

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/267

<u>Applicant</u>	Mr. LAI Chuen Lai by R-riches Property Consultants Limited
<u>Site</u>	Lot 911 RP (Part) in D.D.114, Shek Kong, Yuen Long
<u>Site Area</u>	About 356m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	“Village Type Development” (“V”) [restricted to maximum building height of 3 storeys (8.23m)]
<u>Application</u>	Proposed Temporary Public Vehicle Park (Private Cars Only) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary public vehicle park (private cars only) at the application site (the Site) for a period of 3 years. The Site falls within an area zoned “V” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use within “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and paved.
- 1.2 According to the applicant, the Site is about 356m². A total of four private car parking spaces with a single-storey structure (of about 3.5m high) for ancillary office (18m²) are proposed at the Site (**Drawing A-1**). Currently, there is no vehicular access to the Site. The applicant proposes a vehicular run-in/out, which is on Government land, via Nam Hing East Road connecting with Kam Sheung Road (**Plan A-2**). There are no trees within the Site and the proposed run-in/out area. No tree felling is therefore necessitated. The operation hours will be 24 hours daily, including public holidays. The 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 with attachments received on 19.9.2019 **(Appendix I)**
- (b) Further Information (FI) dated 4.11.2019 **(Appendix Ia)**
(exempted from publication requirement)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia**, and are briefly summarized as follows:

- (a) The proposed development is on a temporary basis for a period of 3 years and therefore will not jeopardize the long-term planning intention of the “V” zone. Upon the expiry of the planning permission, the Site will be reinstated to an amenity area.
- (b) There is one similar application (No. A/YL-SK/231) for ‘proposed temporary public vehicle park (private car only)’ use within the same “V” zone approved by the Board, and approval of this application would not set an undesirable precedent.
- (c) The proposed development is intended to meet the demand of neighbouring residents for car parking spaces to resolve illegal parking problem along Nam Hing East Road. There will be one on-site staff responsible for carpark operations. Besides, adequate space for manoeuvring of vehicles will be provided at the Site to avoid queuing of vehicles onto the local track outside the Site.
- (d) Currently, there is no vehicular access to the Site. The applicant proposes a vehicular run-in/out via Nam Hing East Road connecting with Kam Sheung Road. Only private cars are allowed to park at the Site. The applicant is committed to submitting a run-in/out proposal upon obtaining the planning approval from the Board.
- (e) The applicant would follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department in order to minimize any possible environmental nuisances to the surrounding areas. Besides, the applicant is committed to submitting and implementing the landscape proposal, drainage proposal and fire service installations proposal upon obtaining the planning approval from the Board.

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

The applicant is not the current land owner but has complied with the requirements as set out in the Town Planning Board (TPB) 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 at the Site and sending notice to Pat Heung Rural Committee by local registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not subject to any outstanding planning enforcement case.

5. **Previous Application**

There is no previous application in respect of the Site.

6. **Similar Applications**

6.1 There are five similar applications within the same “V” zone on the OZP. Details of these applications are summarized at **Appendix II** and their locations are shown in **Plan A-1**.

6.2 All five applications (Nos. A/YL-SK/37, 155, 177, 212 and 231) for various temporary car park for a period of 3 or 5 years were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1997 and 2018 mainly on the considerations that the applied use could meet some of the local parking demand; the site was not subject to Small House application; the granting of the temporary permission would not frustrate the long-term planning intention of the “V” zone; the development was not incompatible with the surrounding areas; Government departments consulted had no major adverse comment on the application; and approval conditions could be imposed to address the concerns of the concerned departments. However, Applications Nos. A/YL-SK/155 and 212 were revoked in 2010 and 2017 due to non-compliance of approval conditions in relation to the submission and/or implementation of landscaping, drainage and fire service installations.

7. **The Site and Its Surrounding Areas** (Plans A-1, A-2 and photos on Plans A-3 and A-4)

7.1 The Site is:

- (a) vacant, paved and gently flat; and
- (b) without vehicular access. A vehicular run-in/out is proposed via Nam Hing East Road connecting with Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character with a cluster of domestic dwellings/structures:

- (a) to its north, northwest and northeast are domestic dwellings/structures intermixed with active/fallow farmland, vacant land and storage use, and
- (b) to its south is Nam Hing East Road and a nullah, and to its further south, southwest and southeast are domestic dwellings/structures intermixed with fallow farmland and a wood factory.

8. Planning Intention

The planning intention of “V” zone is primarily 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 the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the “V” 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. 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 of LandsD):

- (a) the Site comprises an Old Schedule 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 Nam Hing East Road via Government Land (GL). 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 the Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed relevant airfield height limit within the SKAHRA;
- (d) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, 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(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD; and

- (e) there is no Small House application approved or currently under processing at the Site.

