

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1026

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| <u>Applicant</u> | : Mr. LAM Tung Man represented by R-riches Property Consultants Limited |
| <u>Site</u> | : Lots 4122, 4123, 4124 and 4125 (Part) in D.D. 104 and Adjoining Government Land (GL), San Tam Road, Kam Tin, Yuen Long, New Territories |
| <u>Site Area</u> | : About 1,483m ² (including GL of about 325m ² (about 21.9%)) |
| <u>Lease</u> | : Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11 |
| <u>Zoning</u> | : “Other Specified Uses” annotated “Railway Reserve” (“OU(Railway Reserve)”) |
| <u>Application</u> | : Temporary Shop and Services and Eating Place for a Period of Three Years |

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services and eating place for a period of three years at the application site (the Site) which falls within an area zoned “OU(Railway Reserve)” on the approved Kam Tin North OZP No. S/YL-KTN/11 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently paved, erected with temporary structures and used for the applied uses with planning permission under application No. A/YL-KTN/941 valid until 11.9.2026 (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the applied uses comprise ten structures of one to two storeys with a total floor area of about 562m² and building heights of not more than 7m for financial institution, ancillary office, eating place, rain shelter, storage and washroom uses. A total of eleven private car parking spaces and one loading/unloading space for light goods vehicle will be provided. The operation hours for shop and services are from 9:30 a.m. to 7:30 p.m. daily, and those for eating place are from 11:00 a.m. to 9:00 p.m. daily, both including Sundays and public holidays. The Site is accessible from San Tam Road via a local track

(Plans A-2 and A-3). The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in five previous applications (details in paragraph 5 below), including the last application No. A/YL-KTN/941 for the same applied uses submitted by a different applicant which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in September 2023. A comparison of the major development parameters of the current application and the last approved application No. A/YL-KTN/941 is summarised as follows:

| Major Development Parameters | Last Approved Application No. A/YL-KTN/941 (a) | Current Application (b) | Differences (b)-(a) |
|-------------------------------------|---|--------------------------------|--------------------------------|
| Site Area | 1,483m ² | 1,483m ² | No change |
| No. of Structures | 10 | 10 | No change |
| Total Floor Area | 372m ² | 562m ² | +190m ² (+51.1%) |
| No. of Storeys | 1 | 1 – 2 | +1 (+100%) |
| Building Height | Not more than 4m | Not more than 7m | +3m (+75%) |
| Parking Space for Private Cars | 10 | 11 | +1 (+10%) |
| Loading/Unloading Space | 1 | 1 | No change |

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

- (a) Application form with attachments received on 20.6.2024 (**Appendix I**)
- (b) Further Information (FI) received on 7.8.2024* (**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 with attachments and FI at **Appendices I** and **Ia**. They can be summarised as follows:

- (a) The applied uses are intended to continue to serve the nearby residents and workers for alleviating the pressing demand for shop and services and eating place in the area. The financial institution serves to provide financial and money lending services. Compared with the last approved application No. A/YL-KTN/941, the site area remains unchanged whilst the floor area, the number of storeys, the building height of structures and the number of parking spaces are slightly increased to meet the operational needs. The applied uses are not incompatible with the surrounding land uses. In support of the current application, the applicant has submitted records of the existing drainage facilities on the Site and a fire service

installations (FSIs) proposal. Upon acceptance by Director of Fire Services (D of FS), the applicant will proceed to implement the FSIs at the Site.

- (b) The applied uses will involve total ten staff members and not more than 25 visitors per day are estimated.
- (c) The applicant will follow relevant government guidelines for operation of the applied uses including the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, “Control of Oily Fume and Cooking Odour from Restaurants and Food Business” and “Professional Persons Environmental Consultative Committee Practice Notes 1/23”. No medium or heavy goods vehicle exceeding 5.5 tones will be allowed to be parked/stored or enter/exit the Site.
- (d) The temporary basis of the applied uses will not affect the commencement of the railway project and can better utilise land resources. The applicant will terminate the operation and vacate the Site for the Northern Link (NOL) railway development upon government acquisition/resumption.

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 notice to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection. For the GL portion, the ‘Owner’s Consent/Notification’ Requirements are not applicable.

4. Background

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

5. Previous Applications

- 5.1 The Site, in part or in whole, is the subject of five previous applications (No. A/YL-KTN/419, 451, 592, 751 and 941). Application No. A/YL-KTN/419 for temporary open storage is not relevant to the current application. The remaining four applications for temporary shop and services (real estate agency and/or financial institution) with ancillary canteen or eating place were all submitted by different applicants from the current application and approved with conditions by the Committee between October 2014 and September 2023 mainly on the considerations that temporary approval would not frustrate the long term planning intention; the applied use was not incompatible with the surrounding land uses; and the relevant departments consulted generally had no adverse comment or the concerns could be addressed by appropriate approval conditions. The planning permissions for applications No. A/YL-KTN/451, 592 and 751 were subsequently revoked between November 2016 and June 2023 due to non-compliance with

approval conditions including those related to submission and/or implementation of drainage and FSIs proposals.

