

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-KTN/661

- Applicant** : Mission Hills Management Services Limited
- Site** : Lots 3316 RP (Part), 3331 RP (Part), 3337 RP, 3338 RP (Part), 3339, 3340 RP (Part) , 3341 RP (Part), 3342 (Part), 3343 to 3346, 3347 (Part), 3348 (Part), 3349 RP (Part), 3350, 3351 (Part), 3359 RP and 3360 RP in D.D.104 and Adjoining Government Land, Long Ha, San Tin, Yuen Long
- Site Area** : 4,000 m² (about) (including Government Land of about 220m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Comprehensive Development Area” (“CDA”)
[a maximum plot ratio of 0.4 and a maximum building height of 4 storeys]
- Application** : Renewal of Planning Approval for Temporary Private Car Park (Private Cars) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary private car park (private cars) for a period of 3 years. The Site is paved, fenced and currently used for the applied use covered by planning permission under Application No. A/YL-KTN/533 (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of eight previous applications for various temporary open storage and parking uses. The last Application No. A/YL-KTN/533 was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 12.8.2016. All the approval conditions have been complied with and the planning permission is valid until 12.8.2019.

- 1.3 According to the applicant, the Site is occupied by three structures with building height ranging from 2.5m to 4m and a total floor area of about 139.66m² for office, lavatories and electricity meter room. A total of 107 parking spaces for private cars are provided within the Site. The Site is accessible from San Tam Road via a local track. The operation hours are 24 hours daily. The layout plan, drainage plan, fire service installations (FSIs) plans and parking spaces plan submitted by the applicant are at **Drawings A-1 to A-3**.
- 1.4 The current application is same as the last approved application (No. A/YL-KTN/533) in terms of site area/boundary, number of parking spaces, total floor area and site layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with plans received on 30.4.2019 **(Appendix I)**
 - (b) Supplementary information (SI) submitted on 3.5.2019 **(Appendix Ia)**
 - (c) SI submitted on 6.5.2019 **(Appendix Ib)**
 - (d) Further Information (FI) received on 14.6.2019 **(Appendix Ic)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in part 8 of the Application Form and the FI in **Appendix I and Ic**. They can be summarized as follows:

- (a) All the approval conditions under the last approved application have been complied with.
- (b) The applied use is to facilitate club members to park their vehicles and transfer to Huanggang Port. The traffic congestion in the San Tin and Lok Ma Chau areas can be alleviated.

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. 31A) by posting site notice and sending notice to the San Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. **Background**

The Site is not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site was the subject of eight previous applications (No. A/YL-KTN/216, 233, 249, 291, 325, 385, 479 and 533) for various temporary open storage use and parking uses. Details of the previous applications are summarized in **Appendix III** and the locations are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-KTN/216 for temporary open storage of construction materials and construction machineries for a period of 3 years was rejected by the Town Planning Board (the Board) on review on 6.5.2005 mainly on the grounds that the development was not in line with the planning intention of the “CDA” zone; did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” in that no previous approval had been granted to the site and residential dwellings in the immediate east would be susceptible to adverse environmental nuisances; and insufficient information was provided to demonstrate that the development would not generate adverse environmental and traffic impacts.
- 6.3 Application No. A/YL-KTN/233 for temporary second-hand vehicles for sale was approved with conditions by the Board on review on 18.11.2005 for 1 year mainly for the reasons that the applicant had confirmed that no dismantling, repairing or paint spraying activities would be undertaken on site; the site was unsuitable for residential development in the interim due to presence of huge pylons and electric cables and it would take some time for the “CDA” to realize; the interface issue would be largely addressed by proposed mitigation measures; and there were supporting letters from local residents. However, the planning permission was revoked on 18.2.2006 due to non-compliance with approval condition.
- 6.4 Application No. A/YL-KTN/249 for temporary second-hand vehicles for sale and parking of private cars was approved with conditions by the Committee on 7.4.2006 for 1 year mainly for the reasons that the development was in line with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ in that there was previous approval granted on the site for temporary sale for second-hand vehicles; relevant approval conditions would be imposed to minimize adverse environmental impacts to the surrounding areas; and there was no known programme for implementation of the “CDA” zone.

