

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/866

<u>Applicant</u>	:	李致輝先生 (Mr. LI Zhi Hui)
<u>Site</u>	:	Lots 382, 418 RP, 419 S.A ss.1 RP and 420 S.B RP (Part) in D.D.107, Yuen Long, New Territories
<u>Site Area</u>	:	About 1,052 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 at the time of submission Draft Kam Tin North OZP No. S/YL-KTN/10 currently in force [The zoning and development restrictions for the Site remain unchanged on the current draft OZP No. S/YL-KTN/10]
<u>Zoning</u>	:	“Other Specified Uses” annotated “Railway Reserve” (“OU(Railway Reserve)”)
<u>Application</u>	:	Temporary Storage of Tail Lift 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 storage of tail lift for a period of three years. The Site falls within an area zoned “OU(Railway Reserve)” on the approved Kam Tin North OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without planning permission.
- 1.2 According to the applicant, the development involves a single-storey open shed structure (with building height of not more than 8m and floor area of about 365m²) for storage of tail lift use. A loading/unloading bay is provided for light goods vehicles (LGVs) within the Site. The operation hours are from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. The Site is accessible from San Tam Road via a section of Fung Kat Heung Road (**Plans A-1 and A-2**). The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in two previous applications (No. A/YL-KTN/534 and 685) (details at paragraph 6 below). The last application No. A/YL-KTN/685 submitted by the same applicant for the same use as the current application 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 two applications is summarised below:

Major Development Parameters	Last Approved Planning Application (No. A/YL-KTN/685) (a)	Current Application (b)	Difference (b)-(a)
Applied use	Temporary Storage of Tail Lift for a Period of 3 Years	Temporary Storage of Tail Lift for a Period of 3 Years	--
Site area (m ²) (about)	1,120	1,052	-68 (-6%)
Total floor area (m ²) (about)	445	365	-80 (-18%)
No. of structure(s)	2	1	-1 (-50%)
No. of loading/unloading bay for LGVs	1	1	--

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

- (a) Application form with supplementary information received on 31.10.2022 **(Appendix I)**
- (b) Further Information (FI) received on 19.12.2022* **(Appendix Ia)**
- (c) FI received on 16.3.2023* **(Appendix Ib)**
- (d) FI received on 24.4.2023* **(Appendix Ic)**

**exempted from publication and recounting requirements*

- 1.5 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed on 23.12.2022 to defer making a decision on the application for preparation of FI to address the departmental comments.

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 to Ic** respectively as summarised below:

- (a) Since the implementation programme of the proposed Northern Link (NOL) has yet commenced, the Site is suitable for the applied use on a temporary basis.
- (b) The development is not incompatible with the surrounding land uses. The adjoining areas zoned “I(D)”¹ has been filled up by open storage and port back-up uses. Besides, similar approved applications could be found in the same “OU(Railway Reserve)” zone in the vicinity.
- (c) The development, with its Site falling within Category 2 area, is in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No.13G).
- (d) The Site is the subject of previous applications approved for the same use and the applicant has complied with all the approval conditions stipulated by the Board. The planning circumstances of the Site remain unchanged since the approval of these applications.

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

The applicant is one of the “current land owners” and 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 notifying the other two “current land owners” of the application. 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’ (TPB PG-No.13G) promulgated by the Town Planning Board (the Board) in April 2023 is relevant to the application. The Site is within Category 2 areas under TPB PG-No.13G. The relevant assessment criteria are attached 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 two previous applications (No. A/YL-KTN/534 and 685) for the same temporary use as the current application. Both applications were approved with conditions by the Committee in August 2016 and November 2019 respectively mainly for the reasons that the alignment of the proposed NOL

¹ The adjoining area to the east of the site was zoned “I(D)” on the then OZP No. S/YL-KTN/9 at the time of application. The area was subsequently largely rezoned to “Residential (Group A)” (“R(A)”) and “Government, Institution or Community” (“G/IC”) on the current draft OZP No. S/YL-KTN/10 for Sha Po public housing development (**Plan A-1**).

was still under review and temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; the applications were generally in line with the then TPB Guidelines No. 13E for application for open storage and port back-up uses; and relevant departments consulted had in general no adverse comment on the applications or concerns of relevant departments could be addressed by approval conditions.

- 6.2 Compared with the last approved Application No. A/YL-KTN/685, the current application submitted by the same applicant is the same in terms of the applied use except minor changes/reduction in site area / boundary, layout and major development parameters as detailed in paragraph 1.3 above. All the approval conditions have been complied with and the planning permission lapsed on 30.11.2022.
- 6.3 Details of the previous applications are summarised at **Appendix III** and the locations are shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are twelve similar applications (No. A/YL-KTN/586, 591, 632, 653, 673, 750, 754, 773, 804, 825, 841 and 848), involving eight sites, within the same “OU(Railway Reserve)” zone in the vicinity of the Site in the past five years. All applications were approved with conditions by the Committee between March 2018 and August 2022 on similar considerations as stated in paragraph 6.1 above. However, the planning permissions of two applications (No. A/YL-KTN/632 and 653) were revoked due to non-compliance with approval conditions.
- 7.2 Details of the similar applications are summarised at **Appendix III** and the locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
 - (a) formed, paved and fenced, and currently used for the applied use without planning permission; and
 - (b) abutting and directly accessible from Fung Kat Heung Road branching off from San Tam Road.
- 8.2 The surrounding areas have the following characteristics:
 - (a) to its immediate west and north are pylon with overhead power lines, a public toilet and an open storage yard (with valid planning permission under Application No. A/YL-KTN/825). To the further north are residential structures/dwellings (the nearest one at about 10m to the northeast). San Tam Road and San Tin Highway are located to its further west;

