

RNTPC Paper No. A/YL-PH/820  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 15.11.2019

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-PH/820**

- Applicant** : CHEUNG Cheong Wing and CHEUNG Shui On (Managers of Cheung Yuk Tsoi Tso)
- Site** : Lot 761 (Part) in D.D. 111, Sheung Che Tsuen, Pat Heung, Yuen Long
- Site Area** : 1,267.59 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”)  
[Maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Private Car Park for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek planning permission to use the application site (the Site) for temporary private car park for a period of 3 years. According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use within the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site was the subject of a previous planning application No. A/YL-PH/759 for the same applied use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 1.6.2018. However, the planning permission was revoked on 1.3.2019 due to non-compliance with approval condition. The Site is currently used for parking of vehicles without valid planning permission (**Plans A-2, A-4a and 4b**).
- 1.2 According to the applicants, a total of 33 private car parking spaces will be provided at the Site to serve the residents of Sheung Che Tsuen only. The operation hours will be 24 hours daily including public holidays. The site plan, drainage and fire services installation proposals and vehicular access submitted by the applicants are at **Drawings A-1 to A-4**.

- 1.3 Comparing with the previously approved application No. A/YL-PH/759, the current application is for the same use, with the same number of parking spaces and layout, but with a slightly increased site area (+47.6m<sup>2</sup> / +4%).
- 1.4 In support of the application, the applicants have submitted the following documents:
- (a) Application form with plans received on 18.9.2019 (Appendix I)
  - (b) Supplementary Information (SI) received on 24.9.2019 (Appendix Ia)
  - (c) Further Information (FI) received on 6.11.2019 and 8.11.2019 providing response to departmental comments  
(*exempted from publication*)

## 2. **Justifications from the Applicant**

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

The private car park only serves the residents of Sheung Che Tsuen. The applicants have completed the necessary works to fulfill the approval conditions of the previous approved planning application (No. A/YL-PH/759). However, the outstanding approval condition could not be discharged by the relevant government department before the expiry date, and planning permission was revoked. This necessitates the re-submission of the application. The applicant undertakes to comply with all the approval conditions by the expiry date should the application be approved.

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

Cheung Yuk Tsoi Tso (the applicants as the managers) is one of the “current land owner” 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 posting site notice and sending letter to Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Background**

The Site is subject to an on-going planning enforcement action (no. E/YL-PH/818) against an unauthorized development (UD) involving parking of vehicles. Enforcement Notice (EN) was issued on 13.8.2019 to the concerned parties requiring discontinuation

of the UD. As site inspection revealed that the UD still continued upon the expiry of the EN, prosecution action may follow.

## 5. Previous Application

- 5.1 The Site was involved in one previous application (No. A/YL-PH/759) for proposed temporary private car park for a period of 3 years submitted by the same applicant. Details of the application are summarized in **Appendix II** and the location of the site is shown on **Plan A-1**.
- 5.2 The application was approved with conditions by the Committee on 1.6.2018 mainly for the reasons that temporary approval would not jeopardize the long-term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding area; and relevant Government departments had no adverse comment. The approval conditions on submission and implementation of drainage proposal and submission of fire service installations have been complied with. However, the planning permission was revoked on 1.3.2019 due to non-compliance with approval condition related to the provision of fire service installations.

## 6. Similar Applications

- 6.1 There are a total of 7 similar applications for temporary car park in the same “V” zone (Nos. A/YL-PH/450, 473, 743, 747, 762, 769 and 794). Details of the applications are summarized in **Appendix III** and the location of the sites are shown on **Plan A-1**.
- 6.2 All the applications for temporary vehicle park for a period of 3 years were approved with conditions by the Committee between 1999 and 2019 mainly for similar reasons that the proposed carpark would serve the parking need of the local villagers in supporting the village type development; and the relevant departments had no major adverse comment on the applications. However, application Nos. A/YL-PH/450, 473, 743, 747 and 762 were revoked due to non-compliance of approval conditions.

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

- 7.1 The Site is:
- (a) paved and used for parking of vehicles without valid planning permission; and
  - (b) accessible via a local track branching off Fan Kam Road to its east (**Plan A-2**).

7.2 The surrounding areas are generally rural in character with residential structures / dwellings, parking of vehicles, basketball court and vacant/unused land (**Plan A-2**):

- (a) to its immediate east are a basketball court, residential dwellings/structures, parking of vehicles and vacant land. Fan Kam Road is located to the further east;
- (b) to its immediate south and west are vacant land and a stream course. To the further south and west are residential dwellings/structures and vacant land; and
- (c) to its north are residential dwellings/structures, parking of vehicles and unused land.

## **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 the 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 Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible from Fan Kam Road via Government Land (GL) and private land. His office provides no maintenance

work for the GL involved and does not guarantee any right-of-way over the GL to the Site.

- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures 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 the 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 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 LandsD.
- (e) There is no small house application approved and under processing within 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, 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 which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD is not / shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road drains.

