

RNTPC Paper No. A/YL-PH/777  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 4.5.2018

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

**APPLICATION NO. A/YL-PH/777**

- Applicant** : 黃何武 represented by Mr. CHENG Ka Cheung and Mr. CHONG Kim Wah
- Site** : Lot 1863 RP (Part) in D.D. 111 and Adjoining Government Land, Pat Heung, Yuen Long
- Site Area** : About 243 m<sup>2</sup> (Including about 213 m<sup>2</sup> of Government Land)
- Lease** : Block Government Lease (demised agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Open Storage” (“OS”) (78%)  
“Village Type Development” (“V”) (22%)  
[Maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Covered Vehicle Park (Private Cars and Light Goods Vehicles) 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 covered vehicle park (private cars and light goods vehicles) for a period of 3 years. Majority of the Site falls within “OS” zone and the remaining part is within “V” zone. The Site is not the subject of any previous application. It is currently partly vacant and partly occupied by an empty structure (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, a total of 5 private car parking spaces and 1 light goods vehicle parking space will be provided and will be covered by a shelter of 4m high. According to the applicant, the proposed carpark will be for private use. The operation hours are between 8:00 a.m. to 6:00p.m, Mondays to Saturdays,

and no operation on Sundays and public holidays. The site layout plan and vehicular access plan as submitted by the applicant are at **Drawings A-1 to A-2**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with planning statement and plans (**Appendix I**) received on 6.3.2018.
  - (b) Further information (FI) received on 18.4.2018 (**Appendix Ia**) responding to departmental comments.  
*(accepted and exempted from publication and recounting requirements)*
  - (c) Further information (FI) received on 25.4.2018 (**Appendix Ib**) clarifying the mode of operation.  
*(accepted and exempted from publication and recounting requirement)*

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

The justifications put forth by the applicant in support of the application are detailed in paragraph 9 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The busy traffic and on-street parking in Wang Toi Shan block traffic and affect villager's safety. The proposed use which is intended for the use of workers in the area could improve this situation.
- (b) The Site is located at a convenient location. The proposed use could better utilize government land. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out at the Site.

## 3. **Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is not a "current land owner" but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by posting site notice and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection. The remaining of the Site is Government Land (about 87.6%), and TPB PG-No. 31 is not applicable.

#### 4. **Background**

The Site is currently not a subject of any active enforcement cases and there is currently no enforcement action against it. The use of the Site for vehicle park use without a valid planning permission constitutes an unauthorized development under the Town Planning Ordinance (the Ordinance). Should there be sufficient evidence to prove that the use on site is an unauthorized development under the Ordinance, appropriate enforcement action will be taken.

#### 5. **Previous Application**

The Site is not the subject of any previous application.

#### 6. **Similar Applications**

6.1 There are a total of 5 similar applications (Nos. A/YL-PH/ 35, 78, 88, 149 and 746) for temporary public car/lorry park in the same “V” zone. Details of the applications are summarized in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

6.2 Application Nos. A/YL-PH/35 and 78 for public carpark on the same application site were approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 1 year and 5 years on 12.1.1996 and 28.2.1997 respectively mainly on the reasons that the applied public carparks were compatible and functional in supporting the village type development; relevant departments had no major adverse comment on the applications and it was on a temporary basis merited sympathetic consideration. Application Nos. A/YL-PH/88 and 149 for public car/lorry park were approved with conditions by the Committee for a period of 3 years and 1 year on 16.5.1997 and 5.12.1997 respectively mainly on similar reasons as mentioned above.

6.3 Application No. A/YL-PH/746 for proposed temporary public vehicle park (excluding container vehicle) was approved with conditions by the Committee for a period of 3 years on 12.5.2017 on the reasons that the proposed use was not incompatible with surrounding environment and could satisfy some of the local parking demand; temporary approval would not jeopardise the long-term planning intention of the “V” zone and relevant departments had no objection.

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

7.1 The Site is:

- (a) paved, partly vacant and partly occupied by an empty structure ; and

(b) accessible to Kam Tin Road via a local track.

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

- (a) to its southeast under the “OS” zone are storage/open storage yards and warehouses;
- (b) to its north under the “V” zone are residential dwellings/structures, open storage yards and vacant land;
- (c) to its southwest under the “Agriculture” (“AGR”) zone are plant nursery, parking of vehicles and open storage yards (with planning permission under applications No. A/YL-PH/719 and 740).

