

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/825

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|---------------------------|---|
| <u>Applicant</u> | : Bonus Investment Limited represented by Derby Engineering Company |
| <u>Site</u> | : Various Lots in D.D. 107 and Adjoining Government Land, San Tam Road, Kam Tin, Yuen Long |
| <u>Site Area</u> | : About 5,570.4m ² (including Government land of about 1,672m ²) |
| <u>Land Status</u> | : (i) Block Government Lease (demised for agricultural use) (about 70% of the Site) (ii) Government Land (about 30% of the Site) |
| <u>Plan</u> | : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9 |
| <u>Zoning</u> | : “Other Specified Uses” annotated “Railway Reserve” (“OU(Railway Reserve)”) |
| <u>Application</u> | : Temporary Open Storage of Construction Materials with Ancillary Office and Metal Scaffold Display for a Period of 3 Years |

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of construction materials with ancillary office and metal scaffold display for a period of 3 years. The Site falls within an area zoned “OU(Railway Reserve)” on the Kam Tin North OZP. According to the Notes of the OZP, temporary use or development of any land 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 fenced off, paved and used for the applied use with most part covered by a valid planning permission under application No. A/YL-KTN/673 (**Plans A-2 to A-4b**).

- 1.2 According to the applicant, the applied use involves 3 one to two-storey structures with a total floor area of about 1,702.8m² and building height ranging from 3.5m to 17m for ancillary office, workers' resting area, car parking area, display of metal scaffold and metal structure storage uses. No workshop-related activity would be conducted at the Site. Three parking spaces for private cars and three loading/unloading spaces for heavy goods vehicle are provided within the Site. Lorry with crane of 5.5 tonnes to 38 tonnes are used for transporting construction materials to and from the Site. The operation hours are from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. The Site is accessible via a local track branching off from San Tam Road. A site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site is involved in three previous applications (No. A/YL-KTN/425, 586 and 673) for temporary open storage of construction materials (details at paragraph 6 below). The last application No. A/YL-KTN/673 was submitted by the same applicant as the current application, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in November 2019. A comparison of the major development parameters submitted under the last application and the current application is summarised below:

| Major Development Parameters | Last Approved Application (No. A/YL-KTN/673) (a) | Current Application (b) | Difference (b)-(a) |
|--|--|---|--|
| Applied use | Temporary Open Storage of Construction Materials for a Period of 3 Years | Temporary Open Storage of Construction Materials with Ancillary Office and Metal Scaffold Display for a Period of 3 Years | Addition of ancillary office and metal scaffold display to the applied use |
| Site area (m ²) (about) | 3,830 (incl. 567m ² of government land) | 5,570.4 (incl. 1,672m ² of government land) | +1,740.4 (+45.4%) |
| No. of structures | 3 | 3 | - |
| Total floor area (m ²) (about) | 204 | 1,702.8 | +1,498.8 (+734.7%) |
| Building height (m) (about) | 2.5m – 5m | 3.5m – 17m | +1 to +12 (+40% to 240%) |

| Major Development Parameters | Last Approved Application (No. A/YL-KTN/673) (a) | Current Application (b) | Difference (b)-(a) |
|---|---|------------------------------------|-------------------------------|
| No. of parking and loading/unloading spaces | | | |
| - Private car | - | 3 | +3 |
| - Heavy goods vehicle | 3 | 3 | - |

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

- (a) Application form with supplementary information (**Appendix I**) received on 15.2.2022 and 17.2.2022
- (b) Further information (FI) received on 28.7.2022 (**Appendix Ia**)
- (b) FI received on 16.9.2022 (**Appendix Ib**)

1.5 In view of COVID-19 and the latest special work arrangement for government departments announced by the Government, the Committee, on 1.4.2022, agreed to defer making a decision on some of the applications, including Application No. A/YL-KTN/825. At the request of the applicant, the Committee agreed on 1.6.2022 to defer making a decision on the application for a period of two months to allow time for the applicant to prepare FI to address the departmental comments. After the deferral request in June 2022, the applicant submitted FI on 28.7.2022. 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, supplementary information and FIs at **Appendices I** to **Ib**. They can be summarized as follows:

- (a) The Site is adjacent to Fung Kat Heung and San Tam Road. The number of vehicle trips to and from the Site is small. Hence it would not cause significant traffic impact on the vicinity.
- (b) Fencing (aluminium sheets) of 2.5m to 3m high is erected along the site boundary to minimize the potential environmental and aesthetic impacts on the surrounding areas. The applicant will undertake the relevant mitigation measures as stated in the Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites.