Traffic

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

- (a) he has no comment on the application from traffic engineering perspective, having regard to the applicant's further information on the proposed run-in/out, justifications for the parking demand, as well as the manoeuvring arrangement (**Appendix Ia**);
- (b) should the application be approved, an approval condition stating that 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; and
- (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 (TD). The land status of the local access road should be checked with 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/New Territories West, Highways Department (CHE/NTW of HyD):

- (a) HyD is not and will not be responsible for the maintenance of any access connecting the Site with Nam Hing East Road;
- (b) the applicant should provide the proposed run-in/out at Nam Hing East Road in accordance with the latest version of Highways Standard Drawings No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement; and
- (c) 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) should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites"; and
- (b) there is no substantiated environmental complaint received by DEP in the past three years.

Drainage

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

- (a) he has no objection in-principle to the proposed development; and
- (b) should the application be approved, the conditions requiring the submission of a drainage proposal and the 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 in the planning approval.

Building Matters

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

- (a) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) 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 coordinator for the proposed building works in accordance with the BO;
- (b) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's prevailing 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 respectively; and
- (d) the Site does not abut on a specified street of not less than 4.5m wide, and its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

Fire Safety

9.1.7 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 being provided to his satisfaction;

- (b) in consideration of the design/nature of the proposal, fire service installations are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations 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 fire service installations to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

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

9.2 The following Government departments have no objection to/adverse comment on the application.

- (a) Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L of PlanD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C of WSD);
- (c) Project Manager/West, Civil Engineering and Development Department (PM/W of CEDD);
- (d) Commissioner of Police (C of P); and
- (e) Director of Electrical and Mechanical Service (DEMS).

10. Public Comments Received During Statutory Publication Period

On 27.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 18.10.2019, a total of five public comments were received (**Appendix III**). Of which, four members of public support the proposed development as parking spaces in the village neighbourhood and along Nam Hing East Road are not adequate. One member of public object to the application, considering that the Site is covered by vegetation and trees and it is suspected that the subject application is a 'destroy-to-build' application.

11. Planning Considerations and Assessment

11.1 The application is for proposed temporary public vehicle park (private cars only) at the Site for a period of 3 years. According to the applicant, there are a total of four private car parking spaces provided at the Site to serve the need of neighbouring residents. The Site falls within an area zoned "V" on the approved Shek Kong OZP

No. S/YL-SK/9 (**Plan A-1**). The public vehicle park use is not entirely in line with the planning intention of “V” zone, which is primarily 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 the zone is primarily intended for development of Small Houses by indigenous villagers. Nevertheless, DLO/YL of LandsD advised that there is no Small House application approved or currently under processing at the Site. 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.

- 11.2 In view of its small scale, the temporary public vehicle park with a single-storey structure (of about 3.5m high) for ancillary office on site is not incompatible with the surrounding land uses which are mainly a cluster of domestic dwellings/structures intermixed with active/fallow farmland, vacant land, wood factory and storage use (**Plan A-2**). Relevant departments consulted including C for T, DEP, CE/MN, DSD and CTP/UD&L of PlanD have no objection to/no adverse comment on the application from traffic, environmental, drainage and landscape aspects. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. To mitigate potential traffic and environmental impacts on the surrounding areas, approval conditions restricting the type of vehicles entering the Site and prohibiting dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities within the Site 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. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (e) to (l) below. The applicant would also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP. In addition, there is no substantiated environmental complaint received by DEP in the past three years.
- 11.3 There are five similar applications (Nos. A/YL-SK/37, 155, 177, 212 and 231) within the same “V” zone on the OZP, and all of them were approved by the Committee between 1997 and 2018 mainly on the grounds that the applied use could meet some of the local parking demand; the site was not subject to Small House application; it would not frustrate the long-term planning intention of the “V” zone; the development was not incompatible with the surrounding areas; and Government departments had no adverse comment on the application. The said considerations are generally applicable to the subject application and approval of the application is in line with the previous decision of the Committee on the similar applications.
- 11.4 Regarding the public objections/concerns as stated in paragraph 10, the departmental comments, and planning considerations and assessments as stated in paragraphs 11.1 to 11.3 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

application.

- 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 and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) only private cars as defined in the Road Traffic Ordinance and its subsidiary regulations, as proposed by the applicant, are allowed to enter/be parked on the Site at all times during the planning approval period;
- (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 shall be posted at a prominent location of the Site at all times to indicate that only private cars as defined in the Road Traffic Ordinance and its subsidiary regulations are allowed to enter/be parked on the Site during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time 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 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 implementation of drainage proposal with 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.8.2020;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of proposal for fire service installations and water supplies for fire-fighting 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) in relation to (i) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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 15.8.2020;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) is not

complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice; and

- (l) if any of the above planning conditions (f), (g), (i) or (j) 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 IV**.

- 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 “V” zone which is primarily 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 the “V” 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 attachments received on 19.9.2019
Appendix Ia	Further Information (FI) dated 4.11.2019
Appendix II	Similar Applications
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Swept Path Analysis
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**