

RNTPC Paper No. A/YL-KTN/708  
For Consideration by the Rural and  
New Town Planning Committee  
on 29.5.2020

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/708**

<b><u>Applicant</u></b>	: Mr. Tang Wai Ip
<b><u>Site</u></b>	: Lot 537 RP (Part) in D.D. 109, Kam Tin North, Yuen Long
<b><u>Site Area</u></b>	: About 1,826.1m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) <sup>1</sup> [maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	: Proposed Temporary Shop and Services 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 (motor vehicle showroom) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). A small part of the Site was the subject of one previous application for temporary open storage of construction machineries which was rejected by the Board on review in 2004. The Site is partly vacant and partly used for parking of vehicles without valid planning permission (**Plans A-2 and A-4b**).
- 1.2 According to the applicant, the proposed shop and services (motor vehicle showroom) involves 4 one to two-storey structures with a total floor area of

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<sup>1</sup> A minor portion of the Site (about 16m<sup>2</sup> or 0.9%) encroaches upon the adjoining “Residential (Group C)2” (“R(C)2”) zone. In view of the small area, it can be considered as minor boundary adjustment as permitted under the covering Notes of the OZP.

about 175.94m<sup>2</sup> and building height of 3.5m to 5.5m for meeting room, open shed, site office and storage. There will be 59 spaces in open air for parking vehicles for sale. 3 private car parking spaces and 1 loading and unloading space for light goods vehicle will be provided at the Site. No vehicle exceeding 5.5 tonnes will be stored or enter the Site. The Site is accessible via a local track branching off from Kam Tai Road. The operation hours are from 8:00 a.m. to 8:00 p.m. daily, including public holidays. The layout plan and vehicular access plan submitted by the applicant are at **Drawings A-1 to A-2**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with planning statement and plans (**Appendix I**) received on 3.4.2020
  - (b) Further Information (FI) received on 19.5.2020 in (**Appendix Ia**) response to departmental comments  
*[exempted from publication requirement]*

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement in **Appendix I**. They can be summarized as follows:

- (a) The application is for temporary use and no permanent structure is proposed at the Site. The Site can easily be reinstated and would not affect the long-term planning intention.
- (b) There is a similar application for motor vehicle showroom in the vicinity of the Site which was approved by the Rural and New Town Planning Committee (the Committee). The proposed development can better utilize the land and infrastructures to enhance economic efficiency.
- (c) Landscape proposals will be implemented to enhance the surrounding environment upon approval of the planning application. The applicant would implement drainage proposal and relevant mitigation measures to protect the environment and reduce flooding. No public announcement system will be used at the Site.

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

The applicant is not the “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. 31A) by posting site notice and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

#### 4. **Background**

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

#### 5. **Previous Application**

There was one previous application (No. A/YL-KTN/200) covering a small part of the southern portion of the Site for temporary open storage of construction machineries for a period of 3 years rejected by the Board on review on 26.11.2004. The application was rejected mainly on the grounds that the development did not comply with the then Town Planning Board Guidelines for Open Storage and Port Back-up Uses in that residential dwellings located in close proximity would be susceptible to adverse environmental nuisance generated by the development and there was no information in the submission to demonstrate that the development would not cause adverse drainage, traffic and environmental impacts on the surrounding areas. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

#### 6. **Similar Application**

There is no similar application for temporary shop and services (motor vehicle showroom) within the same "V" zone.

#### 7. **The Site and Its Surrounding Areas (Plans A-2 to A-4b)**

7.1 The Site is:

- (a) partly vacant and partly used for parking of vehicles without valid planning permission; and
- (b) accessible from Kam Tai Road via a local track.

7.2 The surrounding areas are rural in character and intermixed with open storage/storage yards, residential dwellings/structures, parking of vehicles and vacant/unused land. The open storage yards are suspected unauthorized development subject to planning enforcement action by the Planning Authority:

- (a) to its north across Kam Tai Road and a nullah are a chicken farm, residential dwellings/structures, vacant land and an open storage yard;

- (b) to its immediate east and south is a residential estate (i.e. Seasons Monach) which is zoned “Residential (Group C)2”. To its further south are open storage/ storage yards, scattered residential structures/dwellings and unused land; and
- (c) to its west are parking of vehicles, vacant/unused land and a site with planning permission for temporary eating place (currently vacant).

## **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 re-provisioning 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 the ground floor of a New Territories Exempted House. 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 an Old Schedule Agricultural Lot 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) 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, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above 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 rent or fee, as may be imposed by the LandsD.

- (c) 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 his 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) His department is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Tai Road.
- (b) If the proposed run-in/out is agreed by TD, the applicant should provide the run in/out at Kam Tai Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) The applicant shall be responsible for any modification of the existing street furniture for the proposed run-in/out. The proposed modification works should be submitted to Transport Department/ HyD for comments before commencement of the modification works.

