

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL  
FOR TEMPORARY USE  
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/754**

<b><u>Applicant</u></b>	: Win Dragon Transportation Limited represented by Goldrich Planners & Surveyors Ltd.
<b><u>Site</u></b>	: Lots No. 423 R.P. (part) and 428 R.P. in D.D. 107 and Adjoining Government Land, Fung Kat Heung, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	: About 1,716.1m <sup>2</sup> (including Government land of about 17.9m <sup>2</sup> (1%))
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Other Specified Uses” annotated “Railway Reserve” (“OU(Railway Reserve”)
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Storage of Fertiliser and Food Processing Material for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary storage of fertiliser and food processing material for a period of 3 years. The Site falls within an area zoned “OU(Railway Reserve)” on the approved Kam Tin North OZP and the applied use is neither a Column 1 nor Column 2 use. According to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use with planning permission (**Plans A-2 and A-4**). All the approval conditions of the last approved planning application No. A/YL-KTN/591 have been complied with and the planning permission is valid until 6.4.2021.
- 1.2 According to the applicant, a total of 6 structures of 1 storey (2.6m to 8m high) are erected for storage, open shed (shelter, resting area and storage) and latrine with a total floor area of about 845.1m<sup>2</sup>. Light/ heavy goods vehicle/ container vehicles will be used for transportation of goods. Two loading/unloading spaces

for light goods vehicle and heavy goods vehicle/ container vehicle are provided within the Site. The operation hours are 7am to 11pm from Monday to Saturday, and no operation on Sunday and public holidays. The Site is accessible via Fung Kat Heung Road and San Tam Road. The site plan submitted by the applicant is at **Drawing A-1**.

- 1.3 Compared with the last approved application No. A/YL-KTN/591, the current application submitted by the same applicant is the same in terms of applied use, site area, layout and total floor area.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with supplementary statement and plans received on 5.2.2021 **(Appendix I)**
  - (b) Further Information (FI) dated 19.3.2021 in response to departmental comments **(Appendix Ia)**  
*(exempted from publication requirement)*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement in **Appendix I**, and are briefly summarized as follows:

- (a) The applied use is not incompatible with the surrounding area as most of the land uses are open storage yards, workshops and car parks. Previous approvals for similar uses have been granted by the Rural and New Town Planning Committee (the Committee) and approval of the application is in line with the Committee's previous decision.
- (b) The temporary use will not hinder the long-term planning intention of the "OU(Railway Reserve)" zone and can provide employment opportunities to local residents.
- (c) The stored fertilisers and food processing material are non-flammable, non-toxic and non-corrosive. They will be stored in containers or in bags. No adverse odour impact is anticipated. No workshop activities will be carried out.
- (d) No adverse visual and traffic impacts are anticipated. Existing landscape and drainage facilities will be maintained.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is not a "current land owner" for the private land portion of the Site 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. 31A) by posting notice at the Site and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection. For the

Government land portion, the “Owner’s Consent/Notification” Requirements are not applicable.

#### **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are extracted below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

#### **5. Background**

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

#### **6. Previous Applications**

- 6.1 The Site is the subject of 6 previous applications. Application Nos. A/YL-KTN/13, 88, 180 and 259 submitted by different applicants for various use and application Nos. A/YL-KTN/476 and 591 submitted by the same applicant as the current application for similar use/ same use were all approved with conditions by the Committee between 1996 and 2018. Details of these applications and their locations are shown in **Appendix III** and **Plan A-1** respectively.
- 6.2 Application No. A/YL-KTN/13 for proposed food product factory for production of peanut oil and peanut butter was approved by the Committee in 1996 for a period two and a half years mainly on the considerations that the development was compatible with the surrounding land use including open storage uses; constraint imposed by the 400kV transmission line, the potential adverse environmental impacts and flooding hazard could be overcome by imposing conditions.
- 6.3 Application No. A/YL-KTN/88 for food production factory for oil products with ancillary open storage use was approved by the Committee in 1999 for a period

of two years mainly on the considerations that the development was considered not incompatible with the surrounding land uses which were predominantly vehicle parks and workshops; previous approval had been granted and no local objection had been received.

