

RNTPC Paper No. A/YL-KTN/584
For Consideration by
the Rural and New Town
Planning Committee
on 9.2.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/584

<u>Applicant</u>	: Mr. TANG Wai-Ip
<u>Site</u>	: Lot 1243 S.B RP (Part) in D.D. 109, Kong Tai Road, Kam Tin, Yuen Long
<u>Site Area</u>	: 1,640 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Temporary Public Car Park (Excluding Container Vehicle) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public car park (excluding container vehicle) for a period of 5 years. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ use is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). Part of the Site was the subject of a previous application No. A/YL-KTN/113 for temporary open storage of engineering materials which was rejected by the Rural and New Town Planning Committee (the Committee) on 16.6.2000. The Site is currently paved and vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed use involves a total of 37 private car parking spaces, 2 lorry parking spaces and a one-storey (2.74m high) container-converted structure with total floor area of 14.64m² for office use. The Site is accessible direct from Kong Tai Road. No vehicle exceed 5.5 tonnes will be entered to the Site. The proposed development will be operated 24 hours daily. The site 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 received on 14.12.2017 **(Appendix I)**
 - (b) Supplementary Information (SI) received on 21.12.2017 **(Appendix Ia)**
 - (c) Further Information (FI) received on 1.2.2018 clarifying the trip generation, width of ingress/egress and provide responses to public comments **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form and FI in **Appendices I and Ib**. They can be summarized as follows:

- (a) There is an increase in population and number of vehicles in the area. However, there is lack of car parking spaces which results in vehicles parking on the sidewalk causing adverse impact on traffic and the local residents. The trip generation indicated that the proposed car park will not induce extra traffic as the proposed development is mainly to serve the locals residents and villagers.
- (b) The proposed public car park could help address illegal parking problem and to improve the local traffic environment. There are proper drainage facilities at the Site and no flooding problem even during typhoons in past few years. Proper fire service installations meeting relevant requirements will also be provided. It is estimated that only small amount of vehicles will enter/exit the Site at midnight, and nuisance to villagers is unlikely.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by posting site notice and sending the notification letter 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 not subject to any active enforcement case.

5. Previous Application

Part of the Site was the subject of a previous application (No. A/YL-KTN/113) for temporary open storage of engineering materials submitted by a different applicant for a period of 3 years. The application was rejected by the Committee on 16.6.2000 for the reasons that the proposed development is not in line with the planning intention of the “V” zone and there is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; the development is not compatible with the village settlements of Cheung Kong Tsuen and Tai Kong Po Tsuen to its east; and approval of the application would set an undesirable precedent for other similar applications in the area and the cumulative effect of approving such similar applications would result in a general degradation of the environment of the area. Details of the previous application are summarized in **Appendix II** and the location of the Site is shown on **Plan A-1**.

6. Similar Application

There is no similar application for ‘public vehicle park (excluding container vehicle)’ within the same “V” zone on the OZP.

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

7.1 The Site is :

- (a) paved and vacant;
- (b) located to the west of Cheung Kong Tsuen and Tai Kong Po Tsuen; and
- (c) accessible via Kong Tai Road to the north.

7.2 The surrounding areas are rural in character predominated by residential dwellings/structures, storage yards, warehouse, plant nurseries, and vacant/unused land:

- (a) to its north across Kong Tai Road are open storage/storage yards and vacant/unused. Cheung Kong Tsuen is at its northeast;
- (b) to its east are residential dwellings/structures and vacant/unused land;

- (c) to its south are unused land, residential dwellings/structures, plant nurseries and a site with works in progress; and
- (d) to its west are some storage yards, residential dwellings/structures and unused land. A stream is located at its west. Across the stream are some residential dwellings/structures, warehouse and storage yards.

8. Planning Intention

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

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Scheduled Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible to Kong Tai Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.

- (d) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on-site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.
- (e) There is no Small House application approved or under processing within the Site.

Traffic

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

Noting that the proposed car park serves the existing traffic volume, he has no comment on the application from traffic engineering perspective. The following clauses should be included in the approval condition and advisory clause respectively:

- (i) No vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period.
- (ii) 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 Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD shall not be responsible for the maintenance of any existing access connecting the Site and public road. Kong Tai Road is not currently maintained by HyD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water running from the Site to nearby public roads/drains.

