

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-SK/278

- Applicant** : SAR Engineering Limited represented by Goldrich Planners & Surveyors Ltd.
- Site** : Lot 782 (Part) in D.D.114 and Adjoining Government Land, Kam Sheung Road, Yuen Long
- Site Area** : About 1,464.5 m² (including Government land of about 25 m² or 1.7%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Car Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary car park (private cars and light goods vehicles) for a period of 3 years. The Site is mainly used for the applied use with valid planning permission until 9.6.2020.
- 1.2 The Site, in whole or in part, was the subject of eight previous applications. The last application (No. A/YL-SK/221) for the same applied use was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) on 9.6.2017. All approval conditions have been complied with and the planning permission will lapse on 10.6.2020.
- 1.3 According to the applicant, the current application is the same as the last application (No. A/YL-SK/221) in terms of applied use, site area, gross floor area, layout, as well as number of structure and vehicle parking spaces. The Site is accessible via a local track branching off from Kam Sheung Road to its north

(**Plan A-2**). A total of 27 parking spaces, including 15 for private cars and 12 for light goods vehicles (LGVs), and one single-storey structure with a gross floor area of 54 m² and height of about 3m for ancillary office and storeroom uses are provided at the Site (**Drawing A-1**). The operation hours are from 8:00 a.m. to 10:00 p.m. daily. The site layout plan, tree preservation and landscape plan, and drainage plan submitted by the applicant are shown in **Drawings A-1 to A-3**.

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

- (i) Application form with attachments received on 3.4.2020 **(Appendix I)**
- (ii) Further Information (FI) dated 14.5.2020 **(Appendix Ia)**
(exempted from publication)
- (iii) Further Information (FI) dated 21.5.2020 **(Appendix Ib)**
(exempted from publication)

2. **Justifications from the Applicant**

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

- (a) The number and type of parking spaces provided, operation hours and the gross floor area, height and dimension of the structure remain the same as the last approved application (No. A/YL-SK/221). The Site is the subject of four previous approved applications for temporary car park uses, and approval of the current application would be in line with the previous decisions of the Town Planning Board (the Board).
- (b) The car park intends to serve the residents in the vicinity and alleviate the illegal roadside parking problem. It is considered compatible with the surrounding environment.
- (c) The application solely involves parking of private cars and LGVs. The estimated daily trip generation and attraction rate is 16 (8 in and 8 out), which is same as the last approved application. In addition, no car beauty, cleaning, repairing, dismantling or other workshop activities will be carried out, and no medium or heavy goods vehicles over 5.5 tonnes or container tractors/trailers will be allowed to be parked on the Site.
- (d) The development would not generate adverse landscape and drainage impacts. All existing trees on Site will be properly preserved and existing drainage facilities will maintain in good conditions at all times.

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

The applicant is not the current land owner of the private land portion of the Site 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 and notifying the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection. For the Government land portion, the "Owner's Consent/Notification" Requirements are not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 34C on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is currently not a subject of any active enforcement case.

6. Previous Applications

6.1 The Site is the subject of eight previous applications for temporary workshop/open storage, market and car park uses. The first four applications were rejected between 1995 and 2003, whereas the latter four were approved between 2007 and 2017. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.

Four Rejected Applications

6.2 Application No. A/YL-SK/1 for temporary workshop for assembling body of trucks and open storage of lorry assembling materials for a period of 12 months was rejected by the Committee on 13.1.1995. Applications No. A/YL-SK/29 and 53 for temporary flea market/market for a period of 3 years were rejected by the Committee on 20.12.1996 and by the Board on review on 9.1.1998 respectively. Application No. A/YL-SK/117 for proposed temporary car park for a period of 3 years was rejected by the Committee on 7.11.2003. These four applications occupying a larger site area were rejected mainly on similar grounds that the development was not compatible with the nearby village development; there was no/insufficient information in the submission to demonstrate the development would not cause adverse traffic, landscape, sewerage, drainage and/or fire safety impacts; and approval of the application would set an undesirable precedent for similar applications in the "V" zone.

