

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/959

<u>Applicant</u>	:	Useful Building Materials Trading Limited represented by Top Bright Consultant Ltd.
<u>Site</u>	:	Lots 1016 (Part), 1017 (Part), 1028 S.A (Part), 1029 (Part), 1030 (Part), 1031, 1032 and 1033 (Part) in D.D. 113, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 4,433m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of construction materials for a period of 3 years. The Site is zoned “AGR” on the Kam Tin South OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). Filling of land within “AGR” zone also requires planning permission from the Board. The Site is currently fenced off, hard paved and vacant with some temporary structures (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the proposed development involves six single-storey (about 11m) temporary warehouse structures with a total floor area of about 1,306m² for storage of construction materials for interior decoration, including wooden floors, tiles, gypsum boards, fireproof boards, etc. All construction materials are proposed to be stored within the enclosed warehouse structures and no open storage use will be involved. No workshop activities will be carried out within the Site. The applicant proposes to fence off the Site by 2m-high corrugated metal and 7 trees will be planted along the western site boundary facing Ho Pui Tsuen. The applicant also applies filling of land at a depth of not more than 0.2m (from 18.2mPD to 18.4mPD) for the whole site for circulation and site formation.

The operation hours will be between 8:00 a.m. and 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. Three private car parking spaces and two light goods vehicles loading/unloading spaces are proposed within the Site and vehicles entering/exiting the Site will be controlled by an appointment system. The Site is directly accessible via Kam Ho Road. The site layout plan and land filling plan submitted by the applicant is at **Drawings A-1 and A-2**

1.3 The Site is involved in two previous applications (No. A/YL-KTS/385 and 523) (details at paragraph 5 below).

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

- (a) Application form received on 11.4.2023 (Appendix I)
 - (b) Planning statement (Appendix Ia)
 - (c) Further information (FI) received on 19.5.2023, 22.5.2023, 24.5.2023 and 30.5.2023* (Appendix Ib)
 - (d) FI received on 5.6.2023* (Appendix Ic)
- *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, planning statement and FIs in **Appendices I to Ic**. They can be summarised as follows:

- (a) The applicant, who currently operates his warehouse business near Tin Lung Tsuen, is one of the main suppliers of construction materials for interior decoration in Hong Kong. As the warehouse site is included in the Yuen Long South Development, his operation is affected by land resumption by the Government. The applicant needs to relocate his business to the Site to continue the operation and maintain the construction materials for interior decoration supply in Hong Kong. The business serves as an important support to the local construction industry and can play a role in the upcoming major development projects in the future.
- (b) The applicant has undergone a site selection process in the territory for reprovisioning of his business, taking into account of factors including affordability, suitability and availability of possible sites. Given that the site area is comparable in size with his original operation site and it is highly accessible with the provision of existing road, the Site at Kam Tin South is considered suitable for continuing the applicant's business.
- (c) The proposed use is temporary in nature and will not frustrate the long-term planning intention of the "AGR" zone. Besides, the proposed use is compatible with the surrounding rural environment. No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, will be allowed to be parked/stored on or enter/exit the Site during the planning approval period. It would not induce adverse environmental, traffic and drainage impacts on the surrounding areas. To minimise possible environmental nuisance to the nearby

area, it is proposed to store all the construction materials within enclosed warehouse; and no workshop activities will be conducted. The applicant will comply with all the planning conditions which may be stipulated by the Rural and New Town Planning Committee (the Committee).

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

The applicant is not the “current land owner” but have 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. 31A) by posting notice at the Site and sending notice to the Pat Heung Committee by registered mail.

4. Background

The Site is currently not subject to any active planning enforcement action.

5. Previous Applications

The Site is the subject of two previous applications (No. A/YL-KTS/385 and 523) for various temporary open storage uses which are not relevant to the current application for temporary warehouse. Both applications were rejected by the Board on review on 12.1.2007 and 27.5.2011 respectively mainly on the grounds that the development was not in line with the planning intention; the development was not compatible with the surrounding land uses; and the development did not comply with the relevant Town Planning Board Guidelines for application for open storage and port back-up uses. Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application for temporary warehouse within the same “AGR” zone in the vicinity of the Site on the Kam Tin South OZP.

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

7.1 The Site is:

- (a) currently fenced off, hard paved and vacant with some temporary structures; and
- (b) directly accessible via Kam Ho Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and east are residential structures/dwellings, an open storage yard, grassland and a vacant site covered by valid planning permission for proposed animal boarding establishment under application No. A/YL-KTS/940. To the further east across Kam Ho Road is a nullah;
- (b) to its south and southwest are a vacant site and a works site which is covered by valid planning permission for proposed temporary hobby farm, fishing ground, barbecue site and education centre with ancillary eating place uses under application No. A/YL-KTS/928;
- (c) to its west are village houses within the “Village Type Development” zone of Ho Pui Tsuen; and
- (d) the Site falls within the Ho Pui Site of Archaeological Interest (SAI) (**Plan A-2**).

