

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/949

- Applicant** : Win Dragon Transportation Limited represented by Goldrich Planners & Surveyors Limited
- Site** : Lots 423 RP (Part) and 428 RP in D.D. 107 and Adjoining Government Land, Fung Kat Heung, Kam Tin, Yuen Long
- Site Area** : About 1,716.1m² (including Government land of about 17.9m² (1%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
- Zoning** : “Other Specified Uses” annotated “Railway Reserve” (“OU(Railway Reserve)”)
- Application** : Temporary Storage of Fertiliser and Food Processing Material for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary storage of fertiliser and food processing material for a period of 3 years at the application site (the Site), which falls within an area zoned “OU(Railway Reserve)” on the Kam Tin North OZP (**Plan A-1**). According to the covering 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). The Site is currently used for the applied use with valid planning permission under application No. A/YL-KTN/754 (**Plans A-2 to A-4**). All the approval conditions have been complied with and the planning permission is valid until 6.4.2024.
- 1.2 According to the applicant, the applied use involves 7 one-storey structures with a total floor area of about 904.7m² and building heights ranging from about 2.6m to about 8m for storage and ancillary latrine, shelter and resting area for workers. One loading/unloading space for light goods vehicles and one loading/unloading space for container vehicles/heavy goods vehicles are provided. The Site is accessible via Fung Kat Heung Road/San Tam Road. The operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays,

and no operation on Sundays and public holidays. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of seven previous applications including the last approved application (No. A/YL-KTN/754) (details at paragraph 5 below). The current application is submitted with an additional structure and increased total floor area. A comparison of the major development parameters of the current application and the last approved application No. A/YL-KTN/754 is summarised as follows:

Parameters	Previous Application No. A/YL-KTN/754 (a)	Current Application No. A/YL-KTN/949 (b)	Difference (b)-(a)
Site Area	1,716.1m ²	1,716.1m ²	No change
Total Floor Area	845.1m ²	904.7m ²	+59.6m ² (+7.1%)
No. of Structures	6	7	+1 (+16.7%)
Building Heights	about 2.6m to about 8m	about 2.6m to about 8m	No change
Loading/Unloading Space for Light Goods Vehicles	1	1	No change
Loading/Unloading Space for Container Vehicles/Heavy Goods Vehicles	1	1	No change

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

- (a) Application form received on 27.7.2023 **(Appendix I)**
(b) Further Information (FI) received on 14.9.2023* **(Appendix Ia)**
** accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and FI at **Appendices I** and **Ia**. They can be summarised as follows:

- (a) The applied use is temporary in nature which will not jeopardise the long-term planning intention of the “OU(Railway Reserve)” zone. It is not incompatible with the surrounding land uses.
- (b) The stored fertilisers and food processing material are non-flammable, non-toxic and non-corrosive. They will be stored in containers or in bags. No adverse odour impact is anticipated. No workshop activities will be carried out.

- (c) The current application is intended to include an open shed structure with a building height of about 8m and a floor area of 59.6m² for storage at the Site. There is no change in other major development parameters.
- (d) The applicant will terminate the operation and vacate the Site for railway development upon government acquisition/resumption. The applicant will also avoid polluting or disturbing the adjacent watercourse during operation.

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

The applicant is not the “current land owner” of the private land portion of the Site 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 site notice and sending registered mail to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the “Owner’s Consent/ Notification” Requirements are not applicable.

