

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/1020

- Applicant** : Ma Ping Hoi represented by Allgain Land Planning Limited
- Site** : Lots 552 RP (Part) and 553 (Part) in D.D. 113 and Adjoining Government Land (GL), Kam Tin, Yuen Long, New Territories
- Site Area** : About 2,030m² (including GL of about 140m² (about 6.9%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
- Zoning** : “Agriculture” (“AGR”)
- Application** : 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 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 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 currently occupied by the applied use without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Kam Ho Road via local track (**Plans A-1 and A-3**). According to the applicant, the applied use is for storage of miscellaneous goods (including packaged food, apparel, footwear, electronic goods and furniture, etc.). The applied use comprises five structures of one to two storeys (all about 7m in height) for warehouse, site office and shelter with a total floor area of about 1,930m². No dangerous goods will be stored at the Site. The operation hours are between 9:00 a.m. and 5:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. A loading/unloading space for light goods vehicle is provided within the Site. The applicant also applies for regularisation of filling of land for

the entire Site with concrete in a depth of not more than 0.2m up to a level of +23.6mPD for site formation and vehicular circulation. The site layout plan and the 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 supplementary statement (**Appendix I**) received on 22.8.2024
- (b) Further Information (FI) received on 2.12.2024* (**Appendix Ia**)

** accepted and exempted from publication and recounting requirements*

1.4 On 4.10.2024, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months as required 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 statement and FIs at **Appendix I to Ib**. They can be summarised as follows:

- (a) There is no active agricultural use at the Site. The applied use can meet the increasing demand for warehouse floor space in recent years and support the local warehousing and storage industry.
- (b) The surrounding areas are dominated by open storage yards and temporary structures. The applied use is not incompatible with the surrounding uses. The applied use is temporary in nature and approval of the current application will not frustrate the long-term planning intention of the “AGR” zone.
- (c) The applied filling of land is necessary for site formation and vehicular circulation to meet the operational needs of the development. The applicant undertakes to reinstate the Site upon expiry of the planning approval.
- (d) There was a similar application No. A/YL-KTS/997 for the same temporary warehouse use (excluding dangerous goods godown) approved by the Rural and New Town Planning Committee (the Committee) of the Board within the same “AGR” zone in the vicinity of the Site.
- (e) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (the CoP) and ‘Professional Persons Environmental Consultative Committee Practice Notes’ to minimise the environmental impacts and to design the on-site drainage system in accordance with the guidelines and requirement of Drainage Services Department (DSD). Adequate measures will be provided by the applicant to mitigate any adverse impact arising from the applied use. The applied use will not create significant nuisance to the surrounding areas.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, 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) are not applicable.

4. Background

The Site is not subject to any active 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 four similar applications covering three sites (No. A/YL-KTS/946, 959, 997 and 1032) for temporary warehouse use (three with filling of land) within the same “AGR” zone and other “AGR” zones on the same OZP in the past five years, which were approved with conditions by the Committee between 2023 and 2024 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention; the applied use was not incompatible with the surrounding uses; the government departments consulted in general had no adverse comment or their concerns could be addressed by relevant approval conditions; and policy support was given for applications No. A/YL-KTS/946, 959 and 1032 to facilitate relocation of business operation displaced by government projects. The planning permission for application No. A/YL-KTS/946 was subsequently revoked in November 2024 due to non-compliance with time-limited approval conditions. Details of the similar applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6.2 Applications No. A/YL-KTS/1048 and 1049 for temporary warehouse (excluding dangerous goods godown) with ancillary office and associated filling of land for a period of three years 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-4b)

7.1 The Site is:

- (a) accessible from Kam Ho Road via local track; and
 - (b) currently hard-paved occupied by the applied use without valid planning permission.
- 7.2 The surrounding areas comprise predominantly farms, open storage yards, vehicle repair workshop, vacant land and woodlands.

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 departments 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, if any, are provided in **Appendices III** and **IV** respectively.
- 9.2. The following government departments have adverse comments or do not support the application:

Land Administration

9.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lot Nos. 552 RP (Part) and 553 (Part) in D.D. 113 held under the Block Government Lease which contains restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) LandsD has reservation on the planning application since there are unauthorised structures and uses on private lots which are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regulation on the lease breaches as demanded by LandsD;

- (d) the GL within the Site (about 140m²) has been fenced off/unlawfully occupied with unauthorized structure(s) without any permission. Any occupation of GL without Government's prior approval is an offence under Cap.28. His office reserves the rights to take necessary land control action against the unlawful occupation of GL without further notice; and
- (e) if the planning application is approved, the lot owner(s) shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) to permit the structure(s) erected within the private lots and the occupation of GL. The application(s) for STW and STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and STT, if approved, will be subject to such terms and conditions including the payment of waiver fee, rent and administrative fee as considered appropriate by LandsD. Besides, given the applied use is temporary in nature, only erection of temporary structure(s) will be considered.

Agriculture and Nature Conservation

9.2.2 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. Agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (c) no comment on the planning application from nature conservation perspective as the Site has been paved and no tree felling would be involved in the development.

10. Public Comments Received During Statutory Publication Period

On 30.8.2024, the application was published for public inspection. During the statutory public inspection period, three public comments were received, including two from the resident representative of Ma On Kong Tsuen (Pat Heung) and an individual supporting the application considering that it can utilize land resources, and one from an individual objecting to the application mainly on the grounds that there is no previous approval at the Site and the Site is adjacent to "CA" and close to watercourses.

11. Planning Considerations and Assessments

- 11.1 The application is for 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 applied 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 applied use for a temporary period 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 Drainage Services Department and Director of Environmental Protection have no objection to or no comment on the applied filling of land from drainage and environmental perspectives respectively. An approval condition requiring the reinstatement of the Site to an amenity area, as undertaken by the applicant, is recommended in paragraph 12.2 below should the Committee decide to approve the application.
- 11.3 The applied use is considered not incompatible with the surrounding areas which comprise predominantly farms, open storage yards, vehicle repair workshop, vacant land and woodlands. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that the applied use is not incompatible with the surrounding landscape character and significant adverse impact on existing landscape resources arising from the applied use is not anticipated and hence, there is no objection to the application from landscape planning perspective.
- 11.4 Regarding DLO/YL, LandsD’s concern on the unauthorised structures erected within the Site and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. Other relevant government departments consulted including the Commissioner for Transport and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, the applicant will also be advised to follow the revised CoP issued by the Environmental Protection Department to minimise possible environmental nuisance generated by the applied use on the surrounding areas.
- 11.5 There are four similar applications within the same “AGR” zone and other “AGR” zones on the same OZP, which were approved with conditions between 2023 and 2024 as stated in paragraph 6.1 above. Approving the current application is generally in line with the Committee’s previous decisions.

- 11.6 For the public comments as mentioned in paragraph 10 above, the departmental comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, PlanD considers that the applied 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 24.1.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 24.7.2025;
- (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 24.10.2025;
- (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 submission of the 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 24.7.2025;
- (e) in relation to (d) 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 24.10.2025;
- (f) 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;
- (g) if any of the above planning condition (a), (b), (d) 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 applied 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. 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 22.8.2024
Appendix Ia	FI received on 2.12.2024
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plans A-4a and 4b Site Photos

**PLANNING DEPARTMENT
JANUARY 2025**