- 5.2 The planning permission of the last approved application No. A/YL-KTN/941 is valid until 11.9.2026, with the approval condition on submission of FSIs proposal complied with, whilst the conditions on submission and implementation of drainage proposal and implementation of the FSIs proposal are yet to be complied with.
- 5.3 Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application for shop and services and eating place uses within the same “OU(Railway Reserve)” zone in the vicinity of the Site in the past five years.

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

7.1 The Site is:

- (a) currently paved, erected with temporary structures and used for the applied uses with valid planning permission under application No. A/YL-KTN/941; and
- (b) accessible from San Tam Road via a local track.

7.2 The surrounding areas are rural in character comprising open storage/storage yards, warehouse, residential dwellings/structures, parking of vehicles, grassland and vacant land. The open storage/storage yards, warehouse and parking of vehicles are suspected unauthorised developments. To its west are a watercourse, San Tam Road and San Tin Highway.

8. Planning Intention

The planning intention of the “OU(Railway Reserve)” zone is primarily for railway development. According to the Explanatory Statement of OZP, the area covers the proposed NOL alignment.

9. Comments from the Relevant Government Departments

All government 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. 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 was received from an individual raising concern on the previous non-compliance with approval conditions at the Site.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services and eating place for a period of three years at the Site zoned “OU(Railway Reserve)” (**Plan A-1**). Whilst the applied uses are not in line with the planning intention of “OU(Railway Reserve)” zone, they are intended to meet the demand for such uses from the locals. Besides, the applicant has committed to terminating the operation and vacating the Site upon government acquisition/resumption for railway development. In this regard, Chief Engineer/Railway Development 1-1 of the Highways Department and Chief Estate Surveyor/Railway Development of the Lands Department have no adverse comment on the application. Approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “OU(Railway Reserve)” zone. Should the application be approved, the applicant will be advised that the applied uses should be terminated and the Site should be vacated upon the implementation of railway project at any time during the planning approval period.
- 11.2 The applied uses are considered not incompatible with the surrounding land uses which comprise open storage/storage yards, warehouse, residential dwellings/structures and parking of vehicles. Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant adverse landscape impact is not anticipated and has no objection from landscape planning perspective.
- 11.3 Other relevant departments consulted, including Commissioner for Transport, D of FS, Chief Engineer/Mainland North of the Drainage Services Department and Director of Environmental Protection, have no objection to or no adverse comment on the application from traffic, fire safety, drainage and environmental perspectives respectively. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisance.
- 11.4 There are four approved previous applications (No. A/YL-KTN/451, 592, 751 and 941) for various temporary shop and services with ancillary canteen or eating place as stated in paragraph 5. Whilst the planning permissions for applications No. A/YL-KTN/451, 592 and 751 had subsequently been revoked due to non-compliance with approval conditions including those related to submission and/or implementation of drainage and FSIs proposals, the planning permission of the last application No. A/YL-KTN/941 is still valid and the approval condition regarding the submission of FSIs proposal has been complied with. For the current application, the applicant has submitted a FSIs proposal and records of the

existing drainage facilities on the Site. Approving the current application is in line with the Committee's previous decisions.

- 11.5 Regarding the public comment mentioned in paragraph 10, the planning considerations and departmental comments 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 in paragraph 10, the Planning Department considers that the applied uses 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 16.8.2027. 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 16.2.2025;
- (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 16.5.2025;
- (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 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 16.5.2025;
- (e) 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; and
- (f) if any of the above planning condition (a), (b) or (d) 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.

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 uses are not in line with the planning intention of the “OU(Railway Reserve)” zone which is primarily for railway development. 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 applicant.

14. Attachments

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| Appendix I | Application form with attachments received on 20.6.2024 |
| Appendix Ia | FI received on 7.8.2024 |
| Appendix II | Previous applications |
| Appendix III | Government departments’ general comments |
| Appendix IV | Recommended advisory clauses |
| Appendix V | Public comment |
| Drawing A-1 | Site layout plan |
| Plan A-1 | Location plan |
| Plan A-2 | Site plan |
| Plan A-3 | Aerial photo |
| Plans A-4a & 4b | Site photos |

**PLANNING DEPARTMENT
AUGUST 2024**