

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/629

Applicant : Kwok Wa Mui

Site : Lots 1750, 1751 and 1845 in D.D. 119, Tai Tong, Yuen Long, New Territories

Site Area : 2,095m² (about)

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/20

Zoning : “Agriculture” (“AGR”)

Application : Proposed Temporary Warehouse and Open Storage for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse and open storage for a period of three years and associated filling of land at the application site (the Site) (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years and filling of land within the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is currently paved and occupied by the applied uses without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible via a local track connecting with Kiu Hing Road with ingress/egress point at its northwestern part (**Drawing A-2 and Plan A-2**). According to the applicant, the applied uses comprise two one-storey warehouses for storage of construction materials, vehicles-related equipment and spare parts with a total floor area of 760m² as well as an open storage area for construction materials. The applicant also applies for filling of land for the entire Site with a depth of about 0.15m. Plans showing the layout and the vehicular route leading to the Site submitted by the applicant are at **Drawings A-1 and A-2** respectively.

1.3 The major development parameters of the application are summarised as follows:

| | |
|---------------------------------|--|
| Site Area | About 2,095 m ² |
| Area Involved Filling of Land | About 2,095 m ² (i.e. with a depth of about 0.15 m) |
| Total Floor Area (warehouses) | About 760 m ² (about 36% of the Site) |
| No. of Structures | 2 for warehouses |
| Height of Structures | Not exceed 5.5m (one-storey) |
| No. of Loading/ Unloading Space | 3 for light goods vehicle (LGV) (7m x 3.5m) |
| Operation Hours | 9:00 a.m. to 7:00 p.m. (Mondays to Saturdays) (no operation on Sundays and Public Holidays) |

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

- (a) Application Form with attachments received on 6.12.2023 (**Appendix I**)
- (b) Further Information (FI) received on 11.3.2024* (**Appendix Ia**)
**exempted from publication and recounting requirements*

1.5 On 26.1.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested 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 with attachments and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) to make good use of land resources for warehouse use in light of the rapid development of northwest New Territories; and
- (b) no tree felling is involved. The applied uses including the proposed structure and filling of land would not affect other users.

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

The applicant is not a “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 sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

Majority of the Site is the subject of a planning enforcement case (No. E/YL-TT/700) against an unauthorized development (UD) involving filling of land. Reinstatement Notice (RN) was issued on 6.11.2023 requiring the concerned parties to remove the leftover materials and to grass the land by 6.2.2024. However, the requirements of the RN have not been complied with and prosecution action may be taken.

5. Previous Application

There is no previous application concerning the Site.

6. Similar Applications

6.1 There is no similar application within the same “AGR” zone on the OZP.

6.2 For Members’ information, application Nos. A/YL-TT/626 and 628 for temporary warehouse and associated filling of land within the subject “AGR” zone are under processing (**Plan A-1**).

7. 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.

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

8.1 The Site is:

- (a) accessible via a local track connecting with Kiu Hing Road; and
- (b) paved and occupied by two temporary structures for the applied uses without valid planning permission.

8.2 The surrounding areas are rural in nature predominantly occupied with active agricultural land and village houses. There are also some open storage/storage yards in the vicinity which are suspected UD's subject to planning enforcement action.

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 are provided in **Appendices II** and **III** respectively.

- 9.2 The following government departments have adverse comment on/objection to the application.

Agriculture

- 9.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the Site falls within an “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 available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from agricultural perspective; and
- (b) no comment from nature conservation perspective.

Landscape

- 9.2.2 Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

There are active farmlands within the same “AGR” zone either in close proximity or right next to the Site (**Plan 3**). The applied uses are considered incompatible with the surrounding landscape resources (active farmland) and character (rural landscape) from the landscape planning perspective.

10. Public Comments Received During the Statutory Publication Period

On 19.12.2023, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix IV**). Two individuals object to the application on the grounds that there is no proper road serving the Site directly; the applied uses will generate adverse traffic and safety concerns on the surrounding area and the applied uses are not compatible with the nearby agricultural activities. Another objection is raised by a group of three indigenous residents of Pak Sha Tsuen on the grounds that the applied uses would increase the threat of flooding and cause adverse air, noise, drainage and traffic impacts on the surrounding residential area whereas the remaining public comment from Kadoorie Farm & Botanic Garden Corporation questions the appropriateness of approving the application if the Site is the subject of an ongoing enforcement case.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction materials, vehicles-related equipment and spare parts and open storage of construction materials for a period of three years and filling of land at the Site zoned “AGR” on the OZP. The applied uses are not in line with the planning intention of the “AGR”

zone. In this regard, DAFC does not support the application from agricultural point of view as there are active agricultural activities and agricultural infrastructure in the vicinity of the Site and the Site possesses potential for agricultural rehabilitation. No strong planning justifications have been given in the submission for a departure from the planning intention, even on a temporary basis, and for the associated filling of land.

- 11.2 The surrounding areas of the Site are rural in nature predominantly occupied with active agricultural land and village houses (**Plans A-2 and A-3**). The applied uses are not compatible with the surrounding areas. Although there are open storage/storage yards in the vicinity, they are all suspected UD's subject to planning enforcement action. CTP/UD&L, PlanD also considers that the applied uses are not compatible with the surrounding landscape resources and characters from the landscape planning perspective.
- 11.3 Others concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North of Drainage Services Department have no objection to/no adverse comment on the application from traffic, environmental, fire safety and drainage perspectives respectively.
- 11.4 There is neither approved previous application at the Site nor similar application within the subject "AGR" zone approved by the Committee. Approval of the application would set an undesirable precedent and encourage proliferation of similar warehouse and open storage uses within the "AGR" zone. The cumulative effect of approving such similar applications would result in further degradation of the landscape quality of the surrounding area.
- 11.5 There are four public comments objecting to/having adverse views on the application received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 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, the Planning Department does not support the application for the following reasons:
 - (a) the applied uses and associated filling of land are not in line with the planning intention of the "Agriculture" 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
 - (b) the applied uses and associated filling of land are not compatible with the surrounding rural character.

12.2 Alternatively, 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 10.5.2027. 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 10.11.2024;
- (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 10.2.2025;
- (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 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 10.11.2024;
- (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 10.2.2025;
- (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 III**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

13.3 Alternatively, 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. Attachments

| | |
|----------------------------|---|
| Appendix I | Application Form with Attachments received on 6.12.2023 |
| Appendix Ia | FI received on 11.3.2024 |
| Appendix II | Government Departments' General Comments |
| Appendix III | Recommended Advisory Clauses |
| Appendix IV | Public Comments |
| Drawing A-1 | Layout Plan |
| Drawing A-2 | Vehicular Route Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and A-4b | Site Photos |

**PLANNING DEPARTMENT
MAY 2024**