

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/531

- Applicant** : Mr. MAN Tin Wai
- Site** : Lots 733 S.D RP (Part), 733 S.D ss.1 (Part), 733 S.D ss.7 (Part) and 733 S.D ss.9 (Part) in D.D. 99, San Tin, Yuen Long
- Site Area** : About 1,465 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Temporary Parking of Private Cars 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 parking of private vehicles for a period of 3 years (**Plan A-1**). The Site is not subject of any previous application. It is paved and is currently vacant.
- 1.2 As shown on the layout plan at **Drawing A-1** and **Plan A-1**, the Site is accessible at the south via a local track connecting to Tung Wing On Road and Castle Peak Road - San Tin. It is proposed to have 64 private car parking spaces for local villagers and the proposed use will be opened at all hours.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 14.8.2018 **(Appendix I)**
 - (b) Planning Statement **(Appendix Ia)**
 - (c) Further Information received on 21.9.2018 providing responses to comments of Commissioner for Transport **(Appendix Ib)**
 - (d) Further Information received on 3.10.2018 providing responses to public comments **(Appendix Ic)**

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Chapter 6 of Planning Statement at **Appendix Ia** and Further Information at **Appendices Ib & Ic**. They can be summarized as follows:

- (a) The temporary nature of the proposed use does not frustrate the long term planning intention of the “V” zone. The proposed use provides parking spaces ancillary to the Column 1 uses of the “V” zone.
- (b) The proposed use is compatible with the rural village characteristic of the surrounding areas, comprising of uses like village houses, fish ponds and vacant land.
- (c) According to the Hong Kong Planning Standards and Guidelines, the current situation of the San Tin area warrants increased parking provision in the area as the area is not in the proximity of railway stations or other major public transport interchanges, there is no public transport services or public car parks in the vicinity, and there is a severe shortage of villagers’ parking spaces. The proposed private car parking spaces help alleviating such problem.
- (d) Adverse environmental and drainage impacts are not anticipated. No significant adverse traffic impact is expected as the parking spaces are exclusively for the use of local villagers mainly at Tung Chan Wai and On Lung Tsuen and each private car is expected to make a maximum of two return trips. Should the application be approved, the applicant is willing to comply with any requirements and conditions imposed.
- (e) Approval of the current application is in line with the previous decision of the Committee for similar use.
- (f) The proposed use is supported by the local residents, the San Tin Rural Committee and the Yuen Long District Council of San Tin Constituency. Regarding the public comments that the proposed use will endanger pedestrians and have adverse traffic impacts, the applicant responded that the local track near the Site is not a major pedestrian route used by the local villagers, it only leads to Tung Chan Wai and Yan Shau Wai, and thus the traffic flow will be low.

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

The applicant is one of the two “current land owners” and 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 obtaining consent from another current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C) are relevant to application. According to the TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. **Background**

The Site is subject to planning enforcement action against unauthorized development (UD) involving a use for place for parking of vehicles. Enforcement Notice (EN) was issued on 23.5.2018 requiring discontinuation of the UD. If the notice is not complied with, prosecution action may be taken.

6. **Previous Application**

The Site is not the subject of any previous application.

7. **Similar Applications**

7.1 Since 2008, there are 20 applications for similar temporary parking uses within the same “V” zone on the OZP. All the applications were approved by the Committee mainly on the consideration that the developments was considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone.

7.2 Details of these 20 similar applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) abutting a local track connecting On Lung Tsuen and Tung Chan Wai and leading to Tung Wing On Road and Castle Peak Road - San Tin;
- (b) currently vacant; and
- (c) located within the WBA of Deep Bay.

8.2 The surrounding areas mainly comprise of residential dwellings, vacant land and parking of vehicles use. Some parking of vehicles uses are suspected unauthorized developments subject to enforcement action by the Planning Authority:

- (a) to the immediate north is vacant/unused land; further north is San Tin Tsuen Road;

- (b) to the immediate east is vacant land;
- (c) to the immediate south are storage areas, parking of vehicles use, residential dwellings of On Lung Tsuen; and
- (d) to the immediate west are residential dwellings of Tung Chan Wai, parking of vehicles use and vacant/unused land.

