

RNTPC Paper No. A/YL-KTN/619
For Consideration by
the Rural and New Town
Planning Committee
on 17.8.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/619

- Applicant** : Mr. TANG Wai-Ip
- Site** : Lots 594 RP and 595 RP in D.D. 109, Chi Ho Road, Kam Tin, Yuen Long
- Site Area** : 2,560 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Village Type Development” (“V”)
[maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park (excluding container vehicle) for a period of 5 years. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ use is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is not subject to any previous application and is currently vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, a total of 54 private car parking spaces, 3 lorry parking spaces and a one-storey (2.62m) temporary structure covered by an open shed (covered area of 38.918m² with a maximum of 3m high) for site office use will be provided within the Site. The Site will operate 24 hours daily. No vehicle more than 5.5 tonnes will be allowed to enter the Site. Moreover, no repairing, maintenance, cleansing, dismantling or other workshop activities would be carried out on the Site during the planning approval period. The proposed layout plan, existing vehicular road access, drainage plan and landscape plan submitted by the applicant are at **Drawings A-1 to A-4**.

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

- (a) Application form with plans received on 4.7.2018 **(Appendix I)**
- (b) Further Information (FI) received on 9.8.2018 clarifying the traffic arrangement and trip generation to the Site in response to departmental and public comments **(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 Part 9 of the application form. They can be summarized as follows:

- (a) The applicant intends to provide car parking spaces for nearby residents in order to serve the local needs as many vehicles are parking at roadside causing inconvenience to villagers.
- (b) The proposed use is compatible with the surrounding and similar applications for car parking in the vicinity has been approved by the Rural and New Town Planning Committee (the Committee).

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 notice on the Site and sending notice to Kam Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was the subject of two enforcement cases (No. E/YL-KTN/425 and E/YL-KTN/450) both against unauthorised development involving parking of vehicles. Two Enforcement Notice were issued on 3.1.2018 requiring discontinuation of the UDs respectively. Subsequent site inspections revealed that both UDs were discontinued. Compliance notices were issued on 20.6.2018.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There no similar application at the same “V” zone of the Site.

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

7.1 The Site is :

- (a) a vacant land partly paved and partly covered by grass; and
- (b) accessible from Chi Ho Road.

7.2 The surrounding areas are mainly rural in character mixed with residential dwellings/structures, cultivated agriculture land and vacant/unused land;

- (a) to its north and east are vacant land and a nullah. Across the nullah are residential dwellings/structures and vacant/unused land;
- (b) to its west are cultivated agriculture land and unused land; and
- (c) to its south across Chi Ho Road is the Kam Tin River.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible from Chi Ho Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.
- (e) There is no Small House application approved or under processing within the Site.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) HyD does not and will not maintain any access connecting the Site and Chi Ho Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was a substantiated complaint on air pollution aspect in 2015.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Nature Conservation

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The Site is located in “V” zone and has been disturbed according to aerial photos in recent years. As such, he has no strong view against the application from nature conservation perspective.
- (b) Nevertheless, the Site is located near a retained abandoned meander 43CD/1 and a drainage channel (**Plan A-2**). Should the application be approved, the applicant is advised to avoid disturbance and pollution to these watercourses during operation.
- (c) There are also some trees adjacent to Chi Ho Road, the applicant is advised to avoid damages to these trees during operation.

Landscape

9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) Should the application be approved, approval conditions on the submission and implementation of a landscape proposal are recommended.
- (b) Detailed comments on the landscape proposal are at **Appendix II**.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of a drainage proposal for the development should be included in the planning permission.
- (c) Detailed comments on the drainage proposal are at **Appendix III**.

Fire Safety

9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

- 9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) Before any new building works (including containers/ open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
 - (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
 - (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
 - (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

District Officer's Comments

- 9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD) :

His office has not received any comment from the locals on the application upon close of consultation and he has no comment on the application.

- 9.2 The following Government departments have no comment on the application:
- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
 - (b) Director of Electrical and Mechanical Services (DEMS);
 - (c) Project Manager/West, Civil Engineering and Development Department (PM(W), CEDD); and
 - (d) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 13.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.8.2018, two objecting comments submitted by an individual together with some villagers and a general public have been received (**Appendices IV-1 and IV-2**). They object to the application mainly on the grounds that the proposed use will generate adverse traffic, air, noise, dusts and safety impacts; the proposed parking facilities will have cumulative and negative impact on the quality of land and environment for land planned for residential use; and parking facilities should be provided in stacked facilities to free up land for other uses.

11. Planning Considerations and Assessments

11.1 This application is for proposed temporary public vehicle park (excluding container vehicles) for a period of 5 years. The proposed use is not in line with the planning intention of the “V” zone which is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Nevertheless, DLO/YL of LandsD advised that no Small House application has been approved or under processing at the Site and he has no adverse comment on the application. Also, according to the applicant, the public vehicle park is to serve the local needs. It is considered that temporary planning approval for the proposed development would not frustrate the long-term planning intention of the “V” zone on the OZP.

11.2 The surrounding area is rural in character mixed with residential dwellings, cultivated agricultural land and unused land. Relevant government departments consulted including DEP, CE/MN of DSD, D of FS and C for T have no adverse comment on the application. To minimise any potential nuisance, approval conditions restricting vehicle type and prohibiting workshop activities are recommended in paragraph 12.2 (a) to (d) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP in order to alleviate any potential impact. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraph 12.2(e) to (l) below.

11.3 During the statutory public inspection period, two comments objecting the application were received as mentioned in paragraph 10 above. In this regard, the applicant has provided information on traffic impact and noise mitigation measure and relevant departments have no adverse comments. The above planning assessments and considerations are also relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and taking into account the public comments in paragraph 10, the Planning Department considers that the proposed temporary public vehicle park (excluding container vehicle) could be tolerated for a period of 5 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 5 years until 17.8.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 17.2.2019;
- (g) in relation to (f) above, the implementation of landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 17.5.2019;

- (h) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 17.2.2019;
- (i) in relation to (h) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 17.5.2019;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) the submission of 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 17.2.2019;
- (l) in relation to (k) above, the provision of fire service installations 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 17.5.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e) or (j) 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;
- (n) if any of the above planning conditions (f), (g), (h), (i), (k) or (l) 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; and
- (o) upon expiry of the planning permission, the reinstatement of the application Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the development is not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given

in the submission to justify a departure from the planning intention, even on a temporary basis; and

- (b) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications to proliferate into this part of the V” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

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 with plans received on 4.7.2018
Appendix Ia	FI received on 9.8.2018
Appendix II	Detailed comments on landscape proposal from CTP/UD&L of PlanD
Appendix III	Detailed comments on drainage proposal from CE/MN of DSD
Appendices IV-1 and IV-2	Public comment received during the statutory publication period
Appendix V	Advisory clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Existing Vehicular Road Access
Drawing A-3	Proposed Drainage Plan

Drawing A-4	Proposed Landscape Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2018**