4. **Background**

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

5. **Previous Applications**

- 5.1 The Site is involved in seven previous applications (No. A/YL-KTN/13, 88, 180, 259, 476, 591 and 754). Applications No. A/YL-KTN/13 and 88 for food product factory use are not relevant to the current application. Applications No. A/YL-KTN/180, 259, 476, 591 and 754 for various temporary storage uses (including renewal of temporary planning approval) were approved by the Rural and New Town Planning Committee (the Committee) with conditions between October 2003 and March 2021, mainly on the considerations that the development was not incompatible with the surrounding land uses; concerned departments had no adverse comment or their technical concerns could be addressed by appropriate approval conditions; and it was unlikely that the site would be required for implementation of the Northern Link (the NOL) in the near future. The planning permission under application No. A/YL-KTN/476 was revoked in February 2018 due to non-compliance with approval conditions.
- 5.2 Compared with the last approved application No. A/YL-PH/754 which was submitted by the same applicant as the current application, the current application is the same in terms of the applied use, site boundary/area, and similar in the layout and major development parameters with additional structure and floor area. The planning permission under application No. A/YL-KTN/754 is valid until 6.4.2024. All the approval conditions have been complied with.
- 5.3 Details of the previous application are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are three similar applications (No. A/YL-KTN/594, 750 and 783) for various temporary warehouse uses straddling the same “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 August 2018 and September 2021 on similar consideration as mentioned in paragraph 5.1 above. The planning permissions under applications No. A/YL-KTN/594 and 783 were revoked in July 2020 and March 2023 respectively due to non-compliance with approval conditions.
- 6.2 Details of the similar applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) currently used for the applied use with valid planning permission under application No. A/YL-KTN/754; and
 - (b) accessible via Fung Kat Heung Road/San Tam Road.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the north and northeast across Fung Kat Heung Road are open storage/storage yards (including two with valid planning permissions under applications No. A/YL-KTN/825 and 866) and residential structures/dwellings;
 - (b) to the east are warehouses and an open storage/storage yard. To the further east in the “Industrial (Group D)” (“I(D)”) zone and “Government, Institution or Community” (“G/IC”) zone are a real estate agency; residential structures/dwellings and a logistic centre;
 - (c) to the south are residential structures/dwellings (the nearest within 10m from the Site) and warehouses; and
 - (d) to the west are residential structures/dwellings, a watercourse, San Tam Road and San Tin Highway.

8. Planning Intention

The planning intention of the “OU(Railway Reserve)” zone is intended primarily for railway development. According to the Explanatory Statement of OZP, the area covers the proposed NOL alignment. The exact alignment of the NOL has yet to be finalised.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 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 III** and **IV** respectively.

9.2 The following government department does not support the application:

Environment

Comments of the Director of Environmental Protection (DEP):

- (a) the Environmental Protection Department (EPD) does not support the application as it is considered that the applied use would cause traffic of heavy vehicles and there are residential dwellings in the vicinity of the Site (**Plan A-2**), environmental nuisance to the nearby residential uses could be generated by the applied use;
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised 'Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance from the applied use; and
- (c) there was no environmental complaint received against the Site in the past three years.

10. Public Comment Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, a public comment from an individual was received raising concern on the compliance status of approval conditions in previous applications.

11. Planning Considerations and Assessments

11.1 The application is for temporary storage of fertiliser and food processing material for a period of 3 years at the Site zoned "OU(Railway Reserve)". The planning intention of the "OU(Railway Reserve)" zone is primarily intended for railway development. While the applied use is not in line with the planning intention of "OU(Railway Reserve)" zone, the applicant indicates that the operation will be terminated and he will vacate the Site upon government acquisition/resumption for railway development. The Chief Engineer/Railway Development 1-1, Railway Development Office of the Highways Department has no adverse comment on the application from railway development perspective. It is considered that temporary approval would not frustrate the long-term planning intention of the "OU(Railway Reserve)" zone.

- 11.2 The applied use is considered not incompatible with the surrounding land uses which are rural in character and intermixed with open storage/storage yards, residential dwellings/structures and warehouses. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that no significant landscape impact arising from the applied use is anticipated.
- 11.3 DEP does not support the application as the applied use involves the use of heavy vehicles. In this regard, the Site can be accessed from Fung Kat Heung Road/San Tam Road without passing through residential dwelling/structures. There was no environmental complaint received by DEP in the past 3 years. The applicant will be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by EPD to minimise possible environmental nuisances generated by the applied use. Other relevant departments consulted including the Commissioner for Transport, the Chief Engineer/Mainland North of the Drainage Services Department, and the Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below.
- 11.4 The Site is the subject of five relevant approved previous applications for temporary storage uses. When compared with the last approved application (No. A/YL-KTN/754), the current application is submitted with changes in the number of structures and total floor area. In addition, there are three approved similar applications in the vicinity of the Site in the past 5 years as detailed in paragraph 6.1. Approving the current application is in line with the Committee's previous decisions.
- 11.5 Regarding the public comment raising concern on the application as mentioned in paragraph 10, the departmental comments and planning assessments as stated above are relevant.

12. Planning Department's View

- 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 applied 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 22.9.2026. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 11:00 pm and 7:00 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 planning approval period;
- (d) the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) the submission of a 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 22.12.2023;
- (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 22.3.2024;
- (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 22.6.2024;
- (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 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 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 for a departure from the planning intention, 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 received on 27.7.2023
Appendix Ia	FI received on 14.9.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**