- 6.4 Applications No. A/YL-KTN/180 and 259 for proposed and renewed temporary storage of household goods and food were approved by the Committee on 2003 and 2006 respectively for a period of 2 years. The applications were approved on similar considerations that the development was not incompatible with the surrounding land uses which were predominantly open storage yards and workshops; concerned Government departments had no adverse comment; previous approval had been given; and it was unlikely that the site would be required for implementation of the Northern Link (the NOL) in the near future.
- 6.5 Application No. A/YL-KTN/476 for proposed temporary open storage of fertilizer and the last application No. A/YL-KTN/591 for temporary storage of fertilisers and food-processing materials were approved by the Committee in 2015 and 2018 respectively mainly on the similar considerations stated in paragraph 6.4 above. The approval conditions for the last application No. A/YL-KTN/591 were all complied with and the planning permission is valid until 6.4.2021.

## **7. Similar Applications**

- 7.1 There are 4 similar applications for temporary storage or warehouse uses within the same “OU(Railway Reserve)” zone, which were all approved by the Committee. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 7.2 Application No. A/YL-KTN/288 for proposed temporary warehouse for furniture and accessories, A/YL-KTN/558 and 594 for temporary warehouse (pet supplies and gardening goods) and A/YL-KTN/750 for proposed temporary warehouse for storage of construction materials and miscellaneous goods were approved with conditions by the Committee between 2008 and March 2021 for 3 years on similar considerations that temporary approval would not frustrate the long-term planning intention; the proposed development was not incompatible with the surrounding area; and no adverse comments from concerned departments.

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

- 8.1 The Site is:
  - (a) currently used for the applied use with planning permission; and
  - (b) accessible via Fung Kat Heung Road and San Tam Road.
- 8.2 The surrounding areas rural in character and intermixed with open storage/storage yards, a workshop, warehouses, residential structures/swellings, parking of vehicles and vacant/ unused land:

- (a) to its north across Fung Kat Heung Road are open storage/ storage yards, residential structures/ dwellings and vacant/ unused land;
- (b) to its east and south are open storage yards, warehouse, a workshop, parking of vehicles, residential structures/ dwellings and vacant land; and
- (c) to its immediate west is a residential dwelling/ structure and unused land. To its further west is San Tam Road.

## 9. **Planning Intention**

The planning intention of the “OU(Railway Reserve)” is primarily for railway development. According to the Explanatory Statement, the area covers the proposed NOL alignment, and the exact alignment of the NOL has yet to be finalized.

## 10. **Comments from Relevant Government Departments**

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

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

- (a) The Site comprises Government Land (GL) and Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Within the Site, the following private lots are covered by Short Term Waiver (STW) whereas part of the GL therein is covered by Short Term Tenancy (STT):

STW/STT No.	Lot Nos. in D.D. 107	Permitted Use
STW 4669	423 RP	Temporary Storage of Fertiliser
	428 RP	
STT 2999	GL	

- (c) No permission is given for occupation of the GL not covered by STT No. 2999 (“the remaining GL”) included in the Site. Attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.
- (d) Should planning approval be given to the planning application, the STW/STT holder(s) will need to apply to his office for modification of the STW/STT conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. The applicant has to exclude the GL portion

from the Site or apply to his office for a STT to occupy the GL. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

10.1.2 Comments of the Chief Estate Surveyor/ Railway Development, Lands Department (CES/RD, LandsD):

The Site partly falls within “RDS 2014 Northern Link and Kwu Tung Station Administrative Route Protection Boundary”. The whole Site also falls within RDS 2014 Northern Link and Kwu Tung Station Limit of Area of Influence. He has no strong view on the application provided that the Railway Development Office, Highways Department has no objection to the application and the development would not pose obstacles to the acquisition of land for implementation of the NOL project.

