

RNTPC Paper No. A/YL-KTN/874A
For Consideration by the
Rural and New Town
Planning Committee
on 31.3.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/874

- Applicant** : Kam Fook Consultant Company represented by Lanbase Surveyors Limited
- Site** : Lots 3307 RP (part), 3308 RP (part), 3312 RP and 3313 RP in D.D.104, Long Ha, Yuen Long, New Territories
- Site Area** : About 962.8m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : 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]
- Zoning** : “Comprehensive Development Area” (“CDA”)
[restricted to a maximum plot ratio of 0.4 and a maximum building height of 4 storeys]
- Application** : Proposed Temporary Shop and Services, Wholesale Trade of Food Products and Ancillary Storage Facilities 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 shop and services, wholesale trade of food products and ancillary storage facilities for a period of 3 years. While “Shop and Services” is a Column 2 use under the “CDA” zone on the Kam Tin North OZP, “Wholesale Trade of Food Products” 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 of any land not exceeding a period of 3 years requires planning permission from

the Town Planning Board (the Board). The Site is partly fenced, and hard paved and vacant (**Plans A-2 and A-4**).

- 1.2 The Site is involved in six previous application (detailed in paragraph 6 below). The current application is generally similar to the last approved application No. A/YL-KTN/788 in terms of the site area / boundary and the applied use but involves a different layout and some changes of the major development parameters.
- 1.3 According to the applicant, the proposed development is intended to provide shop and services (e.g. retail shop, fast food shop, commercial service) and wholesale of food service to serve the local community. The proposed development involves the erection of three 1-storey structures with building height ranging from about 2.8m to 6m and a total floor area of about 279.84m² for shop and services, wholesale trade, site office and ancillary storage uses. Five private car parking spaces and one loading/unloading space for light goods vehicles (LGVs) will be provided at the Site. The operation hours are between 8:00 a.m. and 11:00 p.m. daily including public holidays. 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 The major development parameters of the current application and the last approved application No. A/YL-KTN/788 are summarised as follows:

	Previous Application (A/YL-KTN/788) (a)	Current Application (A/YL-KTN/874) (b)	Difference (b) – (a)
Applied Use	Proposed Temporary Retail Shop, Wholesale Trade and Ancillary Storage of Dried Food for 3 Years	Proposed Temporary Shop and Services, Wholesale Trade of Food Products and Ancillary Storage for 3 Years	Minor changes to the applied use
Site Area	About 962.8m ²	About 962.8m ²	No change
No of Structures	3	3	No change
Building Height	Not more than 6m (1-storey)	Not more than 6m (1-storey)	No change
Total Floor Area	About 469.12m ²	About 279.84m ²	-189.28 (-40.3%)
Use of the Structures	<ul style="list-style-type: none"> • retail shop • ancillary office • wholesale trade • ancillary storage • toilet 	<ul style="list-style-type: none"> • shop and services • wholesale trade of food • ancillary storage • site office 	Generally the same
Operation Hours	9:00 a.m. to 6:00 p.m. Mondays to Saturdays	9:00 a.m. to 11:00 p.m. daily	Some changes to the operation hours

No. of Car Parking Spaces	5 (for private cars)	5 (for private cars)	No change
No. of Loading/Unloading Space	1 (for LGVs)	1 (for LGVs)	No change

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

- (a) Application form received on 6.12.2022 **(Appendix I)**
- (b) Planning Statement **(Appendix Ia)**
- (c) Further Information (FI) received on 6.2.2023 **(Appendix Ib)**
- (d) FI received on 21.3.2023 **(Appendix Ic)**

1.6 On 3.2.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months as requested by the applicant.

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**. They can be summarised as follows:

- (a) The application is temporary in nature and would not frustrate the long-term planning intention of the “CDA” zone. The proposed development is compatible with the surrounding land uses.
- (b) The proposed temporary shop and services and wholesale of food service could serve the local community.
- (c) The proposed development is generally similar in nature to the previously approved application No. A/YL-KTN/788. The scale of development scheme under the current application is much smaller.
- (d) The proposed development will not induce adverse traffic and landscape impacts to the surrounding areas.

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 sending notices to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not the subject of any active planning enforcement case.

5. **Previous Applications**

- 5.1 The Site is involved in six previous application and five of which (Application No. A/YL-KTN/292, 326, 393, 492 and 634) are for temporary private car park and/or renewal of the planning approval which are not relevant to the current application.
- 5.2 The remaining Application No. A/YL-KTN/788 submitted by the same applicant of the current application for proposed temporary retail shop, wholesale trade and ancillary storage of dried food products was approved with conditions by the Committee on 6.5.2022. The application was approved mainly on the considerations that the approval of the application on a temporary basis would not frustrate the long-term planning intention of the “CDA” zone; the proposed development was not incompatible with the surrounding land uses; relevant departments consulted had no adverse comment on the application; and/or their technical concerns could be addressed by relevant approval conditions.
- 5.3 Compared with the last application No. A/YL-KTN/788, the current application submitted by the same applicant is generally similar in terms of the site area / boundary and the applied use but involves a different layout and some changes of the major development parameters as detailed in paragraph 1.4 above.
- 5.4 Details of these applications are summarised 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-1a to A-4)

7.1 The Site is:

- (a) paved, fenced and vacant; and
- (b) accessible from San Tam Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are fallow/active farmland. To its further north and northeast are residential structures/dwellings and a pylon;
- (b) to its northwest, across San Tam Road, is grassland. Further west is San Tin Highway; 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/846), a warehouse, residential structures/dwellings, active farmland 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 the 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 Comment Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory publication period, one public comment from an individual was received objecting to the application mainly on the grounds that the proposed development would generate environmental nuisance and pose fire safety risk and hygiene problems to the nearby residents, thus affecting the living quality of residents in the surrounding area.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and service, wholesale trade of food products and ancillary storage for a period of 3 years within an area zoned “CDA” on the Kam Tin North OZP (**Plan A-1a**). 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 known development proposal for the “CDA” zone. It is considered that approval of the application on a temporary basis for 3 years would not jeopardise the long-term planning intention of the “CDA” zone.
- 11.2 According to the applicant, the proposed shop and services and wholesale trade of food products are to serve the local community. 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 service centre and active/fallow farmland, though some of which are suspected unauthorised 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 the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Environmental Protection, Director of Fire Services and Chief Town Planner/Urban Design & Landscape of Planning Department 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 The Site is the subject of a previous application (No. A/YL-KTN/788) submitted by the same applicant for a similar use, which was approved with conditions by the Committee on 6.5.2022. Compared with the scheme approved under application No. A/YL-KTN/788, the current application is generally similar in terms of the applied use, site area / boundary but involves a different layout and some changes of the major development parameters as stated in paragraph 1.4 above. Approval of the current application is in line with the previous decision of the Committee.
- 11.5 Regarding the public comment 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 comment mentioned in paragraph 10 above, the Planning Department considers that the proposed use 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 31.3.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) 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 30.6.2023;
- (d) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 30.9.2023;
- (f) 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 31.12.2023;

- (g) if any of the above planning condition (a), (b) 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
- (h) if any of the above planning condition (c), (e) or (f) 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 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
Appendix Ia
Appendix Ib

Application form received on 6.12.2022
 Planning Statement
 FI received on 6.2.2023

Appendix Ic	FI received on 21.3.2023
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Plan A-1a	Location plan
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MARCH 2023**