

RNTPC Paper No. A/YL-KTN/989B
For Consideration by
the Rural and New Town
Planning Committee
on 4.10.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/989

Applicant : TANG Tsz Ki

Site : Lots 1051 RP (Part), 1052 and 1057 in D.D. 109, Kam Tin, Yuen Long, New Territories

Site Area : About 2,899.2m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/11

Zoning : “Agriculture” (“AGR”)

Application : Proposed Temporary Warehouse (Excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of Three Years and Associated 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 associated filling of land 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 or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is currently a fallow farmland covered by grass and shrubs (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Kong Tai Road via a local access road (**Plans A-1 to A-3**). According to the applicant, the proposed use for storage of construction materials and equipment involves six single-storey structures with heights of not more than 8m and a total floor area of about 757.9m² and a site coverage of about 26% for warehouse, ancillary office and electric meter room (**Drawing A-1**). Two parking spaces for private car and three for light goods vehicle (LGV) as

well as two loading/unloading (L/UL) spaces for LGV will be provided. An open area of about 2,141.3m² (74% of site area) will be used for parking, L/UL and vehicular maneuvering. No dangerous goods will be stored and no ground excavation works will be carried out at the Site. The proposed operation hours are from 9:00 a.m. to 7:00 p.m., from Mondays to Saturdays, with no operation on Sundays and public holidays. The applicant also applies for proposed filling of land with concrete for the entire Site with a depth of not more than 0.3m (to level of not more than 11mPD) for site formation and vehicular circulation (**Drawing A-2**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.

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

- (a) Application form with attachments received on 2.2.2024 (**Appendix I**)
- (b) Further Information (FI) received on 29.4.2024* (**Appendix Ia**)
- (c) FI received on 21.8.2024# (**Appendix Ib**)

**accepted and exempted from publication and recounting requirements*

#accepted and not exempted from publication and recounting requirements

1.4 On 15.3.2024 and 21.6.2024, 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 and FIs in **Appendices I to Ib** and 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.
- (c) In support of the application, a drainage proposal is submitted. The anticipated trip generation by the proposed use is low. 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 a ‘current land owner’ but has complied with the requirement 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 registered mail to the

Pat Heung 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.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Applications**

6.1 There are six similar applications (No. A/YL-KTN/925, 928, 940, 959, 970 and 976) for proposed temporary warehouse with filling of land within the same "AGR" zone in the vicinity of the Site in the past five years. While application No. A/YL-KTN/970 is located nearer the Site to the south, other applications forming a cluster near Chi Ho Road are located further away from the Site. All these applications were approved with conditions by the Committee between August 2023 and April 2024 mainly on the considerations that the proposed use on a temporary basis could be tolerated; it was considered not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comment or their technical concerns could be addressed by approval conditions. Details of the similar applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6.2 Besides, applications No. A/YL-KTN/1005 and 1010 for the same proposed use as the current application which are located further away from the Site within the same "AGR" zone will be considered at the same meeting (**Plan A-1**).

6.3 For Members' information, applications No. A/YL-KTN/1012, 1030 and 1053 for proposed temporary warehouse with associated filling of land within the same "AGR" zone in the vicinity of the Site are under processing (**Plan A-1**).

7. **The Site and Its Surrounding Areas (Plans A-2 to A-4b)**

7.1 The Site is:

- (a) currently a fallow farmland covered by grass and shrubs, and was under active farming activities in previous years;

(b) partly within the Tai Kong Po Site of Archaeological Interest (SAI) (**Plan A-1**); and

(c) accessible from Kong Tai Road via a local access road.

- 7.2 The surrounding areas are rural in character with an intermix of active farmland, residential structures, some brownfield uses and vacant land. A stream of Kam Tin River is running in north-south direction to the east across the local access road, and a natural green knoll zoned “Green Belt” (“GB”) on the OZP is located to the north of the Site in the vicinity. To the immediate south and southwest adjoining the Site is an extensive cluster of active farmland intermixed with residential structures and vacant land. To the immediate north is a land partly formed and vacant, and partly paved and used for parking of vehicles, which is subject to application No. A/YL-KTN/1012 under processing as mentioned in paragraph 6.3 above and planning enforcement action (No. E/YL-KTN/693) against unauthorized development (UD) involving parking of vehicles (**Plan A-2**). To the further north adjoining the “GB” zone is a land occupied by some open storage/storage yards and parking of vehicles which are suspected UD without valid planning permission and subject to application No. A/YL-KTN/1053 under processing as mentioned in paragraph 6.3 (**Plan A-2**).

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 “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 departments as set out in paragraphs 9.2 and 9.3 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 the application:

Drainage

- 9.2.1. Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD):

- (a) he has reservation on the application as there is proposed land filling works covering the whole Site with area of around 3,000m² but there is no substantiation to show how the overland flow from adjacent areas would not be interrupted by the proposed works; and
- (b) detailed comments on the drainage proposal submitted are at **Appendix IV**.