Environment

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

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

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

- (a) He has some reservations to the application from the landscape planning point of view.
- (b) Based on the aerial photo of 2017, the Site is located in an area of rural landscape character comprising mainly agricultural land, some hard paved areas, scattered temporary structures of various sizes, some village houses and scattered tree groups. Given the proposed public car park is of a size 1,640m², it was considered not entirely compatible with the existing landscape setting.
- (c) Her site record photos in January 2018 noted that the Site is partly fenced off and hard paved with a few vehicles in existence. No significant trees are found within the site boundary. Nevertheless, the layout of the proposal had not provided adequate planting area for peripheral tree planting to give screening purpose.
- (d) Should the application be approved, approval condition on submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Board should be included in the planning permission.

Nature Conservation

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

As the Site is located within “V” zone and is surrounded by village houses and temporary structures, he has no adverse comment on the application from nature conservation point of view.

Drainage

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

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

Building Matters

9.1.8 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 leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5 wide, its permitted development intensity shall be determined under the Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

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

- (a) He has no in-principle objection to the application 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.

Water Supply

9.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). A Waterworks Reserve within 1.5 metres from the centerline of the water mains shown on **Plan A-2** shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose.
- (c) The Water Authority and his officer and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority.
- (d) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on the **Plan A-2**.

- (e) The developer shall bear the cost of any necessary diversion works affected by the proposed development.
- (f) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.
- (g) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

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 comment from the locals on the application upon close of consultation and he has no particular comments on the application.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (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

10.1 On 22.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.1.2018, 5 public comments from Tai Kong Po Village Committee, Land Justice League, a local villager and two general public (**Appendices III-1 to III-5**) were received.

10.2 All of the public comments object the application mainly on the ground that the proposed car park will induce heavy traffic, generate adverse traffic, drainage and environmental impacts; the proposed car park will operate 24 hours daily that will cause nuisance to the nearby residents; there is no information on fire safety

measures; no strong planning justification is given for departure from the planning intention of the “V” zone; the proposed use is not compatible with the surrounding land uses which are predominately residential in nature; and parking should be accommodated underground, in high-rise facilities or on the ground floor of village houses; and setting an undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 This application is for a temporary public car park (excluding container vehicle) for a period of 5 years in “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. The proposed public car park is not entirely in line with the planning intention of “V” zone. However, according to the applicant, the development can satisfy some of the local parking demand. Besides, DLO/YL, LandsD advised that there is no Small House application approved or under processing within the Site. Temporary approval for 5 years of the application would not jeopardise the long-term planning intention of the “V” zone.
- 11.2 The surrounding areas are characterized by residential dwellings/structures, storage yards, warehouse, plant nurseries, and vacant/unused land. Relevant departments consulted including DEP, CE/MN of DSD, D of FS and C for T have no adverse comment on the application except CTP/UD&L of PlanD has some reservations on the application as the proposed car park was considered not entirely compatible with the existing landscape setting and the proposed layout had not provided adequate planting area for peripheral tree planting to give screening purpose. In this regard, an approval condition requiring submission and implementation of a landscape proposal as requested by CTP/UD&L of PlanD is recommended. To minimise the potential nuisance, approval conditions restricting vehicle type and prohibiting workshop activities are recommended in paragraph 12.2 (a) to (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP in order to alleviate any potential impact. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraph 12.2(c) to (k) below.
- 11.3 Five public objections against the application were received during the statutory publication period mainly on the grounds that the proposed car park will generate adverse traffic, drainage and environmental impacts; cause nuisances to the

nearby residents; no information on fire safety measures; no strong planning justification is given for departure from the planning intention of the “V” zone; the proposed use is not compatible with the surrounding land uses; and setting undesirable precedent. In this regards, concerned departments including DEP, C for T, CE/MN of DSD and D of FS have no adverse comments on the application. Also, the assessments and considerations 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 in paragraph 10 above, the Planning Department considers that the temporary public car park (excluding container vehicle) could be tolerated for a period of 5 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 9.2.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (b) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (f) the submission of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 9.8.2018;
- (g) in relation to (f) above, the implementation of landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 9.11.2018;
- (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 9.8.2018;
- (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 9.11.2018;
- (j) 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 9.8.2018;
- (k) in relation to (j) above, the provision of fire service installations within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.11.2018;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (e) 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;
- (m) if any of the above planning conditions (f), (g), (h), (i), (j) or (k) 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
- (n) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The advisory clauses are in **Appendix IV**.

- 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. No strong planning justification has been given in the submission to justify a departure from the 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 applicant.

14. Attachments

Appendix I	Application form with plans received on 14.12.2017
Appendix Ia	Supplementary Information received on 21.12.2017
Appendix Ib	FI received on 1.2.2018
Appendix II	Previous s.16 Applications covering the Application Site
Appendices III-1 to III-5	Public comments received during the statutory publication period
Appendix IV	Advisory clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with previous application

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2018**