

RNTPC Paper No. A/YL-PH/759B  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 1.6.2018

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

**APPLICATION NO. A/YL-PH/759**

- Applicant** : CHEUNG Cheong Wing, CHEUNG Kan Loi 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** : 1,220 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** : Proposed Temporary Private Car Park for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants sought 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)’ use is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is not subject to any previous application and is currently vacant (**Plans A-2 and A-4b**).
- 1.2 According to the applicants, a total of 33 private car parking spaces with dimension of 2.5m x 5m each will be provided within the Site for the use of Sheung Che Tsuen residents only. The operation hours will be 24 hours daily including public holiday. The site plan submitted by the applicant is at **Drawing A-1**.

- 1.3 In support of the application, the applicants have submitted the following documents:
- (a) Application form with plans received on 6.10.2017 (**Appendix I**)
  - (b) Further information (FI) received on 15.12.2017 in response to departmental comments (**Appendix Ia**)  
*(accepted and exempted from publication and recounting requirements)*
  - (c) FI received on 21.12.2017 in response to departmental comments (**Appendix Ib**)  
*(accepted and exempted from publication and recounting requirements)*
  - (d) FI received on 29.1.2018 in response to departmental comments (**Appendix Ic**)  
*(accepted and exempted from publication and recounting requirements)*
  - (e) FI received on 3.4.2018 in response to departmental comments (**Appendix Id**)  
*(accepted and exempted from publication and recounting requirements)*
  - (f) FI received on 25.4.2018 in response to departmental comments (**Appendix Ie**)  
*(accepted and exempted from publication and recounting requirements)*
  - (g) FI received on 4.5.2018 in response to departmental comments (**Appendix If**)  
*(accepted and exempted from publication and recounting requirements)*
- 1.4 As requested by the applicant, the Committee agreed to defer consideration of the application on 24.11.2017 and 9.2.2018 respectively to allow time for the applicants to address the departmental comments. After the respective deferral requests, the applicants submitted responses to departmental comments to support the application.

## 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** and **Ia**. They can be summarized as follows:

The proposed private car park only serves the residents of Sheung Che Tsuen. The proposed car park will not generate traffic impact as the car park will be properly managed and is intended to keep car parking spaces in order.

## 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. 31) 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 was subject to a planning enforcement action for parking of vehicles and storage use (including deposit of containers). Upon the discontinuance of the unauthorized development, Compliance Notice was issued to the concerned persons on 6.9.2017 under s.23(4A) of the Town Planning Ordinance. There is currently no enforcement action against the Site.

## 5. **Previous Application**

There is no previous application at the Site.

## 6. **Similar Applications**

6.1 There were a total of 7 similar applications for temporary car park in the same “V” zone (Nos. A/YL-PH/ 450, 473, 743, 747, 762 and 769) and opposite to the Site across Fan Kam Road in the adjoining “V” zone (No. A/YL-PH/291). Details of the applications are summarized in **Appendix II** and the location of the sites are shown on **Plan A-1**.

6.2 Applications No. A/YL-PH/291 for public car/lorry park and Nos. A/YL-PH/450, 473, 743, 747, 762 and 769 for proposed temporary vehicle park for a period of 3 years were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 27.8.1999, 7.11.2003, 27.8.2004, 11.8.2017, 28.7.2017, 22.12.2017 and 16.3.2018 respectively mainly for similar reasons that the proposed carpark would serve the parking need of the local

villager 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 and 743 were revoked on 7.8.2004, 29.10.2004 and 11.2.2018 due to non-compliance of approval conditions.

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

7.1 The Site is:

- (a) paved and vacant; 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 village settlements and 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 vacant land.

## **8. Planning Intention**

The planning intention of the “V” is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House. 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 to 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.
- (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 if any structure to be erected on site. Such application(s) will be considered by LandsD acting in the capacity as the landlord 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.
- (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):

He has no comment on the application from traffic engineering perspective. The following clauses should be included in the approval condition and advisory clause respectively:

- (i) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.
- (ii) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access

road should be checked with the 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 and shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

**Environment**

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

There was no environmental complaint received in the past 3 years. The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites” issued by DEP.

**Landscape**

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

- (a) He has no objection to the application from the landscape planning point of view.
- (b) According to the aerial photo taken in April 2017, the Site is situated in an area of rural landscape character. Some scattered vegetation, small houses, car parks and a basketball court are found in adjacent area. The application is seeking planning permission for temporary private vehicle park and no significant adverse landscape impact is envisaged.