## **8. Planning Intentions**

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

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 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 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) No permission is given for occupation of Government Land (GL) (about 213m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible to Kam Tin Road via GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (e) 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 site. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a formal approval prior to the actual occupation of GL portion. Such application(s) 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 the LandsD.
- (f) There is no Small House application approved or under processing within the Site.

### **Traffic**

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

- (a) He has no comment from traffic engineering perspective on the application.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.

- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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 any existing vehicular access connecting the Site and Kam Tin Road. The applicant should be responsible for his own access arrangement.
- (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 has been 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.

**Nature Conservation**

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

- (a) The Site is located within “V” and “OS” zones and is disturbed. He has no comment on the application from nature conservation perspective. Nevertheless, should the application be approved, the applicant is advised to avoid polluted discharge to the watercourse (**Plan A-2**) near the Site.

### **Drainage**

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

- (a) He has no objection in principle to the proposed development.
- (b) Should the application be approved, approval conditions requiring the submission of drainage proposal 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 in the planning permission.

### **Fire Safety**

9.1.8 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 (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 layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. 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.

### **Water Supplies**

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

- (a) He has no objection to the application.
- (b) The existing 10m waterworks reserve will be affected as shown on **Plan A-2**. No structure shall be erected over this waterworks reserve and such area shall not be used for storage purposes.

- (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 laying, repairing and maintenance of water mains. All other services across, through or under the waterworks reserve are required to seek authorization from the Water Authority.
- (d) 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.

### **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) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing 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.

### **Building Matters**

#### 9.1.11 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) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.



- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) 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.
- (e) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

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

9.1.12 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 and has no particular comments on the application.

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

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

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

10.1 On 13.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.4.2018, one comment from an individual was received (**Appendix III**).

- 10.2 The commenter objects to the application mainly on the grounds that the proposed development appears to be to legitimize existing unapproved use of government land which should be rejected to prevent further abuse of public assets.

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

- 11.1 The application is for proposed temporary covered vehicle park (private cars and light goods vehicles) for a period of 3 years. Major portion of the Site falls within an area zoned “OS” (78%) on the OZP. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ use is always permitted within “OS” zone. The proposed carpark for private use does not contravene the planning intention of the “OS” zone.
- 11.2 The remaining part of the Site is zoned “V” (22%) on the OZP. The planning intention of “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. According to the applicant, the proposed vehicle park intends to serve workers in the area and to improve the traffic situation of the area. DLO/YL of LandsD also advises that there is no Small House application approved or under processing at the Site. In this regards, it is considered that temporary approval for 3 years of the application would not jeopardise the long-term planning intention of the “V” zone.
- 11.3 The proposed carpark use is not incompatible with surrounding area which are generally rural in character and mixed with storage/open storage yards, warehouses, parking of vehicles, residential structures/dwellings and vacant/unused land. Also, there are 5 similar applications for temporary car/lorry park within the same “V” zone which were approved with conditions by the Committee between 1999 and 2017 mainly on the reasons that the proposed carpark would serve the parking need of the local villagers in supporting the village type development and relevant departments had no major adverse comment on the applications. Approval of the application is in line with the previous approval of the Committee on similar applications.
- 11.4 Relevant departments consulted including DEP, DAFC, CE/MN of DSD, D of FS and C for T have no objection to or adverse comment on the application. To minimise any potential nuisance, approval conditions restricting the operation hours, prohibiting medium or heavy goods vehicles and workshop activities and

provision of site notice are recommended in paragraphs 12.2 (a) to (f) 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 (g) to (l) below.

- 11.5 One public objection against the application was received during the statutory publication period as stated in paragraph 10 above. In this regard, the planning assessments and considerations 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 comment in paragraph 10, the Planning Department considers that the proposed temporary covered vehicle park (private cars and light goods vehicles) 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 4.5.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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;
- (d) 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;
- (e) 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;

- (f) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (g) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (h) the submission of a 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 4.11.2018;
- (i) in relation to (h) 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 4.2.2019;
- (j) in relation to (i) above, the implemented drainage facilities on Site shall be maintained at all times during the planning approval period;
- (k) 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 4.11.2018;
- (l) in relation to (k) 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 4.2.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (j) 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;
- (n) if any of the above planning conditions (h), (i), (k) or (l) 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
- (o) 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 6.3.2018
<b>Appendix Ia</b>	FI submitted on 18.4.2018 responding to departmental comments
<b>Appendix Ib</b>	FI submitted on 25.4.2018 clarifying the mode of operation
<b>Appendix II</b>	Similar Applications within the same "V" zone on the Pat Heung OZP
<b>Appendix III</b>	Public comment received during the statutory publication period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Vehicular 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  
MAY 2018**