- (d) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

### **Environment**

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

- (a) There is no environmental complaint concerning the Site received by DEP in the past three years.
- (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.

### **Drainage**

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

- (a) He has no in-principle objection to the proposed development from public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the applicant to submit, implement and maintain the drainage proposal for the development should be included in the planning permission.

### **Fire Safety**

#### 9.1.6 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 (BO)

(Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

9.1.7 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are UBW under the BO and should not be designated for any proposed use under the application.
- (c) 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.
- (d) 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.
- (e) 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.

### **Nature Conservation**

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

Recent site inspection reveals that the Site is currently a carpark and disturbed, he has no comment on the application from nature conservation perspective.

### **District Officer's Comments**

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

He has not received any comment from locals and he has no comment on the application.

9.2 The following Government departments have no comment on/ no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Project Manager (West), Civil Engineering and Development Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

## **10. Public Comment Received During Statutory Publication Period**

On 17.4.2020, the application was published for public inspection. During the three-week statutory publication period, one comment from an individual was received, objecting to the application mainly on the grounds that the Site should be used for residential development instead of the applied brownfield operation, and there was insufficient information to demonstrate no adverse drainage, traffic and environmental impacts on the surrounding areas including the residential dwellings nearby (**Appendix III**).

## **11. Planning Considerations and Assessments**

11.1 The application is for proposed temporary shop and services (motor vehicle showroom) for a period of 3 years at "V" zone. 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. According to DLO/YL of LandsD, there is no Small House application approved or under processing at the Site. While temporary approval may not jeopardize the long-term implementation of Small House at the Site, consideration should also be given to whether the proposed use is to serve the need of villagers or in support of the village development. In this case, the



proposed development involves the parking of 59 vehicles for sale in open air. It is doubtful if the proposed motor-vehicle showroom is genuinely serving the needs of local villagers. No sufficient information has been provided by the applicant to demonstrate that the proposed use is to support the village development. There is no strong justification to provide commercial use of such scale and nature in the “V” zone on a temporary basis.

- 11.2 The surrounding area is rural in character and intermixed with residential structures/dwellings (including Seasons Monach on the east and south) and vacant land. The proposed use involving the parking of 59 vehicles for sale in open air (about 93% of the Site uncovered) is akin to open storage which is considered not compatible with the surrounding land uses.
- 11.3 Relevant departments have no objection to the application. A small part of the Site is subject to a previous application for temporary open storage (Application No. A/YL-KTN/200) which was rejected by the Board on review in 2004 mainly on the grounds as stated in paragraph 5 above. There is no similar application within the same “V” zone on the OZP. Approval of the current application would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such application would result in a general degradation of the environment of the area.
- 11.4 A public comment objecting to the application was received during the statutory publication period as detailed in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated 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, the Planning Department does not support the application for the following reasons:
- (a) the proposed 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 the 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 for a departure from the planning intention, even on a temporary basis; and
  - (b) the approval of the application would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such application would result in a general degradation of the environment of the area.

- 12.2 Alternatively, should the Committee decide to approve the application, the permission shall be valid on a temporary basis for a period of 3 years until 29.5.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no 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 any time during the planning approval period;
- (c) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a modification work proposal of the existing public footpath and associated street furniture at Kam Tai Road within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 29.11.2020;
- (f) in relation to (e) above, the implementation of the modification work proposal of the existing public footpath and associated street furniture at Kam Tai Road within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 28.2.2021;
- (g) the submission of a run-in/ out proposal at Kam Tai Road within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the TPB by 29.11.2020;
- (h) in relation to (g) above, the implementation of the run-in/ out proposal at Kam Tai Road within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the TPB by 28.2.2021;

- (i) 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 29.11.2020;
- (j) in relation to (i) above, the implementation of 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 28.2.2021;
- (k) in relation to (j) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (l) 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 29.11.2020;
- (m) in relation to (l) above, the implementation of 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 28.2.2021;
- (n) if any of the above planning conditions (a), (b), (c), (d) or (k) 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;
- (o) if any of the above planning conditions (e), (f), (g), (h), (i), (j), (l) or (m) 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
- (p) upon the expiry of the planning permission, the reinstatement of the existing public footpath and associated street furniture at Kam Tai Road at the applicant's own cost to the satisfaction of the Commissioner for Transport and the Director of Highways or of the TPB.

#### Advisory Clauses

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

### **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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments**

<b>Appendix I</b>	Application form with planning statement and plans received on 3.4.2020
<b>Appendix Ia</b>	FI received on 19.5.2020
<b>Appendix II</b>	Previous application covering the Site
<b>Appendix III</b>	Public comment received during the statutory publication period
<b>Appendix IV</b>	Advisory clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Vehicular Access Plan
<b>Plan A-1</b>	Location Plan with Previous Application
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2020**