Landscape

- 9.2.2. Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L of PlanD):

the Site is located in a rural inland plains landscape character comprising farmland, vacant land, temporary structures and scattered tree groups. There is concern that approval of the application may alter the landscape character.

- 9.3. The following government department does not support the application:

Agriculture and Nature Conservation

- 9.3.1. 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. 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 Periods

On 9.2.2024 and 30.8.2024, the application and FI were published for public inspection respectively. During the statutory public inspection periods, two public comments were received from Kadoorie Farm & Botanic Garden Corporation and an individual objecting to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; there are active farming activities in area next to the Site; there will be potential cumulative impacts on the environment; and the proposed use will extend brownfield operations further into the farmland (**Appendix V**).

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 associated 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. The proposed use is not in line with the planning intention of the “AGR” zone, and DAFC does not support the application from agricultural point of view as there are active agricultural activities and agricultural infrastructures in the vicinity of the Site and the Site possesses potential for agricultural rehabilitation. Besides, there is no strong justification for proposing a major portion of about 2,141.3m² (74%) of the Site as open area, which will be entirely filled and formed, for only parking, L/UL and vehicular maneuvering spaces ancillary to the proposed warehouse with a low site coverage of about 26%. Taking into account the above and the assessments below, it is considered that no strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.
- 11.2 The applicant proposes associated filling of land for the entire Site. 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. In this regard, whilst the Director of Environmental Protection has no objection to the application from environmental perspective, CE/MN of DSD has reservation on the application from drainage perspective as there is no substantiation to show how the overland flow from adjacent areas would not be interrupted by the proposed filling of land for the entire Site with an area of about 2,899.2m², despite a drainage proposal is submitted by the applicant.
- 11.3 The Site is a fallow farmland with farming activities in previous years and interfaces with an extensive cluster of active farmlands intermixed with scattered residential structures and vacant land to its immediate south and southwest (**Plans A-2 and A-3**). Whilst the areas to the immediate north and further north of the

Site near the “GB” zone have been formed and paved with various open storage/storage yards and parking of vehicles, they are either suspected UD without any valid planning permission or confirmed UD subject to planning enforcement action. With the Site being situated within the inland area of the extensive “AGR” zone, the proposed use with associated filling of land thereat is considered not compatible with the surrounding land uses and context of rural inland plains. In this regard, CTP/UD&L of PlanD expresses concern that the proposed use may alter the landscape character of the area. Approval of the current application would attract similar applications within the area and the cumulative impacts of which would result in a general degradation of the rural environment and character of the area.

- 11.4 Other concerned government departments, including the Commissioner for Transport, Director of Fire Services and Chief Heritage Executive (Antiquities and Monuments) of Antiquities and Monuments Office have no objection to or no adverse comment on the application from traffic, fire safety and archaeological perspectives respectively.
- 11.5 There are six approved similar applications within the same “AGR” zone in the vicinity of the Site, with one of them (application No. A/YL-KTN/970) being nearer the Site and the rest further away as mentioned in paragraph 6.1. These similar applications were approved by the Committee mainly on the considerations that the proposed use was considered not incompatible with the surrounding land uses and the government departments consulted generally had no adverse comment or their technical concerns could be addressed by relevant approval conditions. In particular, as compared to the current application, the similar application No. A/YL-KTN/970 located nearer the Site involves a smaller site area (about 1,618.3m²) situated nearer the existing local access road leading from Kong Tai Road and it is mainly surrounded by existing temporary structures, plant nursery and open storage yards without extensive and direct interface with the active farmland cluster to the west (**Plan A-2**). As for the current application, however, the proposed use is not compatible with the surrounding areas and subject to adverse comments from CE/MN of DSD and CTP/UD&L of PlanD from drainage and landscape planning perspectives respectively, posing more significant impacts on the surrounding areas, including the potential cumulative impacts as mentioned in paragraphs 11.2 and 11.3 above. The current application therefore does not warrant the similar planning circumstances and considerations of the approved similar applications.
- 11.6 Regarding the public comments 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 does not support the application for the following reasons:
- (a) the proposed use with associated 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 and 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;
 - (b) the proposed use with associated filling of land is not compatible with the surrounding land uses; and
 - (c) the applicant fails to demonstrate that the proposed use with associated filling of land would not have adverse drainage impact on the surrounding areas.
- 12.2 Alternatively, 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 4.10.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference.

Approval Conditions

- (a) the submission of a revised 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 4.4.2025;
- (b) in relation to (a) 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 4.7.2025;
- (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 implementation of the accepted 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 4.7.2025;
- (e) if the above planning condition (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;

- (f) if any of the above planning condition (a), (b) 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 attached at **Appendix IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application form with attachments received on 2.2.2024
Appendix Ia	FI received on 29.4.2024
Appendix Ib	FI received on 21.8.2024
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan

Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a to 4b	Site photos

**PLANNING DEPARTMENT
OCTOBER 2024**