

RNTPC Paper No. A/YL-ST/559
For Consideration by
the Rural and New Town
Planning Committee
on 15.11.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/559

- Applicant** : Smart Union Motors (Asia) Company Limited represented by Top Bright Consultants Limited
- Site** : Lots 737 RP (Part), 738 RP (Part), 741 (Part), 742 RP (Part) and 744 RP (Part) in D.D. 99 and Adjoining Government Land (GL), San Tin, Yuen Long, New Territories
- Site Area** : About 4,179 m² (including GL of about 199 m²)
- Lease** : Block Government Lease (demised for agricultural use) (no structures are allowed to be erected without prior approval of the Government)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Other Specified Uses” annotated “Service Stations” (“OU(SS)”)
- Application** : Temporary Shop and Services (Motor Vehicle Showroom) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (motor vehicle showroom) for a period of 3 years (**Plan A-1a**). According to the Notes for the “OU(SS)” zone of the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for parking/storage of vehicles without valid planning permission.
- 1.2 According to the applicant, the application is to facilitate a trading business of used private vehicles to local villagers and visitors. As shown on the layout plan and site plan at **Drawing A-1** and **Plan A-2**, the Site is accessible from Tung Wing On Road leading to Castle Peak Road – San Tin via a local track. The major development parameters are summarised as follows:

Site Area	About 4,179m ²
Total GFA	About 1,610m ²

No. of Structure	10 structures (motor vehicle display tent) 10 structures (ancillary sales office)
No. of Storeys	1 storey
Building Height	2.4m – 3m
Site Coverage	About 38.5%
No. of Private Car Parking Spaces	6
Operation Hours	8:00a.m. to 8:00p.m. daily

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 23.9.2019 **(Appendix I)**
- (b) Planning Statement **(Appendix Ia)**
- (c) Further Information (FI) received on 4.11.2019 **(Appendix Ib)** providing responses to departmental comments

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in section 6 of the Planning Statement at **Appendix Ia**. They can be summarised as follows:

- (a) The development would facilitate a trading business of used private vehicles to local villagers and visitors. The use is on temporary basis and will not pre-empt the original planning intention of the “OU(SS)” zone, and is compatible with village houses.
- (b) There are limited areas designated for the provision of services for second hand vehicles in the San Tin area and the proposed development offers a temporary solution to meet the demand for the sale of second hand vehicles.
- (c) Planning applications for similar temporary cross-boundary traffic services station uses had been approved in “OU(SS)” zone in the past years.
- (d) No adverse traffic, environmental, visual and drainage impacts are envisaged.

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

The applicant is not a “current land owner” of the private lots within the Site 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 post. Detailed information would be

deposited at the meeting for Members' inspection. The remaining part of the Site is GL, and the "owner's consent/notification" requirements are not applicable.

4. Town Planning Board Guidelines

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

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

5. Background

The Site is subject to planning enforcement action against unauthorized development (UD) involving storage use (including deposit of containers) and use for place for parking of vehicles. Enforcement Notice was issued on 13.8.2019 requiring discontinuation of the UD. Latest site inspection revealed that the UD still continued upon expiry of the notice. Prosecution action may be followed.

6. Previous Applications

- 6.1 The Site is the subject of 4 previous applications (No. A/YL-ST/36, 192, 262 and 445) covering much larger sites for temporary cross-boundary traffic service station use with 2 approved and 2 rejected (**Plan A-1b**). Only a minor portion of the Site is covered by Application No. A/YL-ST/36.
- 6.2 Applications No. A/YL-ST/36 and 445 were approved by the Committee for a period of 3 years on 19.9.1997 and 26.9.2014 respectively mainly on the consideration that the development would provide supporting service facilities for the cross-boundary traffic and the container related facilities in the area, the developments were not incompatible with the surrounding land uses; and the development will not have adverse impacts on the surroundings and negative off-site disturbance impacts on the ecological value of fish ponds nearby. However, the permission of Application No. A/YL-ST/445 was revoked on 26.12.2015.

- 6.3 Applications No. A/YL-ST/192 and 262 were rejected by the Committee on 15.3.2002 and 14.5.2004 respectively mainly for the reasons that there was insufficient information in the submission to demonstrate that due regard had been given to minimize the adverse impacts of the development including drainage, traffic, sewerage, environment and ecology on the surroundings in particular the Mai Po Nature Reserve.
- 6.4 Details of these applications are summarised at **Appendix II**. Their locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 There are 5 applications for similar shop and services and commercial uses covering 2 sites within the same “OU(SS)” zone on the OZP. All the applications were approved by the Committee.

Temporary cross-boundary shopping centre

- 7.2 Application No. A/YL-ST/476 and its renewal application No. A/YL-ST/529 for proposed temporary cross-boundary shopping centre with ancillary car park, eating place, shop and services (fast food shop), office and storage of consumer goods were approved with conditions by the Committee on 18.9.2015 and 7.9.2018 respectively for a period of 3 years mainly on the consideration that approval of the application at the Site on a temporary basis would not frustrate the long-term planning intention of the “OU(SS)” zone; the proposed development was not incompatible with the surrounding areas; and the development would unlikely have significant off-site negative impact on the ecological value of the WCA and would not cause adverse impact on the surrounding areas.