**Nature Conservation**

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

- (a) Noting that the Site has been largely paved and is located in “V” zone, he has no strong view against the application from nature conservation point of view.
- (b) Nonetheless, site inspection revealed that there are some trees, including some native species, at the western and north-western part of the Site. In addition, a watercourse is also located at the western part of the Site. Should the application be approved, the applicants are advised to minimize impacts on the trees located at/in the vicinity of the Site, and avoid disturbing and polluting the nearby watercourse during operation.

### **Drainage**

9.1.7 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 proposed 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 not to adversely affect the watercourse and implementation and maintenance of the drainage proposal for the development should be included in the planning permission.

### **Water Supply**

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

- (a) He has no objection to the development.
- (b) Existing raw water mains will be affected. A Waterworks Reserve within 5 m from the centerline of the water mains (**Plan A-2**) shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose.
- (c) The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair

works. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority.

- (d) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown in **Plan A-2**.
- (e) The applicants shall bear the cost of any necessary diversion works affected by the proposed development.
- (f) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.
- (g) For provision of water supply to the development, the applicants may need to extend their inside services to the nearest suitable government water mains for connection. The applicants shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

### **Fire Safety**

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

- (a) Based on the understanding that the revised boundary submitted by the applicants will not encroach onto any planned or existing emergency vehicular access, 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.

### **Electricity**

#### 9.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):



- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with the planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and / or overhead line within and / or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

#### **District Officer’s Comments**

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

His office has not received any 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 Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Project Manager/New Territories West, Civil Engineering and Development Department (PM/NTW, CEDD); and
- (c) Commissioner of Police (C of P).

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

- 10.1 On 13.10.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.11.2017, five comments from Designing Hong Kong, Green Sense, an indigenous villager, residents of Sheung Che Tsuen and a general public (**Appendices III-1 to III-5**) were received.
- 10.2 The commenters object to the application mainly on the grounds that the proposed development is not in line with the planning intention and not

compatible with the surrounding; parking should be accommodated underground, in high-rise facilities or on the ground floor of village house; the application will either legitimize an illegal facility or create a new brownfield site; and approval of the application would set an undesirable precedent. Also, the Site is served as access and for maintenance of electricity, water supplies and public utilities, and the proposed development would affect the access and maintenance works. Moreover, one commenter states that the Site is under Block Government Lease for agricultural use and the current application for converting the Site into a building lot for construction of carpark would breach the covenants and lease; and the application should not be processed/approved as the land adjoining the Site is subject to land dispute and under investigation of conspiracy for building Small Houses.

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

- 11.1 This application is for proposed temporary private car park for a period of 3 years in “V” zone. The proposed use is not entirely in line with the planning intention of “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. 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 vehicle park is to serve the residents of Sheung Che Tsuen. Temporary approval for 3 years of the application would not jeopardise the long-term planning intention of the “V” zone.
- 11.2 The proposed use is considered not incompatible with surrounding area which are generally rural in character with village settlements and parking of vehicles, basketball court and vacant/unused land. Also, there are 7 similar applications for temporary car parking use within the same and adjoining “V” zone approved with conditions by the Committee from 1999 to 2018 mainly on the grounds 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. The approval of the application is in line with the previous decision of the Committee on similar applications.
- 11.3 Relevant departments consulted including DEP, DAFC, 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 and workshop activities 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 applicant will be advised to follow the relevant mitigation measures and

requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP in order to alleviate any potential impact. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2(e) to (j) below.

- 11.4 Five public objections against the application were received during the statutory publication period as stated in paragraph 10 above. In this regard, relevant departments consulted have no objection to the application. The planning assessments and considerations above are also 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 considers that the proposed temporary private car park could be tolerated 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 1.6.2021. The following conditions of approval 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out 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 a drainage proposal including proposal not to adversely affect the watercourse 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 1.12.2018;
- (g) in relation to (f) 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 1.3.2019;
- (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 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 1.12.2018;
- (j) in relation to (i) above, the provision of fire service installations within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.3.2019;
- (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 immediately without further notice;
- (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; and
- (m) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

#### 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 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 received on 6.10.2017
<b>Appendix Ia</b>	FI submitted on 15.12.2017
<b>Appendix Ib</b>	FI submitted on 21.12.2017
<b>Appendix Ic</b>	FI received on 29.1.2018
<b>Appendix Id</b>	FI received on 3.4.2018
<b>Appendix Ie</b>	FI received on 25.4.2018
<b>Appendix If</b>	FI received on 4.5.2018
<b>Appendix II</b>	Similar Applications within the same and adjoining “V” zone of the Site on the Pat Heung OZP
<b>Appendices III-1 to III-5</b>	Public comments received during the statutory publication period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan

<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  
JUNE 2018**