

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/995

<u>Applicant</u>	:	TANG Lam Piu represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 1452 (Part) in D.D. 107 and Adjoining Government Land, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 696m ² (including 118m ² of Government land (GL) (about 17%))
<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 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 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 fenced, paved, deposited with some construction materials and machinery, 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 miscellaneous goods (i.e. packaged food, apparel, footwear, electronic goods, furniture, etc.) involving two single-storey structures for warehouse, ancillary office, washroom, and covered parking and loading/unloading spaces with a total floor area of about 446m² and building height of about 7m (**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 0.2m (from +8.0mPD to +8.2mPD) for site formation and vehicular circulation (**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. A parking space for private car and a loading/unloading space for light goods vehicle will be provided under one of the proposed structures. The Site is accessible from Shui Mei 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 7.2.2024
- (b) Further Information (FI) received on 19.3.2024* (**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, supplementary information and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The Site is fenced and vacant with no active agricultural use. The proposed development 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 development can meet the demand for indoor storage space in recent years and support the local warehousing and storage industry. There was a similar application approved by the Rural and New Town Planning Committee (the Committee) at approximately 120m north of the Site in 2023. Since the current application is in similar scale and nature, approval of the current application is in line with the Committee’s previous decision.
- (c) The surrounding areas are dominated by open storage yards and vacant land. Approval of the current application is not incompatible with the surrounding uses.
- (d) The filling of land is necessary for site formation purpose to meet the operational needs of the proposed development. The extent of filling has been kept to minimal. The applicant undertakes to reinstate the Site upon expiry of the planning approval.
- (e) No medium and heavy goods vehicles including container tractors/trailers would be allowed to be parked/stored on or enter/exit the Site at any time. The Site is intended for warehouse with infrequent trips. Adverse traffic impact on the surrounding road network should not be anticipated. The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and ‘Professional Persons Environmental Consultative Committee Practice Notes’ to minimise the environmental impacts and to design the on-site drainage system.
- (f) No dangerous goods will be stored at the Site. No recycling, cleansing, repairing, dismantling works or other workshop activities are involved at the Site. No visitor is anticipated at the Site. The proposed use will not create significant nuisance to the surrounding areas. Adequate measures will be provided by the applicant to mitigate any adverse impact arising from the proposed development.

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 Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements as set out in TPB PG-No.31B are not applicable.

4. **Background**

The Site was subject to a planning enforcement case (No. E/YL-KTN/646) against Unauthorised Development (UD) involving storage use. Enforcement Notice was issued on 23.6.2023 requiring discontinuation of the UD. Subsequent site inspection revealed that the UD has been discontinued. The compliance notice was issued on 30.11.2023. Reinstatement Notice was issued on 11.1.2024 requiring reinstatement of the concerned land. If the notice is not complied with, prosecution action may be taken.

5. **Previous Application**

There is no previous application covering the Site.

6. **Similar Applications**

- 6.1 There are 20 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 January 2024 mainly on the considerations that temporary approval would not frustrate the long-term planning intention or the proposed use on a temporary basis could be tolerated; the proposed development 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 permissions under applications No. A/YL-KTN/824 and A/YL-KTN/898 were revoked in February 2024 and January 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/988, 992 and 993 for the same use as the current application and within the same “AGR” zone will be considered at the same meeting.

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

7.1 The Site is:

- (a) fenced, paved, deposited with some construction materials and machinery, and erected with a few temporary structures; and
- (b) accessible from Shui Mei Road via a local track.

7.2 The surrounding areas are rural in character intermixed with vacant land, open storage yards, grassland, sports training ground (with a valid planning permission for temporary place of recreation, sports or culture approved under application No. A/YL-KTN/895), and farmland.

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

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 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, two public comments from Kadoorie Farm & Botanic Garden Corporation and an individual were received objecting to the application mainly on the grounds that unauthorised activities may be involved at the Site; the proposed use is not in line with the planning intention; there is no precedent case at the Site; and there is rising demand for local agricultural products.

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. 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 which are mainly intermixed with vacant land, open storage yards, grassland and farmland. 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 DEP.
- 11.5 There are 20 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 5.4.2027. 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 5.10.2024;
- (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 5.1.2025;
- (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 5.10.2024;
- (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 5.1.2025;
- (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

Appendix I	Application form with supplementary information received on 7.2.2024
Appendix Ia	FI received on 19.3.2024
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 with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4	Site photos

**PLANNING DEPARTMENT
APRIL 2024**