Proposed commercial development

- 7.3 Application No. A/YL-ST/503 on the same site as Applications No. A/YL-ST/476 and 529 in the preceding paragraph for proposed commercial development (eating place, place of entertainment, shop and services) with minor relaxation of height restriction and excavation of land was approved with conditions by the Committee on 26.1.2018 mainly on the consideration that the proposed development was generally in line with the planning intention for the “OU(SS)” zone; concerned departments have no objection to the application; the proposed building form and building height were considered compatible with the surrounding areas.

Proposed temporary shop and services

- 7.4 Applications No. A/YL-ST/480 and 533 for temporary shop and services covering the same site were approved by the Committee on 19.2.2016 and 21.12.2018 respectively for a period of 3 years, mainly on the consideration that the proposed developments were considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “OU(SS)” zone. Nevertheless, the planning permission of Application No. A/YL-ST/480 was revoked on 19.7.2018.

- 7.5 Details of these applications are summarised at **Appendix III**. Their locations are

shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) currently used for parking/storage of vehicles without valid planning permission;
- (b) accessible from Tung Wing On Road leading to Castle Peak Road – San Tin via a local track; and
- (c) located within the WBA.

8.2 The surrounding areas are predominated by vehicle parks, vacant land, temporary cross-boundary shopping centre and village areas.

- (a) to its north are San Tin Tsuen Road and unused land;
- (b) to its east is the Boxes, a temporary cross-boundary shopping centre with ancillary uses approved under Application No. A/YL-ST/529; and
- (c) to its south and further southeast are vehicle parks approved under Applications No. A/YL-ST/531 and 536, village houses of Tung Chan Wai and Wing Ping Tsuen and vacant land.

9. Planning Intention

9.1 The “OU(SS)” zone is intended primarily to provide support service facilities such as eating places, petrol filling stations, etc. for the cross-boundary traffic and the container related facilities nearby.

9.2 According to the Explanatory Statement (ES) of the OZP, sites within the “OU(SS)” zone could be developed for commercial uses subject to planning permission of the Board. In order to have a better control of the impact of any development on drainage, traffic, sewerage, environment and ecology on the nearby extensive fish pond area, for those uses which require planning permission, the applicant has to prepare a layout plan and to demonstrate that due regard has been given to minimize the adverse impacts of the development on the surroundings in particular the Mai Po Nature Reserve and the contiguous fish pond areas.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises Old Schedule 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 of Lot No. 744 RP in D.D. 99 is covered by Short Term Waiver (STW) No. 4045 to permit structures for the purpose of 'Temporary Vehicle Park (including Container Vehicles), Container Storage Area, Storage of New Unlicensed Container Tractors, Storage of Construction Materials, Tyre Repair, Shop and Services (Sale of Container Vehicles and the Related Parts/Accessories), Vehicle Repair and Services and Ancillary Offices'.
- (c) No permission is given for occupation of GL of about 199m² in area (subject to verification) included in the Site. The occupation of GL without Government's prior approval is not allowed. With the implementation of the tightened arrangements for handling regularization applications, LandsD will no longer accept application for regularization of new or extension of unlawful occupation of GL or erection of new structures which is found commenced on or after 28 March 2017.
- (d) The Site is accessible from Tung Wing On Road through both GL and private land. This office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the application, the STW holders will need to apply to this office for modification of the STW conditions where appropriate. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Moreover, the lot owner(s) of the lot(s) without STW will need to apply to this office for permitting the structures to be erected or regularise any irregularity 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 lesser at its sole discretion and there is no guarantee that such applications will be approved. If such applications are 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) Further to the FI provided and considering that the traffic flow for the Site would be negligible, he has no adverse comment on the application from traffic engineering point of view.
- (b) The Site is connected to the public road network via a section of private lot(s) which is not managed by Transport Department (TD). As there is no information about the vehicular access at the private lot(s) to the concerned site, the applicant should arrange by themselves, if necessary, with the relevant lot owner(s) on the right of using the vehicular access.
- (c) Should the application be approved, the following condition should be incorporated:

No vehicle is allowed to queue back to or reverse onto/from the Site to the public road at any time during the planning approval period.

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

- (a) The access arrangement of the Site from Tung Wing On Road should be commented by TD;
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Tung Wing On Road. The relevant departments will provide their comments, if any.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water running from the Site to the nearby public roads or exclusive road drains.

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

- (a) The Site falls within the area of influence (AOI) of the possible long term extension of the proposed Northern Link (NOL) to Lok Ma Chau. NOL is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the

alignment of the proposed NOL are still under review, those areas within the AOI may be required to be vacated at the time for the construction of the NOL and subject to nuisances, such as noise and vibration of the proposed NOL.

