

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/973

<u>Applicants</u>	:	Messrs. Pong Wai Chi and Pong Wai Kwong
<u>Site</u>	:	Lot 467 RP in D.D. 106, Kam Sheung Road, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 501 m 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>	:	Temporary Open Storage of Materials for Drainage Works for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for temporary open storage of materials for drainage works for a period of 3 years. The Site is zoned “AGR” on the Kam Tin South OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the applicants, the applied use involves one single-storey structure with total floor area of 45.5m² and building height not exceeding 2.9m for storeroom and resting room uses. Two medium goods vehicles parking spaces and a vehicular access are proposed within the Site. The remaining open area will be used for open storage. The proposed operation hours are between 8:30am and 7pm on Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is abutting Kam Sheung Road with proposed ingress/egress to Kam Sheung Road on the west. The layout plan submitted by the applicants is at **Drawing A-1**.
- 1.3 The Site is involved in 10 previous applications for temporary open storage uses (details at paragraph 6 below). The last application No. A/YL-KTS/858 submitted by the same applicants for open storage of vehicles was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 23.10.2020 and the planning permission lapsed on 24.10.2023. Compared with the last application, the current application involves the same site area with different layout and development parameters.

1.4 In support of the application, the applicants have submitted the following documents:

(a) Application form and supplementary information (**Appendix I**) received on 28.7.2023

(b) Further Information (FI) received on 27.9.2023* (**Appendix Ia**)

**exempted from publication and recounting requirements*

1.5 On 22.9.2023, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

2. Justifications from the Applicants

The justifications put forth by the applicants 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 current application is the subject of the previous approved application No. A/YL-KTS/858. There is no change to the land ownership. The drainage works materials to be stored at the Site would have no adverse traffic and environmental impact on the surrounding.
- (b) The existing drainage facilities and fire service installations (FSIs) on the Site shall be maintained to the satisfaction of concerned departments.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 3 areas under the TPB PG-No. 13G. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

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

6. Previous Applications

- 6.1 The Site is involved in 10 previous applications for temporary open storage uses (including renewal of planning approvals granted), all of which were approved with conditions by the Committee between 1999 and 2020 mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding uses; and no adverse comment from relevant departments or their concerns could be addressed by approval conditions. The planning permissions for A/YL-KTS/209 and 636 were revoked due to non-compliance with planning conditions.
- 6.2 Both the last approved Application No. A/YL-KTS/858 and the current application are submitted by the same applicants. All the approval conditions of Application No. A/YL-KTS/858 have been complied with and the planning permission lapsed on 24.10.2023.
- 6.3 Details of the previous applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are two similar applications (No. A/YL-KTS/798 and 905) both for renewal of planning approval for temporary open storage uses within the same “AGR” zone in the vicinity in the past 5 years. The applications were approved with conditions by the Committee in October 2018 and October 2021 on similar considerations mentioned in para. 6.1 above.
- 7.2 Details of the applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
 - (a) currently paved, fenced off and used for the applied use without valid planning permission; and
 - (b) abutting Kam Sheung Road to the west.
- 8.2 The surrounding areas are rural in character mixed with open storage/storage yards, service depot of drainage, parking of vehicles, car service and residential dwellings/structures (the nearest one at about 10 m to the northeast). A transitional housing development approved under application No. A/YL-KTS/960 is located to the northeast in about 80m.

9. Planning Intention

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.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 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.

10.2 The following government departments do not support the application:

Agriculture and Nature Conservation

10.2.1 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 on the application from nature conservation perspective.

Environment

10.2.2 Comments of the Director of Environmental Protection (DEP):

- (a) does not support the application as there are sensitive receivers, i.e. residential dwellings/structures located in the vicinity (the nearest one at about 10 m to the northeast) (**Plan A-2**) and the applied use involves the use of heavy vehicles, environmental nuisance is expected; and
- (b) there was no environmental complaint concerning the Site received in the past 3 years.

11. Public Comment Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of materials for drainage works for a period of 3 years 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 on a temporary basis of 3 years could be tolerated.
- 12.2 The development is considered not incompatible with the surrounding land uses which are mixed with open storage/storage yards, parking of vehicles, service depot of drainage and residential structures/dwellings. The Chief Town Planner/Urban Design and Landscape of the Planning Department (CTP/UD&L of PlanD) considers that significant adverse impact on landscape resources arising from the applied use is not anticipated, and has no objection to the application from landscape planning perspective.
- 12.3 DEP does not support the application as the use of heavy vehicles would be involved and there could be environmental nuisance. In this regard, the Site abuts Kam Sheung Road with proposed ingress/egress without passing through the nearby domestic structures. There has also been no complaint concerning the Site received by DEP in the past 3 years. To address DEP’s concerns, relevant approval conditions restricting the operation hours and prohibiting workshop activities are recommended in paragraph 13.2 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.
- 12.4 The Site falls within Category 3 areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and/or relevant technical assessments/proposals have been included in the fresh applications, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions.

- 12.5 The application is generally in line with the TPB PG-No. 13G in that previous approvals for temporary open storage uses have been granted since 1999 and for the last approved application (No. A/YL-KTS/858), all approval conditions have been complied with. DEP's concerns can be addressed through the approval conditions as mentioned in paragraph 12.3, and other relevant departments consulted, including the Commissioner for Transport, Chief Engineer/Mainland North of the Drainage Services Department and the Director of Fire Services have no objection to or no adverse comment on the application.
- 12.6 There are 10 approved previous applications for open storage uses and two approved similar applications within the same "AGR" zone as stated in paragraphs 6.1 and 7.1 above. Approving the current application is in line with the Committee's previous decisions.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the applied use could be tolerated for a period of 3 years.
- 13.2 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 24.11.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 8:30 a.m. from Mondays to Saturdays, 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the site at any time during the planning approval period;
- (d) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) the submission of a record of the existing drainage facilities on the site within 3 months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.2.2024;
- (f) the existing fire service installations implemented on the site shall be maintained in efficient working order at all times during the planning approval period;

- (g) if any of the above planning condition (a), (b), (c), (d) or (f) 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; and
- (h) if the above planning condition (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.
- (i) 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 VI**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use 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. 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form with supplementary information received on 28.7.2023
Appendix Ia	FI received on 27.9.2023
Appendix II	Relevant extract of TPB PG-No. 13G

Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2023**