- (b) to its east are residential structures/ dwellings, real estate agency, storage yards and warehouses which fall within an area zoned “I(D)”. To its further east and southeast is an area zoned “R(A)” and “G/IC” intended for Sha Po public housing development and associated government, institution and community facilities; and
- (c) to its immediate south across Fung Kat Heung Road are a storage yard (with valid planning permission under Application No. A/YL-KTN/754), a warehouse (under Application No. A/YL-KTN/783), an open storage yard and a residential dwelling/structure. To the further south is another warehouse within the “I(D)” zone.

9. Planning Intention

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

10.2 The following government department has reservation on the application:

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

- the Site may be affected by the proposed NOL project and the construction of the NOL may commence in 2025. His Office has reservation on the application from land acquisition point of view.

11. Public Comment Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The applied use is for temporary storage of tail lift for a period of three years in the “OU(Railway Reserve)” zone. The planning intention of the zone is primarily for reservation of land for railway development, i.e. the NOL. The applied use is not in line with the planning intention. Whilst CES/RD of LandsD has some reservation on the application from land acquisition perspective as the Site may be affected by the proposed NOL project, CE/RD 2-2, RDO of HyD considers

that if the applicant strictly follows his commitments to retreat from the Site in the event that the Site is required for railway development and the requirements given in the land acquisition / resumption notice to be served by the Government for vacating the required land timely for railway development as stated in the FIs, he has no adverse comment on the application. Although the Site falls within the future road widening of Fung Kat Heung Road for site formation and infrastructures works of the Sha Po public housing development at the east of the Site, the application is temporary in nature and will unlikely affect the implementation of the road widening works. The Project Team Leader/ Housing of CEDD has no adverse comment on the application.

- 12.2 The development is considered not incompatible with the surrounding land uses comprising storage / open storage yards, warehouses, car service centre, real estate agency and residential structures/dwellings (**Plan A-2**).

- 12.3 According to TPB PG-No. 13G, the Site falls within Category 2 areas. The following guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three 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 TPB PG-No. 13G in that relevant departments consulted, except CES/RD of LandsD, have no adverse comment on the application and there is no public comment received and no local objection against the application as conveyed by DO(YL). The applicant has submitted the as-built drainage plan and landscape proposal to support the application with no adverse comment from CE/MN of DSD and CTP/UD&L of PlanD. Previous approvals have been granted by the Committee for the same temporary open storage uses at the Site since 2016. The current application submitted by the same applicant is the same as the last approved application (No. A/YL-KTN/685) in terms of the applied use except minor changes/reduction insite area / boundary, layout and major development parameters as detailed in paragraph 1.3 above. Since approval of the previous application, there has been no major change in the planning circumstances.

- 12.5 Whilst there are sensitive receivers, i.e. residential dwellings / structures, in the vicinity (the nearest one is about 10m to the northeast)(**Plan A-2**), vehicular access to the Site, which is from San Tam Road via a section of Fung Kat Heung Road, does not need to pass through the domestic dwellings / structures nearby. Besides, no environmental complaint against the Site was received in the past three years. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. 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' issued by DEP.

- 12.6 The Site is the subject of two previous applications (No. A/YL-KTN/534 and 685) for the same applied use which were approved by the Committee in 2016 and 2019 for reasons as stated in paragraph 6.1 above. All the approval conditions stipulated by the Committee under the last approved application No. A/YL-KTN/685 have been complied with and the planning permission lapsed on 30.11.2022. Besides, there are twelve similar applications for temporary open storage/storage uses within the same “OU(Railway Reserve)” zone in the vicinity of the Site approved by the Committee between 2018 and 2022. Approval of the current application is in line with the Committee’s previous decisions.

13. **Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary use under application could be tolerated for a period of three 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 three years until 5.5.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 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) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors / trailers, as defined in the Road Traffic Ordinance, as allowed to be parked / stored on or enter / exit the Site at any time during the planning approval period;
- (e) the existing drainage facilities implemented on site shall be maintained at all times during the planning approval period;
- (f) 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 Town Planning Board by 5.8.2023;
- (g) 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 5.11.2023;

- (h) in relation to (g) 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 5.2.2024;
- (i) if any of the above planning condition (a), (b), (c), (d) 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
- (j) if any of the above planning condition (f), (g) or (h) 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' reference:

the applied use 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 for 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 31.10.2022
Appendix Ia	FI received on 19.12.2022
Appendix Ib	FI received on 16.3.2023
Appendix Ic	FI received on 24.4.2023
Appendix II	Relevant extract of Town Planning Board Guidelines for "Application for Open Storage and Port Back-up Uses"

(TPB PG-No. 13G)

Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MAY 2023**