**Environment**

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

- (a) There was no environmental complaint covering the Site received in the past 3 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.

**Nature Conservation**

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

- (a) Noting that the Site has been paved and used for similar uses for some years, he has no strong view against the application from nature conservation perspective.
- (b) Nevertheless, a watercourse is located to the west of the Site. Should the application be approved, the applicants are advised to avoid disturbing and polluting the nearby watercourse during operation.

**Drainage**

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

- (a) There is a natural stream running at the west of the development. The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
- (b) Should the application be approved, approval conditions requiring the submission of drainage proposal including

proposal to not adversely affect the watercourse and implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

### **Fire Safety**

#### 9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) Based on the understanding that the Site does not encroach upon the Emergency Vehicular Access (EVA), he has no in principle objection 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 applicants are 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.

### **District Officer's Comments**

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

He has not received any comments from locals upon close of consultation on the application and has no particular comments on the application.

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

- (a) Chief Engineer / Construction, Water Supplies Department;
- (b) Project Manager (West), West Development Office, Civil Engineering and Development Department;
- (c) Director of Electrical and Mechanical Services;
- (d) Chief Building Surveyor / New Territories West, Buildings Department;  
and
- (e) Commissioner of Police.

## **10. Public Comments Received During Statutory Publication Period**

- 10.1 On 27.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments from an indigenous inhabitant of Sheung Che Village and individuals were received (**Appendices IV-1 to IV-3**).
- 10.2 The comments object to the application mainly on the grounds that the subject lot is an agricultural lot that restricts the construction of vehicular access; nearby EVA and the maintenance access of public utilities (such as water supply, fire services installations, electric cables and drainage facilities) will be adversely affected; other Tso Tong members and stakeholders have not been consulted and agreed on the proposal; the approval condition of the previous planning permission was not complied with; and the proposed development will degrade the countryside environment.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary private car park for a period of 3 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. The applied use is not entirely in line with the planning intention of “V” zone. Nevertheless, DLO/YL of LandsD advises that there is no Small House application approved and under processing at the Site. Also, according to the applicant, the proposed private car park is to serve the residents of Sheung Che Tsuen. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The applied use is considered not incompatible with the surrounding areas which are generally rural in character with residential structures / dwellings, parking of vehicles, and vacant/unused land.
- 11.3 The temporary private car park without any structures would unlikely cause significant environmental, traffic and drainage impacts. Relevant departments consulted including DEP, CE/C of WSD, CE/MN of DSD, D of FS and C for T have no adverse comment on the application. To minimise any potential nuisance, approval conditions prohibiting medium or heavy goods vehicles are recommended in paragraphs 12.2 (a) to (d) 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 applicants 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 paragraphs 12.2(e) to (j) below.

- 11.4 The Site is subject to a previous planning application (No. A/YL-PH/759) for the same use and submitted by the same applicants. Approval conditions on the submission and implementation of drainage proposal and submission of FSI proposal have been complied with. However, the permission was revoked due to non-compliance with the approval condition on implementation of FSI proposal. In the current application, the applicants submitted drainage and FSI proposals and undertake to comply with the conditions should the application be approved. CE/MN, DSD and D of FS have no in-principle objection to the application. As there is no major change in planning circumstances since the last approval, sympathetic consideration may be given to the current application. Shorter compliance periods are proposed to closely monitor the progress of compliance should the Committee decide to approve the current application. Should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given by the Committee to any further application.
- 11.5 There are 7 similar applications for temporary car park use within the same “V” zone approved with conditions by the Committee from 1999 to 2019 as stated in paragraph 6.2 above. Approving the current application is in line with the Committee’s previous decisions on these similar applications.
- 11.6 Three public comments objecting to the application were received during the statutory publication period as stated in paragraph 10 above. In this regard, the departmental comments as well as planning considerations and assessments as stated above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department has no objection to the temporary private car park for a period of 3 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 3 years until 15.11.2022. The following conditions of approval with shorter compliance periods and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are

allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;

- (b) 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;
- (c) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of drainage proposal including proposal to not adversely affect the watercourse to the west of the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.2.2020;
- (f) in relation to (e) above, the implementation of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.5.2020;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.2.2020;
- (i) in relation to (h) above, the implementation of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.5.2020;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if any of the above planning condition (e), (f), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

### 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**

<b>Appendix I</b>	Application form with plans received on 18.9.2019
<b>Appendix Ia</b>	SI received on 24.9.2019, enclosing replacement pages and updated development parameter
<b>Appendix Ib</b>	FI received on 6.11.2019 and 8.11.2019 providing response to departmental comments
<b>Appendix II</b>	Previous application covering the Site
<b>Appendix III</b>	Similar applications within the same "V" zone of the Site on the Pat Heung OZP
<b>Appendices IV-1 to IV-3</b>	Public comments received during the statutory publication period

<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Drainage Proposal
<b>Drainage A-3</b>	FSI Proposal
<b>Drawing A-4</b>	Access Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2019**