- 6.5 Applications No. A/YL-KTN/291, 325, 385 and 479 for temporary private car park for a period of 3 years were approved with conditions by the Committee on 28.3.2008, 5.6.2009, 5.10.2012 and 18.9.2015 respectively mainly for the reasons that the approvals on temporary basis would not frustrate the planning intention of the “CDA” zone; the developments were not incompatible with the surrounding land uses; no adverse comment/objection from the relevant departments and/or public; and the departmental and public concerns on environmental impact could be addressed by appropriate approval conditions. However, the planning permissions for Applications No. A/YL-KTN/291 and 479 was revoked on 28.9.2008 and 6.1.2016 respectively due to non-compliance with approval conditions.
- 6.6 The last Application No. A/YL-KTN/533, submitted by the same applicant for the same use as the current application was approved with conditions by the Committee on 12.8.2016 mainly for the reasons as mentioned in paragraph 6.5 above. All approval conditions including those related to the submission of existing drainage record and the submission and implementation of fire services installations proposals have been complied with. The planning permission is valid until 12.8.2019.

7. **Similar Applications**

- 7.1 There are five similar applications (No. A/YL-KTN/292, 326, 393, 492 and 634) for temporary private car park for a period of 3 years to the north of the Site within the same “CDA” zone on the OZP. Details of the applications are summarized in **Appendix IV** and the location of the sites is shown on **Plan A-1a**.
- 7.2 All the applications were approved with conditions by the Committee on 28.3.2008, 5.6.2009, 2.12.2012, 9.10.2015 and 16.11.2018 respectively mainly for the reasons that the approvals on temporary basis would not frustrate the planning intention of the “CDA” zone; the developments were not incompatible with the surrounding land uses; previous approval(s) were given (except Application No. A/YL-KTN/292); no adverse comment/objection from the relevant departments and/or public had been received; and the departmental and public concerns could be addressed by appropriate approval conditions. However, the planning permission for Application No. A/YL-KTN/292 was revoked on 28.9.2008 due to non-compliance with approval conditions.

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

- 8.1 The Site is:
- (a) paved, fenced and currently used for the applied use under valid planning permission; and
 - (b) accessible from San Tam Road via a local track.

- 8.2 The surrounding areas are predominately rural in character mixed with an open storage yard, a warehouse, a workshop, residential structures/dwellings, cultivated agricultural land, a plant nursery and vacant/unused land. The open storage yard, warehouse and workshop are suspected unauthorized developments subject to enforcement action by the Planning Authority:
- (a) to its west is unused land, San Tam Road and San Tin Highway;
 - (b) to its north across a local track are a piece of land with planning permission for private car park (Application No. A/YL-KTN/634), an open storage yard, a workshop, cultivated agricultural land and vacant/unused land;
 - (c) to its east are residential structures/dwellings (the nearest being 5m away) and a warehouse; and
 - (d) to its immediate south is a Waterworks Reserve (**Plan A-2**). To its further south are a plant nursery, a pylon and cultivated agricultural land.

9. **Planning Intention**

The “CDA” zone is intended primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

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):

- (a) The Site comprises 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 private land (PL) of Lot Nos. 3342 and 3343 in D.D. 104 are covered by Short Term Waiver (STW) No. 1184 permits structures for the purposes of ‘Furniture and Iron Workshop and Temporary Private Car Park (Private Cars)’.

- (c) The Government Land (GL) of the Site is covered by Short Term Tenancy (STT) No.2869 for the purpose of 'Temporary Private Car Park (Private Cars)'.
- (d) The Site is accessible from San Tam Road through both GL and PL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the application, the STT/STW holders will need to apply to his office for modification of the STT/STW conditions where appropriate. Moreover, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such applications will be approved. If such application 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.

Traffic

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

- (a) He has no comment on the renewal application.
- (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.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and San Tam Road.

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

- (a) He has no objection in principle to the application from railway development point of view, provided that the applicant is satisfied with the surrounding condition of nuisance taking into account the future construction, operation and maintenance of the proposed Northern Link (NOL).
- (b) The applicant should be reminded that the Site falls within the area of influence (AOI) of the proposed NOL. Although the programme and the alignment of the proposed NOL are still under review, those areas within the AOI may be subject to nuisance, such as noise and vibration of the proposed NOL.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Landscape

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

- (a) She has no objection to the application from the landscape planning point of view.
- (b) The Site is the subject of eight previous applications, and she had no objection to the last application (No. A/YL-KTN/533) which was approved with conditions on 12.8.2016.
- (c) With reference to the aerial photo taken in 2018, the surrounding area is comprised of temporary structures, vacant land, farmland, carparks and scattered tree groups. The

applied use is not incompatible with the landscape setting in proximity.

- (d) According to the site visit conducted on 16.5.2019, existing trees within the Site were in fair to very good conditions. Further significant adverse landscape impact arising from the continued uses of private car park is not anticipated.
- (e) In consideration that the Site is not located within landscape sensitive areas and there is no prominent public frontage around the Site, should the application be approved, landscape condition is not recommended as its effect on enhancing the quality of public realm is not apparent.
- (f) The applicant is reminded that any proposed tree works should be approved by the relevant tree authority prior to the commencement of works.

