

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/996

<u>Applicant</u>	:	Good Time Union Metal Works Company Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 1225 S.C, 1226 S.E and 1230 S.B in D.D.107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 565m 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 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, partly covered by weeds, deposited with some construction materials, and erected with a few temporary structures without valid planning permission (**Plan 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.) in two single-storey structures for warehouse, ancillary office, washroom, and covered loading/unloading space with a total floor area of about 328m² and building height of about 7m (**Drawing A-1**). The applicant also applies for proposed filling of land for the whole Site with concrete with a depth of not more than 0.2m (from +9.9mPD to +10.1mPD) for site formation and vehicular circulation in support of the operation of the proposed use (**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. An uncovered parking space for private car and a covered loading/unloading space for light goods vehicle will be provided. The Site is accessible from Mei Fung Road via local tracks (**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 21.2.2024
- (b) Further Information (FI) received on 8.4.2024* (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 has been disturbed with no active agricultural use. 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 surrounding areas are dominated by open storage yards and warehouses. The proposed use is not incompatible with the surrounding uses.
- (c) The accepted drainage plan under the previously approved application (No. A/YL-KTN/769) submitted by the same applicant for temporary animal boarding establishment and a fire service installation proposal are submitted under the current application to support the proposed use.
- (d) There was a similar application approved by the Rural and New Town Planning Committee (the Committee) at approximately 25m north of the Site in 2023 (application No. A/YL-KTN/937). Since the current application is in similar scale and nature, approval of the current application is in line with the Committee’s previous decision.
- (e) The filling of land is necessary for site formation purpose to meet the operational need of the proposed use. The extent of filling has been kept to minimal. The applicant undertakes to reinstate the Site upon expiry of the planning approval.
- (f) 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 is not 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.

- (g) 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. The previously approved animal boarding establishment was not implemented due to business considerations.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is current not subject to any active planning enforcement action. The Site is currently covered by a valid planning permission (No. A/YL-KTN/769) for temporary animal boarding establishment for a period of five years and filling of land, which will expire on 9.7.2026. 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/745 and 769). Application No. A/YL-KTN/745, covering a larger site area, was for temporary place of recreation, sports or culture (hobby farm) and filling of land; and application No. A/YL-KTN/769, covering the same site and submitted by the same applicant as the current application, was for temporary animal boarding establishment and filling of land. The two applications were approved with conditions by the Committee in February and July 2021 respectively, mainly on the considerations that the application would not frustrate the long-term planning intention of the “AGR” zone; 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 permission under application No. A/YL-KTN/745 was subsequently revoked in February 2022 due to non-compliance with approval conditions; and the planning permission under application No. A/YL-KTN/769 is valid until 9.7.2026.
- 5.2. Details of the previous applications 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. 16 of the approved similar applications are within about 500m

from the Site. The planning permissions under applications No. A/YL-KTN/824 and 852 were revoked in February 2024 and March 2024 respectively due to non-compliance with 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, applications No. A/YL-KTN/970 and 976 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, partly covered by weeds, deposited with some construction materials, and erected with a few temporary structures without valid planning permission; and
 - (b) accessible from Mei Fung Road via a local track.
- 7.2 The surrounding areas are mainly rural in character intermixed with vacant land (including sites with valid planning permissions for temporary open storage under application No. A/YL-KTN/962; for temporary warehouse under application no. A/YL-KTN/975; and for temporary animal boarding establishment under applications No. A/YL-KTN/771, 775 and 815), open storage yards/storage uses (including sites with valid planning permissions for temporary warehouse under applications No. A/YL-KTN/904, 920 and 937), hobby farm, holiday camp (with valid planning permission under application No. A/YL-KTN/868), animal boarding establishment, grassland, plant nursery and residential dwellings.

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

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 Comment Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received objecting to the application mainly on the grounds that the genuine intention is to use the Site as warehouse but not animal boarding establishment as proposed in the previously approved application No. A/YL-KTN/769.

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/storage yards, grassland, hobby farm, holiday camp, animal boarding establishment, and residential 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 DEP.
- 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 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 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 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 19.1.2025;
- (d) in relation to (c) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;

- (e) 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 19.1.2025;
- (f) if any of the above planning condition (a), (b) or (d) 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 condition (c) 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 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 21.2.2024

Appendix Ia	FI received on 8.4.2024
Appendix II	Previous and 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
Plans A-4	Site photos

**PLANNING DEPARTMENT
APRIL 2024**