

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/788

<u>Applicant</u>	: Kam Fook Consultant Company represented by Toco Planning Consultants Limited
<u>Site</u>	: Lots 3307 RP (Part), 3308 RP (Part), 3312 RP and 3313 RP in D.D.104, San Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 962.8 m ²
<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/9
<u>Zoning</u>	: “Comprehensive Development Area” (“CDA”) [restricted to a maximum plot ratio of 0.4 and a maximum building height of 4 storeys]
<u>Application</u>	: Proposed Temporary Retail Shop, Wholesale Trade and Ancillary Storage of Dried Food Products for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary retail shop, wholesale trade and ancillary storage of dried food products for a period of 3 years. While the proposed retail shop can be regarded as “Shop and Services” use which is a Column 2 use under the “CDA” zone on the Kam Tin North OZP, the proposed wholesale trade is neither a Column 1 nor Column 2 use under the “CDA” zone. According to the covering Notes of the Kam Tin North OZP, temporary use 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 hard paved and mostly vacant with a portion of it being used for parking of vehicles (**Plans A-2 and A-4**).
- 1.2 The Site is involved in five previous applications (No. A/YL-KTN/292, 326, 393, 492 and 634) all for temporary private car park for a period of 3 years approved with conditions by the Rural and New Town Planning Committee (the Committee) between March 2008 and November 2018. All the approval conditions for the last application No. A/YL-KTN/634 have been complied with and the planning permission lapsed on 17.11.2021.
- 1.3 According to the applicant, the proposed development is intended to provide both

wholesaling and retailing of dried food products to the retail stores in Yuen Long District and the nearby residents. The proposed development involves the erection of three 1-storey structures (with building height of not more than 6m) and a total floor area of about 469.12m² for retail shop and ancillary office, wholesale trade and ancillary storage and a temporary portable toilet uses. 5 private car parking spaces and 1 loading/unloading space for light goods vehicles will be provided at the Site. The operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays. The Site is accessible from San Tam Road via a local access. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with planning statement received on 19.8.2021 **(Appendix I)**
- (b) Further Information (FI) received on 19.11.2021 **(Appendix Ia)**
- (c) FI received on 9.3.2022 **(Appendix Ib)**
- (d) FI received on 26.4.2022 **(Appendix Ic)**

1.5 At the requests of the applicant, the Committee agreed to defer making a decision on the application twice each for a period of two months to allow time for the applicant to prepare FI to address the departmental comments. After the latest deferral request in January 2022, the applicant submitted FI on 9.3.2022. The application is scheduled for consideration by the Committee at this meeting.

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 at **Appendices I to Ic** respectively. They can be briefly summarized as follows:

- (a) The application is temporary in nature, which will not frustrate the long-term planning intention of the “CDA” zone. The proposed use is low-rise in nature and compatible with the surrounding land uses.
- (b) The Site is highly accessible and is located near to the Lok Ma Chau Control Point. It is a suitable location for the applied use. The proposed retail shop cum wholesale trade for dried food products would benefit both the nearby residents and the retail stores in Yuen Long District.
- (c) The proposed development is small in scale and the Site is not in close proximity to the residential dwellings. As only private cars and light goods vehicles will enter the Site, the proposed use would not result in significant adverse traffic, environmental, drainage, sewage and landscape impacts.

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

The applicant is not a “current land owner” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and publishing a notice of the application once in two Chinese and one English local newspapers. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