**Traffic**

10.1.3 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

10.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW of HyD):

- (a) Fung Kat Heung Road is not maintained by HyD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and San Tam Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

10.1.5 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

- (a) Having considered the temporary nature of the application, the impact on NOL per-construction (e.g. geotechnical investigation) and construction works is tolerable within 3 years.
- (b) The Site falls within the Administrative Route Protection (ARP) boundary of the planned NOL. The alignment and the ARP boundary of NOL may be subject to further amendments.
- (c) Should the application be approved, the applicant is advised to allow access, occupancy and usage of the portion of GL within the Site for MTR Corporation Limited and their contractor(s) to carry out works.

**Environment**

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

- (a) In accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites (COP), he does not support the application as there are sensitive receivers, i.e. residential dwellings/ structures in the vicinity of the Site (with the nearest on the immediate west), and the development involved the use of heavy vehicles, thus environmental nuisance is expected.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirement in the latest COP issued by DEP.
- (c) There is no environmental complaint concerning the Site received by DEP in the past three years.

**Nature Conservation**

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

Considering that the previous application for the same use as the current was approved by the Committee, he has no comment on the application from nature conservation perspective.

**Drainage**

10.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD):

- (a) He has no in-principle objection to the proposal. Presumably, the applicant would maintain the same drainage facilities as those implemented under Application No. A/YL-KTN/591.

- (b) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTN/591 and the submission of records of the existing drainage facilities on-site should be included.

### **Building Matters**

10.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD):

- (a) Before any new building works (including container/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comment on UBW, provision of access, temporary or licensed structures are at **Appendix V**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

### **Fire Safety**

10.1.10 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.



## **Electricity and Town Gas**

### 10.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

#### **Electricity Safety**

- (a) Based on the submission, there are 400kV extra high voltage overhead lines running across the Site, which is within the preferred working corridor of the concerned overhead lines as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG). He has no objection in principle to the application subject to the following conditions pertaining to electricity supply safety and reliability, being strictly complied by the applicant and its contractor:
  - (i) The applicant shall observe the requirements of minimum safety clearance, minimum vertical clearance and preferred working corridor of the concerned overhead lines as stipulated in Clause 2.3.5, 2.3.6 and 2.3.14 under Chapter 7 – Utility Services of the HKPSG and ensure they shall be maintained at any time during and after construction.
  - (ii) No scaffolding, crane and hoist shall be built or operated within 6m from the outermost 400kV conductors at all times. Warning notices should be posted at conspicuous locations to remind operators and workers of the site boundary. CLP Power shall be consulted on the safety precautions required for carrying out any works near the concerned overhead lines.
  - (iii) In any time during and after construction or operation, CLP Power shall be allowed to get access to the working corridor area of the concerned overhead lines for carrying out any operation, maintenance and repair work including tree trimming.
  - (iv) The Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation shall be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines.

#### **Town Gas Safety**

- (b) He has no particular comment on the application from a town gas safety point of view.
  - (i) There is a high pressure underground town gas transmission pipeline running along Sam Tam Road in the vicinity of the Site (**Plan A-2**). For the sake of public safety and continuity

of gas supply, the parties involved in planning, designing, organizing and supervising any works near a gas pipeline (the involved parties) should approach the Hong Kong and China Gas Company Limited (HKCG) for requisition of gas pipe layout plan(s) to investigate if there is any underground gas pipe within and/or in vicinity of the Site and liaise with HKCG any required minimum set back distance away from it during the design and construction stages of the proposed development.

- (ii) The involved parties is required to observe the Electrical and Mechanical Services Department's requirements on the "Avoidance of Damage of Gas Pipes 2<sup>nd</sup> Edition" for reference.