9. **Planning Intention**

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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 developments 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.

10. **Comments from Relevant Government Departments**

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

Land Administration

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

Without recent inspection, his comments based on the applicant’s information are as follows:

- (a) The Site comprises Old Schedule Agricultural Lots 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 from Tung Wing On Road through both Government land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Given that no structure is proposed in the application, no structure will be allowed to be erected on site.
- (e) According to his record, there is no Small House application approved/under processing within the Site and in the vicinity.

Environment

10.1.2 Comment of the Director of Environmental Protection (DEP):

- (a) In accordance with the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”, he has no objection to the application.
- (b) No environmental complaint related to the Site was recorded in the past 3 years.
- (c) The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites” issued by DEP to minimize potential environmental impacts on the surrounding areas.

Nature Conservation

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

As the Site is paved and the proposed development would not involve land/pond filling, site formation, excavation and tree felling according to the application, he has no adverse comment on the application from nature conservation point of view. Should the application be approved, the applicant should be advised to adopt necessary measures to avoid causing pollution or disturbance to the adjacent watercourse.

Traffic

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

- (a) The Site is connected to the public road network via a section of a local access which are not managed by Transport Department (TD). The land status of the local access road should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, the following conditions should be incorporated:
 - (i) Only private car is allowed to access the Site.
 - (ii) No vehicle is allowed to queue back to public road (Tung Wing On Road) or reverse onto/from the Site at any time during the planning approval period.

10.1.5 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department does not and will not maintain any access connecting the Site and Tung Wing On Road / Castle Peak Road - San Tin.

- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Fire Safety

10.1.6 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 the satisfaction of the D of FS.
- (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 applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.

Buildings Matters

10.1.7 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) 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 (AP) should be appointed as the co-ordinator for any building works in accordance with the Building Ordinance (BO).
- (b) For UBW erected on leased land, enforcement action may be taken by the Building Authority to effect their removal in accordance with Buildings Department'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 work 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 respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

Drainage

10.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department

(CE/MN, DSD):

- (a) He has no in-principle objection to the application from drainage operation and maintenance point of view.
- (b) The applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his Site. A clear drainage plan showing full details of the existing drains & the proposed drains (e.g. cover & invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations & charts should be included. (Guideline on preparation of the drainage proposal is available in DSD homepage at http://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_guideline/Drainage_Submission.pdf). Should additional drainage works be required, the applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
- (c) After completion of the required drainage works, the applicant shall provide DSD a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan for reference. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (d) His detailed comments are at **Appendix III**.

Landscaping

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

- (a) The Site falls within an area zoned “V” in San Tin, Yuen Long. The surrounding area is of rural character composed of village houses, tree groups, a drainage channel, vehicle park and temporary structures are found to the northeast of the Site. The proposed use is considered not incompatible with existing land use.
- (b) With reference to the site inspection taken on 24.8.2018, there is no significant landscape resource found within the Site. Considering that further significant impact on existing landscape arising from the proposed use is not anticipated, he has no objection to the application from the landscape perspective.
- (c) Should the Board approve the application, since there is no available space within the Site for landscaping, a landscape condition is not recommended.
- (d) His detailed comments are at **Appendix III**.

Others

10.1.10 Comments of the Commissioner of Police (C of P):

There is no comment in principle subject to no activities in any form, whatsoever associated with Parallel Trading/ General Merchandize Operations (GMO) activities or illicit refueling activities.

District Officer's Comments

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

He has no comment on the application and the local comments shall be submitted to the Board direct, if any.

10.2 The following Government departments have no comment on the application:

- (a) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Director of Electrical and Mechanical Services (DEMS).