Four Approved Applications

6.3 Application No. A/YL-SK/137 for proposed temporary car park (private cars and light/medium goods vehicles) covering a slightly larger site was approved with conditions by the Board on review on 30.3.2007 for a period of 3 years subject to a condition that no medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes) should be allowed to be parked on the site in view of the environmental nuisances generated by such vehicles.

6.4 Applications No. A/YL-SK/158, 196 and 221 for temporary car park (private cars and light goods vehicles) for a period of 3 years, with the same site area of the current application, were approved with conditions by the Committee on 24.9.2010, 8.11.2013 and 9.6.2017 respectively, mainly on the grounds that approval of the development on a temporary basis would not frustrate the long-term use of the site and could meet some of the local parking demand; there had been no material change in planning circumstances since the granting of the previous planning approvals; the development was not incompatible with the surrounding areas; and relevant Government departments had no adverse comment on the application. All approval conditions of the last Application No. A/YL-SK/221, including the submission of a record of existing drainage facilities, and the submission and implementation of tree preservation and fire services installations proposals, had been complied with and the planning approval will lapse on 10.6.2020.

7. **Similar Application**

There is one similar application (No. A/YL-SK/116) for proposed temporary car park for a period of 3 years located to the immediate southwest of the Site within the same “V” zone. The application was rejected by the Committee on 7.11.2003 on the consideration that the development was not in line with the planning intention of the “V” zone; there was no information in the submission to demonstrate that the development would not have adverse drainage and fire safety impacts; and the approval of the application would set an undesirable precedent for similar uses to proliferate into the “V” zone. Details of the application is summarized in **Appendix IV** and its location is shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) mainly used for the applied use with valid planning permission; and
- (b) is accessible via a local track branching off from Kam Sheung Road.

8.2 The surrounding areas are rural in character and mainly occupied by residential dwellings/structures, parking of vehicles, open storage yards and storage yards (of which some are suspected unauthorized developments (UDs) subject to planning enforcement actions), plant nurseries, fallow agricultural land and vacant/unused land.

- (a) to its north and northeast are some residential dwellings/structures intermixed with Sheung Tsuen Village Office and a telephone exchange substation. To its further north across Kam Shueng Road is Shueng Tsuen Park;
- (b) to its east and southeast are a yard for parking of vehicles, a plant nursery, some residential structures/dwellings, storage yard and fallow agricultural land;

- (c) to its south are some residential dwellings, storage yard and unused land;
and
- (d) to its west are open storage yards, a plant nursery and unused land.

9. **Planning Intention**

The planning intention of the “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 Houses. Other commercial, community and recreational uses may be permitted on application to the Board.

10. **Comments from Relevant Government Departments**

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

Land Administration

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

- (a) the Site comprises Government land (GL) and 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) within the Site, Lot 782 (portion) in D.D. 114 is currently covered by Short Term Waiver (STW) No. 3536 for the “Ancillary Use to Car Park (Private Cars and Light Goods Vehicles)”, whereas the GL therein is covered by Short Term Tenancy (STT) No. 2648 for the “Car Park (Private Cars and Light Goods Vehicles)” use;
- (c) should planning approval be given to the planning application, the STW/STT holder(s) will need to apply to his office for modification of the STW/STT conditions where appropriate. Besides, given that the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the

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 rent or fee, as may be imposed by LandsD; and

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

Traffic

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

- (a) having regard to the FI (**Appendix Ia**), he has no comment on the application from traffic engineering perspective;
- (b) should the application be approved, approval condition 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 the 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.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road; and
- (b) adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads or drains.

Environment

10.1.4 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

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

- (a) he has no objection in-principle to the applied development from public drainage point of view; and
- (b) should the application be approved, the conditions requiring maintenance of the existing drainage facilities and submission of records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Landscape

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

- (a) he has no objection to the application from landscape planning perspective;
- (b) based on the aerial photo taken on 12.9.2019, the Site was situated in an area of rural landscape character comprising scattered tree groups and village houses. The applied development is considered not incompatible with the surrounding environment. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the last application No. A/YL-SK/221 was approved in 2017. Further significant adverse impact on the landscape resources due to the applied development is not anticipated; and
- (c) should the application be approved, approval condition on maintenance of the existing trees within the Site satisfactorily at all times during the planning approval period should be included in the planning approval.