Nature Conservation

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

She has no comment on the application from the nature conservation point of view noting that the site has been paved and used for same purpose for some time.

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 development.
- (b) Presumably, the applicant would maintain the same drainage facilities as those implemented under previous Application No. A/YL-KTN/533. The applicant should inform the Government if the drainage arrangement has been changed.
- (c) Should the application be approved, conditions requiring the applicant to maintain the drainage facilities implemented under Application No. A/YL-KTN/533 and to submit records of the existing drainage facilities on the Site should be included in the planning permission.

Fire Safety

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

- (a) He has no in-principle objection to the proposal subject to FSIs being provided to his satisfaction.

- (b) The submitted FSIs proposal is considered acceptable to his department. The applicant should be advised that the installation/ maintenance/ modification/ repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him.
- (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

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the applied use.
- (b) 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 BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) If the existing structures (not being New Territories Exempted Houses) are erected on leased land without the approval of the BD, they are UBW under the BO and should not be designated for any proposed use under the application.
- (d) For UBW erected on leased land, enforcement action may be taken by 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.
- (e) 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.
- (f) 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.

Water Supply

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

- (a) He has no objection to the development.
- (b) The southern boundary of the Site encroaches upon the existing Waterworks Reserve (WWR) for 2 nos. trunk water mains of 1,400mm diameter (**Plan A-2**).
- (c) No structure shall be erected over this WWR and such area shall not be used for storage or car-parking purposes.
- (d) The Water Authority and his officers, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorize.
- (e) 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.

District Officer's Comments

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

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

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

- (a) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 7.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 28.5.2019, one public comment was received from an individual (**Appendix V**). The commenter objects to the application mainly on the grounds that the applied use is an inefficient land use and parking should be accommodated in stacked facilities.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission for temporary private car park (private cars) within the “CDA” zone for a period of 3 years. The planning intention of the “CDA” zone is primarily for comprehensive development/ redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. Although the proposed private car park is not in line with the planning intention of the “CDA” zone, there is no known development programme to implement the “CDA” zone. It is considered that approval of the application on a temporary basis of 3 years would not frustrate the long-term planning intention of the “CDA” zone.
- 12.2 The development is considered not incompatible with the surrounding land uses which is predominately rural in character mixed with an open storage yard, a warehouse, a workshop, residential structures/dwellings, agricultural land, a plant nursery and vacant/unused land.
- 12.3 The application is considered in line with the TPB PG-No. 34C in that previous approvals of the same use at the Site have been granted and all the approval conditions of the last application (No. A/YL-KTN/533) have been complied with. Compared with the last application, the current application submitted by the same applicant is the same in terms of site area/boundary, number of parking spaces, total floor area and site layout. As there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application.
- 12.4 Relevant government departments consulted including DEP, C for T, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, an approval condition requiring maintenance of mitigation measures is recommended in paragraph 13.2 (c) 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”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (b) and (d) to (f) below.
- 12.5 One public comment objecting to the application was received during the statutory publication period mainly on the grounds that the applied use is an inefficient land use. In this regard, approval of the application on a temporary basis would not frustrate the long-term planning intention. The departmental comments and planning considerations and assessments as stated above are also relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the temporary private car park (private cars) 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, and be renewed from 13.8.2019 until 12.8.2022. 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) all existing mitigation measures to minimize any possible nuisance of noise and artificial lighting on-site to the residents nearby shall be maintained at all times during the planning approval period;
- (d) the existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.11.2019;
- (f) the implementation of the accepted fire services installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.2.2020;
- (g) 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; and
- (h) if any of the above planning conditions (e) or (f) 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.

[The above approval conditions are similar to those under the planning permission for previous Application No. A/YL-KTN/533, except the landscape conditions are no longer required based on CTP/UD&L, PlanD's comments.]

Advisory Clauses

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

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

The proposed development is not in line with the planning intention of the "CDA" zone which is intended primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities. 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 renewal of the planning approval.
- 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 with plans received on 30.4.2019 |
| Appendix Ia | SI submitted on 3.5.2019 |
| Appendix Ib | SI submitted on 6.5.2019 |
| Appendix Ic | FI received on 14.6.2019 |
| Appendix II | Relevant extract of Town Planning Board Guidelines for 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34C) |
| Appendix III | Previous applications covering the application site |

Appendix IV	Similar applications within the same “CDA” zone on the OZP
Appendix V	Public comment received during the statutory publication period
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Drawing A-3	Fire Service Installations Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2019**