- (c) The drainage system including the periphery channels, catchpits and sump pits to dissipate the wastewater and stormwater accrued from the Site in accordance with the approved drainage proposal under the previous application No. A/YL-KTN/673 has no change as the surface runoff from the extended portion has been directly ran into the adjacent nullah. Regular cleaning of the drainage system and the adjacent nullah would be conducted. Hence the development would not result in adverse drainage impact.
- (d) Existing trees planted on the Site are maintained in good condition all the times to improve the aesthetic impact to the vicinity. Sufficient clearance from the 400kV overhead lines will be provided. The site operator will follow the regulations as mentioned in the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Line” in the day-to-day operation.
- (e) In response to the Railway Development Office of the Highways Department’s comments that the Site would affect the area required for the future Northern Link (NOL), the applicant has committed to retreat the land in the Site for resumption that the NOL project will cover, cooperate with the project proponent to revise planning proposal and resolve the interfacing issues as appropriate (**Appendix Ib**).

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. 31) by publishing a notice on the specified local newspapers and posting notice near the entrance of the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the government land portion within the Site, TPB PG-No. 31A is not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) promulgated on 27.3.2020 are relevant to the application. The Site falls within Category 2 area under the Guidelines. Relevant extract of the Guidelines is 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 the subject of three previous applications (No. A/YL-KTN/425, 586 and 673) for similar temporary open storage use submitted by the same applicant of the current application. All the applications were approved with conditions by the Committee between December 2013 and November 2019 mainly on the grounds that the developments were not incompatible with the surrounding land uses; the alignment of the proposed NOL had yet to be finalised and temporary approvals would not jeopardize the long term planning intention; the applications were generally in line with the then TPB PG-No.13E in that relevant departments consulted generally had no adverse comment and similar approvals of various temporary open storage uses within the same zone had been granted; and the environmental concern of the Director of Environmental Protection could be addressed by appropriate approval conditions.
- 6.2 Compared with the last application (No. A/YL-KTN/673), the current application is submitted by the same applicant for a similar applied use, with some changes in the site area / boundary, layout, total floor area, building height and number of car parking spaces. Details are set out in paragraph 1.3 above. For Application No. A/YL-KTN/673, all approval conditions have been complied with and the planning permission is valid until 29.11.2022.
- 6.3 Details of the previous applications are summarized in **Appendix III** and the locations are shown on **Plan A-1**.

7. **Similar Applications**

- 7.1 There are six similar applications (No. A/YL-KTN/591, 632, 653, 685, 754 and 841) for various temporary storage/open storage use within the “OU(Railway Reserve)” zone in the vicinity of the Site in the past 5 years. All the applications, were approved with conditions by the Committee between April 2018 and July 2022 on similar considerations as stated in paragraph 6.1 above. However, the planning permission of Application No. A/YL-KTN/632 and 653 were revoked in February 2022 and October 2021 respectively due to non-compliance with approval conditions.
- 7.2 Details of these applications are summarized in **Appendix III** and the locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) hard paved and fenced off;
- (b) used for the applied use with a majority portion covered by a valid planning permission No. A/YL-KTN/673; and
- (c) accessible from San Tam Road via a local access.

8.2 The surrounding areas have the following characteristics:

- (a) to its northeast are storage yards, a car repair workshop, two warehouses (one of which partly falls partly within an area zoned “Industrial (Group D)” (“I(D)”) and partly within the “OU(Railway Reserve)” zone on the OZP under Application No. A/YL-KTN/804), and residential structures/dwellings;
- (b) to its immediate east are a storage yard, residential structures/dwellings (the nearest about 5m to the east) and a car service workshop. Open storage yards/storage yards and warehouses are located to the further east and southeast on land zoned “I(D)” on the OZP;
- (c) to its immediate south are residential structures/dwellings, two open storage yards (one of which is approved under Application No. A/YL-KTN/685) and an estate agency; and
- (d) to its immediate west and southwest are a pylon and San Tam Road and San Tin Highway.