- (b) He has no objection in principle to the application from the development point of view of the NOL, provided the applicant is satisfied with the nuisances taking into account the future construction, operation and maintenance of the NOL.

Environment

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

In accordance with the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he has no objection to the application.

Nature Conservation

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

He has no strong view on the application from nature conservation point of view noting the Site is paved and disturbed. Should the application be approved, the applicant is advised to adopt good site practices and implement water pollution measures as necessary in order to avoid affecting the nearby watercourse at the west of the Site.

Landscape

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

According to the aerial photo taken in 2018, there is no significant landscape resource within the Site. No significant landscape impact is envisaged.

Fire Safety

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

- (a) He has no objection in principle 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 applicant should also be advised on the following points:

- (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (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

10.1.9 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority 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.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the 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 (B(P)R) respectively.
- (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 B(P)R at the building plan submission stage.

Drainage

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

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

operation and maintenance point of view.

- (b) The last application No. A/YL-ST/445 with different site boundary was revoked on 26.12.2015. In this respect, the application would be processed as a new case. The applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his site. A clear drainage plan showing full details of the existing drains and the proposed drains with supporting design calculations and charts should be included.
- (c) After completion of the required drainage works, the applicant shall provide DSD a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan for reference.
- (d) His detailed comments are at **Appendix V**.

Others

10.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH):

If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

10.1.12 Comments of the District Officer/Yuen Long (DO/YL):

- (a) An objection letter from San Tin Rural Committee (STRC) was received during the consultation period (**Appendix IV**).
- (b) 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 objection to or comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Head of the Geotechnical Engineering Office (H(GEO)), CEDD;
- (d) Director of Electrical and Mechanical Services (DEMS);

- (e) Director of Leisure and Cultural Services (DLCS) ; and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. **Public Comment Received During Statutory Publication Period**

On 4.10.2019, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 25.10.2019, one objecting public comment was received from STRC (the same comment has been received by DO/YL) (**Appendix IV**) raising concerns that the proposed use will exacerbate the traffic congestion problem of Tung Wing On Road, and will cause air and noise pollution.

12. **Planning Considerations and Assessments**

- 12.1 The applicant seeks permission for temporary shop and services (motor vehicle showroom) use for a period of 3 years. The Site falls within the “OU(SS)” zone which is intended to provide support service facilities such as eating places, petrol filling stations, etc. for the cross-boundary traffic and the container related facilities nearby. According to the ES of the OZP, sites under the “OU(SS)” zone could be developed for commercial uses subject to planning permission of the Board. The proposed motor vehicle showroom is to provide a trading business of used private vehicles to local villagers and visitors. There is no known proposal for permanent development at this part of the “OU(SS)” zone. Approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “OU(SS)” zone. The proposed development is not incompatible with the surrounding uses which are predominated by vehicle parks, vacant land, temporary cross-boundary shopping centre and residential dwellings.
- 12.2 The Site falls within the WBA which is intended to protect the ecological integrity of the fish ponds and wetland within the WCA as stated in the TPB PG-No. 12C. DAFC has no strong view on the application from nature conservation point of view as the Site is paved and disturbed.
- 12.3 Other concerned Government departments, including DEP, C for T, D of FS, CTP/UD&L of PlanD and CE/MN of DSD have no objection to or no adverse comment on environmental, traffic, fire safety, landscape and drainage aspects respectively. To mitigate potential impacts on the surrounding areas and address technical concerns, approval conditions restricting the operation hours, prohibiting vehicular access, and requiring the submission and implementation of drainage and FSIs proposals, and the maintenance of the implemented drainage facilities are recommended in paragraphs 13.2 (a) to (g) below, should the application be approved. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized

development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

- 12.4 The Committee has approved 5 applications (Nos. A/YL-ST/476, 480, 503, 529 and 533) for similar shop and services and commercial uses within the same “OU(SS)” zone mainly on the considerations that the proposed developments were not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “OU(SS)” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.5 There is one public comment from the STRC raising concerns on traffic congestion and air and noise pollution problems. The planning assessments and departmental comments above are of relevance.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department has no objection to the application.
- 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 up to 15.11.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from the Site to the public road at any time during the planning approval period;
- (c) 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 15.5.2020;
- (d) in relation to (c) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.8.2020;
- (e) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.5.2020;

- (f) in relation to (e) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.8.2020;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) if any of the above planning condition (a), (b) 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
- (i) if any of the above planning condition (c), (d), (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.

Advisory Clauses

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

13.3 There is no apparent reason to reject the application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 23.9.2019
Appendix Ia	Planning Statement
Appendix Ib	Further Information received on 4.11.2019 providing responses to departmental comments
Appendix II	Previous applications covering the application site
Appendix III	Similar s.16 applications within the same “OU(SS)” zone on the San Tin Outline Zoning Plan No. S/YL-ST/8

Appendix IV	Public comment received during statutory publication period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**