b) The pond involved at the Site had been dried in the past few years. The applied filling of land and pond is necessary for site formation and circulation to meet the operational needs. Relevant drainage measures will be implemented and the applicant undertakes to reinstate the Site to an amenity area upon expiry of the planning approval. No dangerous goods will be stored at the Site and the proposed use is anticipated to generate infrequent trips. Hence, the proposed use will not induce adverse environmental, traffic and drainage impacts on the surrounding areas.

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 sending notice 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 Application**

There is no previous application covering the Site.

6. **Similar Applications**

- 6.1 There are 21 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 these applications were approved with conditions by the Committee between May 2022 and April 2024, mainly on the considerations that the application would not frustrate the long-term planning intention of the “AGR” zone or the proposed use on a temporary basis could be tolerated; the proposed use was considered not incompatible with the surrounding land uses; and the departments consulted generally had no adverse comment or their technical concerns could be addressed by relevant approval conditions. The planning permissions under applications No. A/YL-KTN/824, 852 and 898 were subsequently revoked between January and March 2024 due to non-compliance with the approval conditions.
- 6.2 Details of the similar 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, application No. A/YL-KTN/1000 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) fenced-off, paved with a pond filled and deposited with construction materials without valid planning permission; and
 - (b) accessible from Shui Mei Road via local tracks.
- 7.2 The surrounding areas are rural in character intermixed with warehouse, storage yards and parking of vehicles (all without valid planning permission except for the sites approved for temporary warehouse under applications No. A/YL-KTN/955 and 957); as well as vacant land, residential structures/dwellings, plant nursery and grassland. To the east within about 30m is woodland within “Conservation Area” (“CA”) 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/pond 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) the proposed use is not supported from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
 - (b) the Site falls within “AGR” zone and is generally occupied by sundries. 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 with land and pond filling from nature conservation and fisheries perspectives.

10 Public Comment Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds that the Site is close to the “CA” zone; there would be adverse drainage impact; and there is no previous application at the Site.

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 and pond 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 The applied filling of land and pond is for regularisation of the filled area which covers the entire Site. Filling of land/pond within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. According to the applicant, the pond within the Site was an existing dried pond. The Chief Engineer/Mainland North of the Drainage Services Department and DEP have no objection to or no comment on the application with filling of land and pond 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 intermixed with warehouse, storage yards, parking of vehicles, residential structures/dwellings and plant nursery. 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 21 approved similar applications for temporary warehouse 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 comment 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 comment 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 5.7.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 5.4.2025;
- (b) in relation to (a) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (c) 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 5.1.2025;
- (d) in relation to (c) 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 5.4.2025;
- (e) if the above planning condition (b) 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;
- (f) if any of the above planning condition (a), (c) or (d) 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
- (g) 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 and pond 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 4.1.2024
Appendix Ia	FI received on 22.3.2024
Appendix Ib	FI received on 15.4.2024
Appendix Ic	FI received on 22.4.2024
Appendix Id	FI received on 16.5.2024
Appendix Ie	FI received on 31.5.2024
Appendix II	Similar 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 similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo

Plan A-4

Site photos

**PLANNING DEPARTMENT
JULY 2024**