

RNTPC Paper No. A/YL-KTN/841
For Consideration by
the Rural and New Town
Planning Committee
on 29.7.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/841

<u>Applicant</u>	: Jackson (HK) Engineering Company Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 4115 (Part) in D.D. 104, Kam Tin, Yuen Long
<u>Site Area</u>	: About 690m 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>	: “Other Specified Uses” annotated “Railway Reserve” (“OU(Railway Reserve)”)
<u>Application</u>	: Temporary Open Storage of Construction Materials and Office 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 and office 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, the applied use in the “OU(Railway Reserve)” zone is neither a Column 1 nor Column 2 use and temporary use not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is currently fenced off and paved, and used for the applied use without planning approval (**Plans A-2 to A-4**).
- 1.2 According to the applicant, an engineering construction company, would like to use the Site for open storage of construction materials including marble, tiles and pipes, etc. and to provide office space for their administrative staff. The development involves 2 one to two-storey structures with a total floor area of about 436m² and building height ranging from about 3m to 8m for storage of goods, office and portable toilet uses. The open-air area of the Site is used for

open storage of construction materials. No soil, cement, chemical product and dangerous goods will be stored at the Site. Two parking spaces for private cars and a loading/unloading (L/UL) space for light goods vehicle (LGV) are provided within the Site. The operation hours are from 8:00 a.m. to 6:00 p.m. Mondays to Saturdays, with no operation on Sundays and public holidays. The estimated number of staff working at the Site are 10 and no visitor is anticipated at the Site. 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/440, 515 and 653) for similar temporary open storage of construction materials (details at paragraph 6 below). The last application No. A/YL-KTN/653 submitted by a different applicant was approved with conditions by the Rural and New Town Planning Committee (the Committee) in May 2019. A comparison of the major development parameters submitted under the last approved application and the current application is summarised below:

	Last Approved Application (No. A/YL-KTN/653) (a)	Current Application (b)	Difference (b)-(a)
Applied use	Temporary Open Storage of Construction Materials (Excluding Soil, Cement, Chemical Product and Dangerous Goods) for a Period of 3 Years	Temporary Open Storage of Construction Materials and Office for a Period of 3 Years	Addition of 'temporary office' in the applied use
Site area (m ²) (about)	650	690	+40 (+6.2%)
No. of structures	3	2	-1 (-33.3%)
No. of storeys	1	1 - 2	+1 (+100%)
Total floor area (m ²) (about)	52.5	436	+383.5 (+730.5%)
Building height (m) (about)	3.4	3m - 8m	+4.6 (+135.3%)
No. of parking and loading/unloading spaces - Private car	-	2	+2

Major Development Parameters	Last Approved Planning Application (No. A/YL-KTN/653) (a)	Current Application (b)	Difference (b)-(a)
- LGV	2	1	-1 (-50%)

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

- (a) Application form with supplementary information (**Appendix I**)
received on 9.6.2022
- (b) Further information (FI) received on 21.7.2022 (**Appendix Ia**)

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 FI at **Appendices I** and **Ia**. They can be summarized as follows:

- (a) The development is temporary in nature and would not jeopardize the long-term planning intention of the “OU(Railway Reserve)” zone. The Site is the subject of several previous applications approved by the Committee for similar temporary open storage use, hence approval of the current application would not result in undesirable precedent.
- (b) Sufficient manoeuvring space will be provided at the Sites and no vehicle will be allowed to queue back to or reverse onto the public road. Traffic impact will be minimized. The development will also not create significant adverse environmental, landscape and drainage impacts to the surrounding areas.
- (c) The previous application was revoked due to change of operator of the Site in 2021. The applicant undertakes to comply with all the approval conditions should the application be approved by the Committee.
- (d) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and Professional Persons Environmental Consultative Committee Practice Notes for sewage treatment at the Site.

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 posting site notice and sending notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

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 planning enforcement action.

