

RNTPC Paper No. A/YL-KTS/852
For Consideration by
the Rural and New Town
Planning Committee
on 15.9.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/852

<u>Applicant</u>	: Mr. Lui Kwok Leung
<u>Site</u>	: Lot 288 RP (Part) in D.D. 106, Kam Po Road, Shek Wu Tong, Yuen Long
<u>Site Area</u>	: 860 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Public Vehicle Park (Private Cars Only) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park (private cars only) for a period of 3 years and filling of land. The Site is zoned “AGR” on the Kam Tin South OZP and the proposed use is neither Column 1 nor Column 2 use in the “AGR” zone while filling of land in the “AGR” zone requires planning permission from the Town Planning Board (the Board). According to the Notes of the OZP, temporary use or development not exceeding a period of three years requires planning permission from the Board, notwithstanding that the use or development is not provided for in terms of the OZP. The Site is not subject to any previous application and is currently vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicant, a total of 10 parking spaces for private cars will be provided. No structure is proposed at the Site. The existing surface material will be replaced and the whole site will be filled by 0.1m in depth (from 9 mPD to 9.1 mPD) for vehicular access and parking purposes. The operation hours will be 24 hours daily. There are two vehicular accesses at the Site, one on the west leading

to Kam Po Road via a local track and the other on the east connecting to a local track leading to Shek Wu Tong Tsuen. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form and plans received on 8.6.2020 (Appendix I)
- (b) Further information (FI) received on 7.7.2020 providing response to departmental comments
[exempted from publication requirement] (Appendix Ia)
- (c) Further information (FI) received on 27.7.2020 providing response to departmental comments
[exempted from publication requirement] (Appendix Ib)

1.4 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.8.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

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

- (a) As there are more people residing in Shek Wu Tong Tsuen in recent years, the number of private cars increases. The inadequate parking spaces in the area resulted in illegal parking near Kam Po Road, posing danger to the residents. As such, the residents of Shek Wu Tong want to form this abandoned agricultural land for access and temporary parking use to serve the residents and their visitors.
- (b) The proposed development is planned to provide parking spaces for the local villagers only. No extra traffic will be generated. The proposed use can also clear the weed at the Site to improve hygiene and eliminate insects and mosquitoes.

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

The applicant is not the “current land owner” of the Site 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 notifying the current land owner by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to planning enforcement action (No. E/YL-KTS/446) (**Plan A-2**) against unauthorized development (UD) involving land filling operation. Enforcement Notice was issued on 12.5.2020 requiring the discontinuation of the UD. Reinstatement Notice was issued on 27.5.2020 requiring the removal of the leftovers, debris and hard paving (including asphalt) on the land and to grass the land. If the notice is not complied with, prosecution action may be taken.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Application

There is no similar application for public vehicle park and filling of land in the same “AGR” zone on the OZP.

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

7.1 The Site is:

- (a) currently paved and vacant; and
- (b) accessible via a local track branching off Kam Po Road on the west and to Shek Wu Tong Tsuen via a local track on the east.

7.2 The surrounding area is rural in character predominated by residential structures/dwellings, parking of vehicles, cultivated agricultural land, the West Rail Pat Heung Maintenance Centre and vacant/unused land. The parking of vehicles are suspected UD subject to enforcement action by the Planning Authority:

- (a) to its west across Kam Po Road and a watercourse is the West Rail Pat Heung Maintenance Centre;
- (b) to its east and northeast within the “Village Type Development” (“V”) zone are residential structures/dwellings, parking of vehicles, unused land and cultivated agricultural land; and
- (c) to its northwest and south are mainly unused/ vacant land (a piece of vacant land is subject to an approved planning application (No. A/YL-KTS/824) for proposed religious institution (retreat centre)), scattered residential dwellings/ structures and parking of vehicles.

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

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) The Site may affect/block one existing access/ track/ path to the adjoining area.
 - (c) It is noted that no structure is proposed in the proposal.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):
- (a) He has no comment on the application from traffic engineering point of view.
 - (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) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road/ Kam Po Road, including the nearby footbridge.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

The Site falls within the protection boundary of the West Rail Line and the area of influence (AOI) of the proposed Northern Link (NOL). The NOL is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the alignment of the proposed NOL are still under review, those areas within the AOI may be required to be vacated at the time for the construction of the NOL and subject to nuisance, such as noise and vibration of the proposed NOL. He has no objection in principle to the application from the development point of view of the NOL, provided that the applicant is satisfied with the surrounding condition of nuisance taking into account the future construction, operation and maintenance of NOL.

Environment

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

Should the application be approved, 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.

Landscape

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

- (a) She has some reservations on the application from the landscape planning point of view.

- (b) Based on the aerial photo taken on 29.9.2019, the Site is situated in an area of rural landscape character comprising of scattered tree groups, abandoned farmlands and village houses within “V” zone to the east and Pat Heung Maintenance Centre to the west of the Site. No similar development within “AGR” zone in proximity of the Site was approved. The proposed development is not entirely compatible with the landscape character of the area within the “AGR” zone.
- (c) Referring to the site visit dated 22.6.2020, the Site is vacant and largely paved with gravels. No existing tree is recorded within the Site. Significant adverse impact on landscape resources within the Site is not anticipated. However, comparing the aerial photos taken in 2017 and 2018, it is apparent that vegetation within the Site has been cleared and the Site has been paved since 2017. Approval of this application would set an undesirable precedent of landscape character alteration, and would encourage more similar development within the “AGR” zone. The cumulative impact of such approval would further degrade the landscape quality of surrounding environment.

Agriculture

9.1.7 Comments of the Director of Agricultural, Fisheries and Conservation (DAFC):

- (a) The Site falls within the “AGR” zone and is currently paved vacant land. The agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application for the proposed use and land filling is not supported from agricultural point of view.
- (b) The Site is paved vacant land, with watercourses located to the west and south. Should the application be approved, the applicant shall be advised to avoid disturbance and pollution to these watercourses during operation.

Drainage

9.1.8 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 Board approve the application, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development should be included.

Fire Safety

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

- (a) He has no objection in principle 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 FSI 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

9.1.10 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorized Building Works (UBW) under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be

taken by the BD to effect their removal in accordance with the prevailing 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) The Site does not abut on a specified street of not less than 4.5m wide and 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

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

He has not received any comment from the locals upon close of consultation and he has no particular 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) Director of Electrical and Mechanical Services;
- (c) Commissioner of Police;
- (d) Project Manager (West), Civil Engineering and Development Department; and
- (e) Chief Estate Surveyor/Railway Development, LandsD.

10. Public Comments Received During Statutory Publication Period

On 16.6.2020, the application was published for public inspection. During the three-week statutory publication period, 5 public comments were received from the World Wide Fund Nature Hong Kong, Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong, The Hong Kong Bird Watching Society and an individual (**Appendices II-1 to II-5**). They object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the "AGR" zone; the Site involves vegetation clearance and site formation and is subject to enforcement action against UD; approval of the application would set an undesirable precedent for other similar applications and lead to general degradation of the rural environment of the area;

the village already has a number of vehicle parking facilities; and using the Site for parking 10 cars is an inefficient land use.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary public vehicle park (private cars only) for a period of 3 years and land filling at the whole Site for 0.1m within the “AGR” zone. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed use is not in line with the planning intention of the “AGR” zone. Also, DAFC does not support the proposed public vehicle park and land filling as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- 11.2 The surrounding area is rural in character predominated by residential dwellings/structures, cultivated agricultural land and vacant/unused land. CTP/UD&L of PlanD considers that the proposed development is not entirely compatible with the landscape character of the area within the “AGR” zone.
- 11.3 Besides DAFC, CTP/UD&L of PlanD has some reservations on the application as approval of the application would set an undesirable precedent of landscape character alteration, and would encourage more similar development within the “AGR” zone. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment. Other departments consulted have no objection to the application.
- 11.4 The Site is not involved in any previous application. There is also no similar application for public vehicle park and land filling within the same “AGR” zone on the OZP. Approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.
- 11.5 Five public comments were received during the statutory publication period objecting to the application as set out in paragraph 10 above. In this regard, the departmental comments and the 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 comments 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 “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. 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, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.
- 12.2 Alternatively, 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 15.9.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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;
- (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) 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;
- (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 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 15.3.2021;

- (f) in relation to (e) 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 15.6.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 15.3.2021;
- (i) in relation to (h) 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 15.6.2021;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning condition (e), (f), (h) or (i) 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
- (l) upon expiry of the planning permission, the reinstatement of the 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 III**.

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

Appendix I	Application form received on 8.6.2020
Appendix Ia	FI received on 7.7.2020
Appendix Ib	FI received on 27.7.2020
Appendices II -1 to II-5	Public comments received during the statutory publication period
Appendix III	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**