11. Public Comments Received During Statutory Publication Period

On 21.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 11.9.2018, two objecting public comments were received from a member of the public and the Village Representative of San Tin Yan Sau Wai Tsuen (**Appendix IV**) raising concerns that the development is an inefficient use of space, will endanger pedestrians, have adverse traffic impacts, and that parking of vehicles should be provided in underground/stacked parking facilities.

12. Planning Considerations and Assessments

12.1 The Site falls within the "V" zone which is intended to designate both existing recognized villages and areas of land considered suitable for village expansion. 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. DLO/YL, LandsD advises that there is no Small House application approved or under processing within the Site. According to the applicant, the development is for local residents' use only. In this regard, approval of the application on a temporary basis for a period of 3 years would not frustrate the long term planning intention of the "V" zone. The proposed use is not incompatible with the rural character of the surrounding area composed of village houses, tree groups, a drainage channel, vehicle park and temporary structures, and provides parking spaces to serve the local residents.

12.2 The Site falls within the WBA of the TPB PG-No. 12C, which is intended to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds. The guidelines specify that planning applications for temporary uses

are exempted from the requirement of EcoIA. DAFC has no adverse comment on the application from nature conservation point of view.

- 12.3 Other concerned Government departments including C for T, DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or adverse comment on the application. Adverse traffic, environmental, fire safety, drainage and landscape impacts are not envisaged. To mitigate potential environmental impacts on the surrounding area and to address concerned departments' comments, approval conditions restricting the types of vehicles and activities on-site, requiring maintenance of paving, and submission and implementation of drainage and FSIs proposals are recommended in paragraphs 13.2 (a) to (h) below. Non-compliance with any of the approval conditions would result in revocation of the planning permission and UD on site would be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize the possible environmental impacts.
- 12.4 Since 2008, the Committee has approved a total of 20 applications for similar temporary parking use within the same "V" zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.5 Two objecting public comments were received during the statutory publication period on the grounds that that the development is an inefficient use of space, will endanger pedestrians, have adverse traffic impacts, and that the parking of vehicles use should be provided in the underground or stacked parking facilities. In this regard, the planning assessments above are of relevance.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the proposed temporary parking of private vehicles could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 5.10.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle other than private car is allowed to access the Site at all times during the planning approval period;
- (b) a notice should be posted at a prominent location of the Site to indicate that only private cars as defined in the Road Traffic Ordinance are allowed to be parked on the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to public road (Tung Wing On Road) or reverse onto/from the Site at any time during the planning approval period;
- (d) the paving on the site shall be maintained at all times 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 5.4.2019;
- (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 5.7.2019;
- (g) the submission of fire service installations proposals 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 5.4.2019;
- (h) in relation to (g) 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 5.7.2019;
- (i) if any of the above planning conditions (a), (b), (c) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if any of the above planning conditions (e), (f), (g) or (h) 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
- (k) upon the 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 at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the planning intention of "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within "V" zone is primarily intended for development of Small Houses by indigenous villagers. The occupation of the Site for parking of private vehicles is not in line with the planning intention of the "V" zone. No strong planning justification has been given in the submission for a departure from the planning intention even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.

14.3 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.

15. Attachments

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| Appendix I | Application Form received on 14.8.2018 |
| Appendix Ia | Planning Statement |
| Appendix Ib | Further Information received on 21.9.2018 providing responses to comments of C for T |
| Appendix Ic | Further Information received on 3.10.2018 providing responses to public comments |
| Appendix II | Similar applications within “V” zone on the approved San Tin OZP No. S/YL-ST/8 |
| Appendix III | Detailed departmental comments |
| Appendix IV | Public comments received during the statutory publication period |
| Appendix V | Recommended Advisory Clauses |
| Drawing A-1 | Layout Plan |
| Plan A-1 | Location Plan with Similar Applications |
| Plans A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and 4b | Site Photos |

**PLANNING DEPARTMENT
OCTOBER 2018**