9. Planning Intention

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

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 IV and V** respectively.

- 10.2 The following government department has objection to / reservation on the application.

Environment

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 the development will involve traffic of heavy vehicles and there are sensitive receivers, i.e. residential dwellings/structures located in the vicinity (the nearest about 5m to the east) (**Plan A-2**), and environmental nuisance is expected;
- (b) there was no substantiated environmental complaint received against the Site in the past 3 years;
- (c) DEP’s other advisory comments are provided in the Recommended Advisory Clauses in **Appendix V**.

11. Public Comments Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received. The commenters raise objection to the application mainly on the grounds that the development would create adverse traffic and environmental impacts and fire safety risk thus affecting the quality of life of the residents nearby; and no sufficient information of the application has been provided in the application.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction materials with ancillary office and metal scaffold display for a period of 3 years within the “OU(Railway Reserve)” zone. The development is not in line with the planning intention of the “OU(Railway Reserve)” zone which is primarily for reservation of land for railway development, i.e. the NOL. Nevertheless, CE/RD1-2, RDO of HyD has no specific comment on the application provided that the applicant will retreat the land in the Site, cooperate with the project proponent and timely vacate the required land for the future NOL development. Should the application be approved, an advisory clause stating that the Site may be resumed

by the Government at any time during the planning approval period for the NOL implementation is recommended.

- 12.2 The development is not incompatible with the surrounding land uses, which are rural in character predominated by storage/open storage yards, warehouses, workshop and residential structures/dwellings. Besides, the Site is located in close proximity to an “I(D)” zone in the east where open storage yards and warehouse developments could be found (**Plan A-2**).

- 12.3 The Site falls within Category 2 area under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:

Category 2 area: 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. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.4 The application is generally in line with the TPB PG-No. 13F in that relevant departments consulted, except DEP, have no adverse comments on the application. DEP does not support the application as there are sensitive receivers, i.e. residential structures to the immediate east, and the applied use involves the use of heavy vehicles, thus environmental nuisance is expected. Nevertheless, there is no environmental complaint concerning the Site received in the past three years. Besides, the Site is accessible via a local track branching off from San Tam Road where direct access is provided without passing through the nearby residential dwellings / structures in the area. To minimize any potential environmental nuisances and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on-site will be subject to enforcement action by the Planning Authority. In addition, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses” issued by DEP.

- 12.5 The Site is the subject of three approved previous applications submitted by the same applicant as the current application for similar temporary open storage use between 2013 and 2019 for reasons as stated in paragraph 6.1 above. For the last approved application No. A/YL-KTN/673, all approval conditions have been complied with and the planning permission is valid until 29.11.2022. As compared with Application No. A/YL-KTN/673, the current application is similar in terms of the applied use, with some changes of the site area / boundary,

layout and major development parameters. Besides, there are six similar applications for various temporary open storage uses within the same “OU(Railway Reserve)” zone in the vicinity of the Site approved by the Committee in the past 5 years. Approval of the current application is in line with the Committee’s previous decisions.

- 12.6 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 11 above. In this regard, government departments’ comments and planning assessments 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 11, 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 23.9.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 8:00 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 existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;
- (e) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.11.2022;
- (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 23.3.2023;

- (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 23.6.2023;
- (h) if any of the above planning condition (a), (b), (c) or (d) 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 (e), (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 at **Appendix V**.

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

the development is 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 to justify 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.
- 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

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| Appendix I | Application form with supplementary information received on 15.2.2022 and 17.2.2022 |
| Appendix Ia | FI received on 28.7.2022 |
| Appendix Ib | FI received on 16.9.2022 |
| Appendix II | Relevant extract of TPB PG-No. 13F |
| Appendix III | Previous and similar applications |
| Appendix IV | Government departments' general comments |
| Appendix V | Recommended advisory clauses |
| Appendix VI | Public comments |
| Drawing A-1 | Site layout plan |
| Plan A-1 | Location plan with similar applications |
| Plan A-2 | Site plan |
| Plan A-3 | Aerial photo |
| Plans A-4a & A-4b | Site photos |

**PLANNING DEPARTMENT
SEPTEMBER 2022**