6. Previous Applications

- 6.1 The Site is the subject of three previous applications (No. A/YL-KTN/440, 515 and 653) submitted by different applicants for similar temporary open storage use. All the applications were approved with conditions by the Committee between May 2014 and May 2019 mainly on the grounds that the developments were not incompatible with the surrounding rural land uses; the alignment of the proposed Northern Link (NOL) had yet to be finalised and temporary approvals would not jeopardize the long term planning intention of the “OU(Railway Reserve)” zone; 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 within the same zone had been granted; and the environmental concern of the Director of Environmental Protection could be addressed by appropriate approval conditions. However, the planning permission of application No. A/YL-KTN/653 was revoked in October 2021 due to non-compliance with approval condition related to the provision of boundary fencing.
- 6.2 Compared with the last approved application (No. A/YL-KTN/653), the current application is submitted by a different applicant for a similar temporary open storage use with the addition of ‘office’ to the applied use. Besides, there are

some changes in the site area, layout and major development parameters, details of which are set out in paragraph 1.3 above.

- 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 four similar applications (No. A/YL-KTN/586, 632, 673 and 685) for various temporary open storage use and no similar application for office use within the “OU(Railway Reserve)” zone in the vicinity of the Site in the past 5 years. All the applications for similar temporary open storage use were approved with conditions by the Committee between March 2018 and November 2019 on similar considerations as stated in paragraph 6.1 above. However, the planning permission of Application No. A/YL-KTN/632 was revoked in February 2022 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-1 to A-4)

- 8.1 The Site is:
- (a) hard paved and fenced off;
 - (b) currently used for the applied use without planning permission; and
 - (c) accessible from San Tam Road via a local access.
- 8.2 The surrounding areas have the following characteristics:
- (a) to its north are a site office and residential structures/dwellings (the nearest about 15m to the north);
 - (b) to its east is an area zoned “Conservation Area” (“CA”) which are mainly grassland, cultivated/fallow agricultural land, residential structures/dwellings, wood land, some graves and vacant land;
 - (c) to its south is an eating place/financial institution and real estate agency with valid planning permission (No. A/YL-KTN/751). To its further south are residential dwellings/structures, cultivated agricultural land and a storage yard. An area zoned “Industrial (Group D)” is located to the

further southeast where residential structures/dwellings, a pigsty and brownfield sites could be found at Mo Fan Heung in the further south (**Plans A-1 and A-3**); and

- (d) to its immediate west is cultivated agricultural land. San Tam Road is at the further west.

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

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 IV and V** respectively.

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 objections 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 the approval conditions of the previous application (No. A/YL-KTN/653) have not been fully complied with.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction materials and office 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/RD(2-2), RDO of HyD and CES/RD of LandsD have no comment/objection to the application for a period of 3 years from the railway development point of view. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “OU(Railway Reserve)” zone nor the proposed NOL development.

- 12.2 The applied use is considered not incompatible with the surrounding land uses, which are mainly rural in character intermixed with cultivated/fallow agricultural land, residential structures/dwellings, a storage yard, a site office, vacant land and grassland / woodland. Besides, the Site is located in close proximity to an “I(D)” zone to its southeast where similar open storage uses and warehouse developments could be found thereat (**Plans A-1 and A-3**). As regards the temporary office use, the applicant states that it is for providing office space and meeting room for the administrative staff of the construction company.
- 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, including C for T, DEP, CE/MN of DSD and D of FS, have no adverse comment on the application and there is no local objection received against the application as conveyed by DO(YL). It is envisaged that the development would not result in significant adverse traffic, environmental and drainage impacts on the surrounding areas. The applicant has also submitted a drainage proposal and a fire service installations proposal in support of the application with no adverse comment received from CE/MN of DSD and D of FS. Previous approvals have been granted by the Committee for similar temporary open storage use at the Site since 2014 and the approval conditions have been complied with, except Application No. A/YL-KTN/653. Whilst the last application (No. A/YL-KTN/653) was revoked owing to non-compliance with approval condition on provision of boundary fencing, it was due to the change of operator in 2021. The current application is submitted by a different applicant. Since the approval of the previous applications, there has been no major change in the planning circumstances. 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 a different applicant as the current application for similar temporary open storage use (without office use) between 2014 and 2019. Besides, there are four similar applications for various temporary open storage uses within the same “OU(Railway Reserve)” zone in the vicinity of the Site in the past 5 years, all of which were approved by the Committee. 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, 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 29.7.2025. 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 submission of a condition record 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 Town Planning Board by 29.10.2022;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (f) the submission of a revised 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 29.1.2023;
- (g) in relation to (f) above, the implementation of the revised 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 29.4.2023;
- (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 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

Appendix I	Application form with supplementary information received on 9.6.2022
Appendix Ia	FI received on 21.7.2022
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-4	Site photos

**PLANNING DEPARTMENT
JULY 2022**