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is 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 Bureau/Departments

- 9.1 Apart from the government bureau/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 bureau supports the application:

Policy Aspect

Comments of the Secretary for Development (SDEV):

The application is to facilitate relocation of a warehouse for the storage of construction materials for interior decoration and general goods in Yuen Long, which will be displaced by the First Phase development of the Yuen Long South development (the project). According to the applicant, a thorough site search has been conducted with a view to identifying suitable site for re-establishment of his business elsewhere to pave way for the clearance under the project, and the site

under the current application is the only one considered suitable and practicable after the site search. The application site is of similar size as the one to be cleared by the Government. According to the concerned departments, the proposed use is not incompatible with surrounding land uses and would not create insurmountable impacts in technical terms subject to imposition of appropriate approval conditions. To facilitate smooth clearance for the project and provide operating space for displaced brownfield operations still needed by the community, the application is supported from the policy perspective.

- 9.3 The following government departments have objection to / concern on 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 and is 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 greenhouses, plant nurseries, etc.; and
- (c) no comment on the application from nature conservation perspective.

Heritage Conservation

- 9.3.2 Comments of the Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office (CHE(AM), AMO):

the Site is situated within the Ho Pui SAI. It is noted that the temporary structures, filling of land and landscaping will not involve ground excavation. However, a drainage proposal will be submitted by the applicant to the Drainage Services Department (DSD) if and when required to comply with the approval condition(s). As such, AMO has concern on the adverse impact on the Ho Pui SAI arising from the proposed drainage works. If drainage facilities are required for the proposed development, the applicant is required to submit his drainage proposal to AMO for comment and agreement on the mitigation measures at the early planning stage before implementation.

10. Public Comments Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, two public comments from Kadoorie Farm and Botanic Garden and an individual were received. The comments from Kadoorie Farm and Botanic Garden raise concerns that the Site is the subject of two previous rejected applications for open storage

uses; whereas the comments from the individual object to the application on the grounds that resumption of land should not be a justification for approval.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for construction materials (for interior decoration) for a period of 3 years and filling of land at the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone, which is to retain and safeguard good 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, and DAFC does not support the application from agricultural perspective as the Site falling within the “AGR” zone has potential for agricultural rehabilitation. Nevertheless, it is noted that the application is to facilitate relocation of the business operation affected by the Yuen Long South development and the use is still needed by the community. With the policy objective of facilitating smooth clearance for the Yuen Long South development and providing operating space for displaced brownfield operations still needed by the community, SDEV supports the application. It is considered that approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone and the application warrants special consideration from the Committee. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North (CE/MN) of DSD and the Director of Environmental Protection (DEP) have no adverse comment from the drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is also recommended.
- 11.2 The proposed use is not incompatible with the surrounding land uses which are mainly rural in character intermixed with residential dwellings/structures, village houses, vacant sites and grassland. The Chief Town Planner/Urban Design and Landscape of Planning Department (CTP/UD&L of PlanD) considers that significant impact on the existing landscape character arising from the proposed use is not anticipated, and has no objection to the application from landscape planning perspective.
- 11.3 According to DEP, there were a total of 6 complaint cases against the Site regarding noise aspect received in the past 3 years. In this regard, the proposed vehicular ingress/egress and the access road to the Site via Kam Ho Road are separated by the proposed warehouse structures from the village houses in Ho Pui Tsuen to the west of the Site. No medium or heavy goods vehicles will be allowed to enter/exit the Site. The applicant also proposes to fence off the Site and plant trees along the western site boundary. No workshop activities will be conducted. The relevant departments consulted, including the Commissioner for Transport (C for T), CE/MN of DSD, DEP, CTP/UD&L of PlanD and the Director of Fire Services (D of FS) have no objection to or adverse comment on the application. Taking into account the concern of CHE(AM) of AMO, approval conditions on the submission and implementation of drainage proposal are recommended in paragraphs 12.2(e) and (f) below. To minimise any potential environmental

nuisances and to address the technical requirements of relevant government departments, appropriate approval conditions are also recommended in paragraph 12.2 below. Should the application be approved, the applicant will be advised to follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses' issued by DEP to minimise the possible environmental impacts on the surrounding areas.

- 11.4 The Site is the subject of two rejected previous applications (No. A/YL-KTS/385 and 523) for various temporary open storage uses as stated in paragraph 5 above, which are for different uses and not relevant to the current application for temporary warehouse.
- 11.5 Two public comments were received during the statutory publication period as mentioned in paragraph 10 above. In this regard, the departmental comments and planning considerations and 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 above, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 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 3 years until 9.6.2026. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the site at any time during the planning approval period;
- (e) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services and the Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office or of the Town Planning Board by 9.12.2023;

- (f) in relation to (e) 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 and the Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office or of the Town Planning Board by 9.3.2024;
- (g) in relation to (f) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.12.2023;
- (i) in relation to (h) 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 9.3.2024;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning condition (e), (f), (h) or (i) 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
- (l) upon the 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 in **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 development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended 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.

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 applicants.

14. Attachments

Appendix I	Application form with supplementary information received on 11.4.2023
Appendix Ia	Planning statement
Appendix Ib	FI received on 19.5.2023, 22.5.2023 and 24.5.2023 and 30.5.2023
Appendix Ic	FI received on 5.6.2023
Appendix II	Previous 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 previous applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
JUNE 2023**