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

5. **Previous Applications**

- 5.1 The Site is the subject of five previous applications (No. A/YL-KTN/292, 326, 393, 492 and 634) for temporary private car park and/or renewal of the planning approval for a period of 3 years. The last application was submitted by a different applicant of the current application. All applications were approved with conditions by the Committee between March 2008 and November 2018 mainly on the considerations that the approval of the applications on a temporary basis would not frustrate the long-term planning intention of the “CDA” zone; the proposed developments were considered not incompatible with the surrounding areas; relevant departments consulted had no adverse comment on the applications; the technical concerns of relevant departments could be addressed by approval conditions; and/or the relevant Town Planning Board Guidelines for renewal of planning approval for temporary use or development. However, the first approval was revoked in September 2008 due to non-compliance with approval conditions related to provision of mitigation measures to minimize possible nuisance of noise and artificial lighting on the Site, and submission and implementation of landscape and drainage proposals. For the last approved planning application (No. A/YL-KTN/634), all the approval conditions have been complied with and the planning permission lapsed on 17.11.2021.
- 5.2 Compared with the last approved application (No. A/YL-KTN/634), the applied use is different and not relevant to the current application.
- 5.3 Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.

6. **Similar Application**

There is no similar application for the proposed use within the same “CDA” zone in the vicinity of the Site.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4)

7.1 The Site is:

- (a) paved, fenced and mostly vacant with a portion being used for parking of vehicle; and
- (b) accessible from San Tam Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are fallow/cultivated agricultural land. To its further north and northeast are residential structures/dwellings and a pylon;
- (b) to its northwest, across San Tam Road is grassland; and
- (c) to its east and south are an open storage yard, a car service centre, a car park (with valid planning permission under Application No. A/YL-KTN/661), a retail shop, a warehouse, residential structures/dwellings, cultivated agricultural land and grassland.

8. Planning Intention

The planning intention of the “CDA” zone is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

9. Comments from 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 Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the three-week statutory publication period, 27 public comments from individuals (of which 25 are standard letters) were received. 25 individuals in standard letters support the application for reasons that the proposed development is located at a convenient location which can serve the local community and nearby residents; the scale of the development is small and it would not induce any adverse impacts to the neighbourhood; and the proposed development would not set an undesirable precedent and frustrate the long-term planning intention of the “CDA” zone. The remaining two public comments from individuals object to the application mainly on the grounds that the proposed development would generate adverse

traffic, environmental, fire safety and security impacts thus affecting the quality of life of the nearby villagers; and the Site should be used for recreational purpose.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary retail shop, wholesale trade and ancillary storage of dried food products for a period of 3 years within an area zoned “CDA” on the Kam Tin North OZP. The planning intention of the “CDA” zone is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints. While the proposed development is not in line with the planning intention of the “CDA” zone, there is currently no development proposal for the “CDA” zone. It is considered that approval of the application on a temporary basis for 3 years would not jeopardize the long-term planning intention of the “CDA” zone.
- 11.2 According to the applicant, the proposed retail shop is to serve the nearby locals and the proposed wholesale trade use is intended to serve the retail stores in Yuen Long District. The proposed use is considered not incompatible with the surrounding area which is rural in character intermixed with residential structures/dwellings, warehouse, open storage yard, car park, car services centre, retail shop and fallow/cultivated agricultural land, though some are suspected unauthorized developments.
- 11.3 Taking into account the scale and nature of the proposed development, it will unlikely result in significant adverse traffic, environmental, drainage and landscape impacts to the surrounding areas. Relevant departments consulted including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD have no adverse comment on the application. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, the applicant will also be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas.
- 11.4 Regarding the public comments on the application as detailed in paragraph 10 above, government departments’ comments and planning 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 considered that the proposed temporary retail shop, wholesale trade and ancillary storage of dried food products 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 6.5.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00p.m. and 9:00a.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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of condition records of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.8.2022;
- (e) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 6.11.2022;
- (g) in relation to (f) 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 6.2.2023;
- (h) if any of the above planning condition (a), (b), (c) or (e) 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
- (i) if any of the above planning condition (d), (f) or (g) 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 attached 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 proposed development is not in line with the planning intentions of the "CDA" zone which is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control

over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints. No strong planning justification has been given in the submission for a departure from the planning intentions, 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

Appendix I	Application form with planning statement received on 19.8.2021
Appendix Ia	FI received on 19.11.2021
Appendix Ib	FI received on 9.3.2022
Appendix Ic	FI received on 26.4.2022
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
Plan A-1a	Location plan
Plan A-1b	Previous applications plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos