

RNTPC Paper No. A/YL-SK/231A
For Consideration by
the Rural and New Town
Planning Committee
on 6.4.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/231

- Applicant** : 王清先生
- Site** : Lot 1286 RP (Part) in D.D. 114, Kam Sheung Road, Shek Kong, Yuen Long, New Territories
- Site Area** : 1,111 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zoning** : “Village Type Development” (“V”)
[Maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Public Vehicle Park (private car only) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public vehicle park (private cars only) 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 in the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is partly paved, partly fenced and used for open storage of vehicles without valid permission (**Plans A-2, A-4a and A-4b**).
- 1.2 Part of the Site is subject of a previous Application No. A/YL-SK/169 for Shop and Services (Horticulture and Interior Design Sample Showroom) and Office for a Period of 3 Years, which was approved by the Rural and New Town Planning Committee (the Committee) on 15.6.2012 submitted by a different applicant. However, the application was revoked on 15.12.2012 due to non-compliance of approval conditions on the submission of drainage and fire service installations proposal.

- 1.3 According to the applicant, a total of 30 private car parking spaces and a one-storey structure of 3m high and total area of 20m² for carpark office use will be provided at the Site. The Site is accessible from Kam Sheung Road. The operation hours will be 24 hours daily, including public holidays. A site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with plans received on 6.11.2017 **(Appendix I)**
 - (b) Supplementary Information (SI) received on 10.11.2017 and 13.11.2017 **(Appendix Ia)**
 - (c) Further information (FI) received on 5.12.2017 in response to comments from Transport Department (TD) **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
 - (d) FI received on 21.2.2018 in response to comments from TD and public comments **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)
 - (e) FI received on 14.3.2018 in response to comments from TD **(Appendix Id)**
(accepted and exempted from publication and recounting requirements)
 - (f) FI received on 15.3.2018 in response to comments from TD **(Appendix Ie)**
(accepted and exempted from publication and recounting requirements)
 - (g) FI received on 21.3.2018 in response to comments from TD **(Appendix If)**
(accepted and exempted from publication and recounting requirements)
- 1.5 As requested by the applicant, the Committee agreed to defer consideration of the application on 22.12.2017 to allow more time for the applicant to prepare FI to address the departmental comments. The applicant submitted FIs providing responses to departmental comments to support the application.

2. **Justifications from the Applicant**

The justifications put forth by the applicants in support of the application are detailed in Section 9 of the application form in **Appendix I** and the FIs in **Appendices Ib -Ic**. They can be summarized as follows:

- (a) The proposed public car park is an efficient use of the Site.
- (b) The proposed car park could serve the public nearby as there is no car park in the vicinity. Sufficient sightline at the site entrance and waiting space within the Site will be provided. No traffic impact on Kam Sheung Road is anticipated.

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 obtained consent of the current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is subject of a planning enforcement action (No. E/YL-SK/197) with Enforcement Notice (EN) alleging for storage use issued to the responsible persons on 15.11.2017. Should the EN requirement is not complied with after the expiry of the EN, further enforcement/prosecution action would be taken against the responsible persons. The public vehicle park use at the Site without planning permission also constitutes an unauthorized development under the Town Planning Ordinance and would be subject to enforcement action.

5. **Previous Application**

Part of the Site is subject of a previous Application No. A/YL-SK/169 for shop and services (horticulture and interior design sample showroom) and office for a period of 3 years submitted by a different applicant, which was approved with conditions by the Committee on 15.6.2012 mainly on the consideration that approval of the development on a temporary basis would not frustrate the long-term planning intention; it was considered not incompatible with the surrounding rural environment; and no adverse comment from government departments. However, the application was revoked on 15.12.2012 due to non-compliance of approval conditions on the submission of drainage and fire service installations proposal. Details of the application are summarized in **Appendix II** and the location of the site is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are four similar applications within the same “V” zone on the OZP. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-SK/37, 155, 177 and 212 for various temporary car park for a period of 3 years (except Application nos. A/YL-SK/37 for 5 years) were approved by the Committee on 14.2.1997, 12.2.2010, 7.12.2012 and 4.3.2016 respectively mainly on the considerations that the applied use could meet some of the local parking demand; there was no Small House application on the site; the granting of the temporary permission would not frustrate the long-term planning intention of the “V” zone; the development was not incompatible with the surrounding areas; Government departments consulted had no major adverse comment on the application; and approval conditions could be imposed to address the concerns of the concerned departments. However, Applications No. A/YL-SK/155 and 212 were revoked on 12.11.2010 and 4.6.2017 due to non-compliance of approval conditions on submission and/or implementation of landscaping, drainage and fire services aspects.

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

- 7.1 The Site is:
- (a) partly paved, partly fenced and used for open storage of vehicles without planning permission; and
 - (b) abutting Kam Sheung Road to its south.
- 7.2 The surrounding areas are predominately rural in character mixed with residential dwellings/structures, a site office, a storage, parking of vehicles, vehicle workshops and unused land (**Plan A-2**):
- (a) to its north are mainly residential dwellings/structures and unused land;
 - (b) to its immediate east are residential dwellings/structures. Further east is a temporary office, parking of vehicle and vacant land;
 - (c) to its south across Kam Sheung Road is a cluster of residential dwellings/structures including Parlain Villa, unused land/ vacant land and vehicle workshops; and
 - (d) to its west are a site office, residential dwellings/structures and a storage yard.

8. Planning Intention

The planning intention of the “V” 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. 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 Scheduled Agricultural Lot held under 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 to Kam Sheung Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (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 planning approval be given to the application, 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 the landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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 currently under processing at 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, an approval condition stating that no vehicles is allowed to queue back to or reverse onto/from public road at any time during the planning approval period and the submission of run-in/out proposal and its implementation to the satisfaction of C for T and Director of Highways should be included.

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

- (a) The applicant should provide a run-in at the access point at Kam Sheung 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. The applicant is reminded that no work shall start until the run-in/out proposal is accepted by HyD and an excavation permit is obtained from HyD.
- (b) The access between the Site and Kam Sheung Road is not and will not be maintained by HyD.
- (c) 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):

There was 1 substantiated environmental complaint on waste aspect received in the past 3 years. The applicant is advised to adopt 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) Noting that the Site is paved and located within an area zoned “V”, he has no comment on the application from nature conservation point of view.
- (b) Nevertheless, there are some mature trees to the south of the Site. Should the application be approved, the applicant is reminded to adopt necessary measures to prevent damaging the trees adjacent to the Site during operation.

Landscape

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

- (a) He has no objection to the application.
- (b) According to the latest aerial photo taken on 16.4.2017, the Site is situated in an area of rural landscape character comprising of small houses, scattered tree groups and carparks in its vicinity. The proposed use is considered not incompatible to the surrounding environment. Referring to the site inspection on 18.11.2017, the Site is vacant and largely hard paved. One number of young tree species *Schefflera heptaphylla* (鴨腳木) is found within the Site. No significant adverse impact on landscape resources is envisaged.

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 public drainage point of view.
- (b) Should the application be approved, conditions requiring the submission of a drainage proposal and implementation and maintenance of the drainage proposal for the development to his satisfaction should be included.

Fire Safety

9.1.8 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

9.1.9 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) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on lease 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.

Electricity

9.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with the planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and / or overhead line within and / or in the vicinity of the Site. The applicant should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

His office has not received any local’s comment on the application and has no particular 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) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD); and
- (c) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 14.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.12.2017, three public comments were received including indigenous inhabitant representative of Sheung Tsuen, a Sheung Tsuen villager/manager of Lai Yut Wai Tso and a general public objecting the application (**Appendices IV-1 to IV-3**) mainly on the grounds that not all the managers of the Lai Yut Wai Tso were notified and agreed to the application which situated on Tso Tong land; the Site was being illegally used and there is no rental agreement to other party; the proposed use would cause adverse traffic and would affect the safety of road users; the proposed use is not in line with the planning intention of the “V” zone; the development is not compatible with the surrounding land use; parking facilities should be accommodated in high rise buildings, underground, stacked facilities, or ground floor of village houses; the applicant fails to demonstrate the proposed development would not generate adverse environment impact; approval of the application would set an undesirable precedent for similar uses; and the cumulative impact would result in a general degradation of the environment of the area.

11. Planning Considerations and Assessments

- 11.1 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. The proposed temporary public vehicle park (private car only) for a period of 5 years is not entirely in line with the planning intention of “V” zone. Nevertheless, DLO/YL of LandsD advised that there is no Small House application approved or currently under processing at the Site. Temporary approval for 5 years of the application would not jeopardize the long-term planning intention of the “V” zone.
- 11.2 The applicant stated that the proposed public vehicle park (private car only) is to serve the public nearby. In view of its nature of use, the proposed use is not incompatible with the surrounding areas which are characterized by residential dwellings/structures, site office, parking of vehicles, vehicle workshops and unused land. Relevant departments consulted including DEP, CTP/UD&L of PlanD, CE/MN of DSD, D of FS and C for T have no adverse comment on the application. To minimise any potential nuisance to the nearby residents, approval conditions restricting the type of vehicles and prohibiting dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are recommended in paragraph 12.2 (a) to (e) 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. The technical requirements of C for T, CTP/UD&L of

PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (f) to (l) below.

- 11.3 Three public comments objecting the application were received during the statutory publication period as stated in paragraph 10 above. One of the grounds of objection is related to land matters. In this regards, an advisory clause has been recommended to advise the applicant to resolve any land issues relating to the development with the concerned land owners. In addition, concerned department including TD have no adverse comment on the application from the traffic perspective. The planning assessments and considerations above are also relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department considers that the temporary public vehicle park (private car only) 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 6.4.2023. 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (c) only private cars as defined in the Road Traffic Ordinance and its subsidiary regulations, as proposed by the applicant, are allowed to enter/be parked on the Site at all times during the planning approval period;
- (d) a notice shall be posted at a prominent location of the Site at all times to indicate that only private cars as defined in the Road Traffic Ordinance and its subsidiary regulations are allowed to enter/be parked on the Site 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 run-in/out proposal 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 6.10.2018;
- (g) in relation to (f) above, the implementation of run-in/out proposal 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 6.1.2019;
- (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 6.10.2018;
- (i) in relation to (h) 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 6.1.2019;
- (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 6.10.2018;
- (l) in relation to (k) above, the implementation of fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.1.2019;
- (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 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 reason for rejection is suggested for Members' reference:

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. There is no strong planning justification in the submission for a departure from such 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 applicants.

14. Attachments

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| Appendix I | Application form and plans received on 6.11.2017 |
| Appendix Ia | SI received on 10.11.2017 and 13.11.2017 |
| Appendix Ib | FI received on 5.12.2017 in response to comments from TD |
| Appendix Ic | FI received on 21.2.2018 in response to comments from TD and public comments |
| Appendix Id | FI received on 14.3.2018 in response to comments from TD |
| Appendix Ie | FI received on 15.3.2018 in response to comments from TD |

Appendix If	FI received on 21.3.2018 in response to comments from TD
Appendix II	Previous s.16 application covering the application site
Appendix III	Similar Applications within the same “V” zone on the Shek Kong Outline Zoning Plan
Appendices IV-1 to IV-3	Public comments received during the statutory public period
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2018**