Building Matters

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

- (a) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;

- (b) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of BD 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 BO;
- (c) for UBW erected on leased land, enforcement action may be taken by 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 BO;
- (d) in connection with (b) above, 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; and
- (e) 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 B(P)R at the building plan submission stage.

Fire Safety

10.1.8 Comment 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 with provisions of 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 BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

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

10.2 The following departments have no objection to or no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

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

On 14.4.2020, the application was published for public inspection. During the three-week statutory publication period, one objecting comment from an individual (**Appendix V**) was received, criticizing that the New Territories region is filled up with car parking facilities, and these facilities should be accommodated on the ground floor of villagers' dwellings.

12. **Planning Considerations and Assessments**

12.1 The application is for renewal of planning permission for temporary car park (private cars and light goods vehicles) for a period of 3 years at the Site zoned "V" on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). All approval conditions of the last application No. A/YL-SK/221 have been complied with and the planning permission will lapse on 10.6.2020. According to the applicant, the applied development is intended to serve the residents in the vicinity and could alleviate the illegal roadside parking problem. While the applied 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, 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 3 years would not frustrate the long-term planning intention of the "V" zone.

12.2 The temporary car park is considered not incompatible with the surrounding land uses, which are predominated by residential dwellings/structures and parking of vehicles (**Plan A-2**). There is also no substantiated environmental complaint relating to the Site received by DEP in the past three years. Relevant Government departments including C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to/no comment on the application from traffic, environmental, drainage and landscape aspects. It is anticipated that the applied use would not have significant adverse traffic, environmental, drainage and landscape impacts to the surrounding areas. To mitigate any potential traffic and environmental impacts on the surrounding areas, approval conditions restricting the operation

hours, number and types of vehicles allowed to access the Site as proposed by the applicant are recommended in paragraphs 13.2 (a) to (d) below. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 13.2 (e) to (j). Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

- 12.3 The application is in line with the TPB PG-No. 34C in that there has been no material change in planning circumstance since the previous approval for the same applied use was granted in 2017. Compared with the last approved application, the current application is the same in terms of site area, layout and development parameters. All approval conditions of the last approved application have been complied with.
- 12.3 The Site is the subject of eight previous applications as detailed in paragraph 6. The first four applications were rejected and the last four applications for the same use as the current one were approved. Also, there is one similar application for proposed temporary car park for a period of 3 years within the same “V” zone, which was rejected by the Committee in 2003, but the circumstance of the rejected case is different in that the applicant failed to demonstrate that the development would not have adverse drainage and fire safety impacts.
- 12.4 Regarding the one objecting comment received during the statutory publication period as stated in paragraph 11, the relevant Government departments’ comments and planning considerations set out in paragraphs 12.1 to 12.3 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment 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, and be renewed from 10.6.2020 until 9.6.2023. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 10:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no 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) 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) 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 coaches or 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) all existing trees within the Site shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all time during the planning approval period;
- (h) the submission of a record of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **10.9.2020**;
- (i) the submission of fire services installations proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **10.12.2020**;
- (j) in relation to (i) above, the provision of fire services installations within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **10.3.2021**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) 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
- (l) if any of the above planning conditions (h), (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.

[The above planning conditions are basically the same as those under the planning permission of the previous application No. A/YL-SK/221, except for deletion of approval conditions in relation to number of vehicles allowed to be parked on the Site, no workshop activities on the Site and reinstatement of the Site to amenity area.]

Advisory Clauses

The recommended advisory clauses are at **Appendix VI**.

13.3 There is no strong reason to recommend rejection of the application.

14. Decision Sought

14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant renewal of the planning 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 with attachments received on 3.4.2020
Appendix Ia	Further Information dated 14.5.2020
Appendix Ib	Further Information dated 21.5.2020
Appendix II	Relevant Extract of Town Planning Board Guidelines No. 34C on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C)
Appendix III	Previous Applications
Appendix IV	Similar Application
Appendix V	Public Comment
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Tree Preservation and Landscape Plan
Drawing A-3	Drainage Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A4-b	Site Photos