#### **District Officer's Comments**

10.1.12 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL of HAD):

He has not received any comments from the locals and has no comments on the application.

10.1.13 The following Government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Project Manager West, Civil Engineering and development; and
- (c) Commissioner of Police.

### **11. Public Comments Received During the Statutory Publication Period**

On 19.2.2021, the application was published for public inspection. During the three-week statutory publication period, two comments (**Appendices IV-1 to IV-2**) from individuals were received objecting to the application mainly on the grounds that the applied use would increase traffic flow and induce adverse traffic impact, environmental pollution, increase fire hazard risk and affect safety and living quality of villagers; and previous applications were revoked due to non-compliance of approval conditions.

### **12. Planning Considerations and Assessments**

- 12.1 The application is for renewal of the planning permission for temporary storage of fertilizer and food processing material for a period of 3 years in "OU(Railway Reserve)" zone. The planning intention of the "OU(Railway Reserve)" zone is primarily for reservation of land for railway development, i.e. the NOL. Although the applied use is not in line with the planning intention of "OU(Railway Reserve)" zone, CE/RD 2-2, RDO of HyD advised that in view of the temporary nature of the application, the impact on NOL per-construction (e.g. geotechnical investigation) and construction works is tolerable within 3 years. As such, approval of the application on a temporary basis would not frustrate the long-term

planning intention of the “OU(Railway Reserve)” zone.

- 12.2 The development is considered not incompatible with the surrounding land uses predominated by open storage yards, warehouses, residential structures/dwellings, and vacant/unused land. Furthermore, an area adjoining the Site on the east which is zoned “Industrial (Group D)” is intended for rural industrial uses.
- 12.3 The application is in line with TPB PG-No. 34C in that all the approval conditions under the last Application No. A/YL-KTN/591 have been complied with. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of use, site area, layout and total floor area. Besides, there is no major change in planning circumstances since the last approval.
- 12.4 Relevant departments consulted including C for T, CE/MN of DSD and D of FS, except DEP, have no adverse comment on the application. DEP does not support the application as there are sensitive receivers, i.e. residential dwellings in the vicinity of the Site (with the nearest on the immediate west), and the development involve the use of heavy vehicles, thus environmental nuisance is expected. Nevertheless, there was no environmental complaints received in the past 3 years. Also, the Site can be accessed to San Tam Road without passing through residential dwellings/ structures. To minimize any possible environmental nuisance, approval conditions restricting the operation hours and prohibiting workshop-related activities are recommended in paragraph 13.2 (a) to (d) below. Besides, the applicant will be advised to follow the latest “COP”. The technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by approval conditions in paragraph 13.2 (e) to (i) below.
- 12.5 Two public comments were received during the statutory publication period objecting to the application as set out in paragraph 11 above. In this regard, the departmental comments as well as the planning assessments and considerations above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the temporary storage of fertilisers and food processing material 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, and be renewed from 7.4.2021 to 6.4.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### **Approval Conditions**

- (a) no operation between 11:00 p.m. and 7:00 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (d) the maintenance of the existing boundary fencing on the Site at all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 7.7.2021;
- (h) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 7.10.2021;
- (i) in relation to (h) above, the implementation of fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 7.1.2022;
- (j) if any of the above planning condition (a), (b), (c), (d), (e) 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
- (k) if any of the above planning condition (g), (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.

*[The above approval conditions are similar to those under the last Application No.A/YL-KTN/591, except those on landscape and drainage are revised based on relevant department's comments.]*

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

- 13.3 There is no strong reason to reject the renewal application.

#### **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**

<b>Appendix I</b>	Application form with supplementary statement and plans received on 5.2.2021
<b>Appendix Ia</b>	FI dated 19.3.2021
<b>Appendix II</b>	Previous applications covering the Site
<b>Appendix III</b>	Similar applications within the same “OU(Railway Reserve)” zone
<b>Appendices IV-1 to IV-2</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2021**