

RNTPC Paper No. A/TM-LTY Y/351
For Consideration by
the Rural and New Town
Planning Committee
on 15.6.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTY Y/351

- Applicant** : Mr. Lam Ping Ki
- Site** : Lot 2289 RP (Part) in D.D. 124, Wo Ping San Tsuen, Tuen Mun, New Territories
- Site Area** : About 750 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTY Y/9
- Zoning** : “Residential (Group B)2” (“R(B)2”)
[subject to a maximum plot ratio of 1.26, a maximum site coverage of 40% and a maximum building height of 21m and 6 storeys over single-storey car park]
- Application** : Proposed Temporary Open-air Vehicle Park and Ancillary Office 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 open-air vehicle park and ancillary office for a period of 3 years (**Plan A-1**). The Site is currently used for vehicle servicing, parking and office uses without valid planning permission.
- 1.2 The major development parameters of the application is as follows:

Site Area	750 m ²
Total Floor Area	360 m ²
No. of structures and maximum GFA	3 structures • 1 semi-enclosed structure for office and parking of vehicles uses (350m ²) • 2 store rooms (5m ² each)
Height of structures	Semi-enclosed structure: 6m; 1 storey Store rooms: 2.5m; 1 storey
No. of parking spaces	10 (private cars) • 6 open-air parking spaces • 4 parking spaces inside the semi-enclosed structure
Operation hours	24 hours daily

- 1.3 The layout plan, swept path diagram, planting proposal and drainage proposal are at **Drawings A-1 to A-4** respectively.
- 1.4 According to the applicant, the Site is accessible from Castle Peak Road – Hung Shui Kiu. Parking spaces will be provided for villagers from Wo Ping San Tsuen and Chung Uk Tsuen and people related to “tso tong” free-of-charge. Among the 10 proposed private car parking spaces, 6 of them are open-air and 4 of them are inside the semi-enclosed structure. The proposed office is for people related to “tso tong”/ villagers to hold meetings or handle village matters. No vehicle washing, vehicle repair, dismantling, paint spraying or other workshop activity is allowed on the Site. The operation hours are 24 hours daily.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 24.4.2018 (Appendix I)
 - (b) Letter dated 14.5.2018 providing responses to comments from the Director of Environmental Protection (DEP) and the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) (Appendix Ia)
 - (c) Letter dated 24.5.2018 clarifying the technical constraints in modifying the proposed run-in/out and suggesting measures to protect the safety of road users (Appendix Ib)
 - (d) Letter dated 29.5.2018 stating that a notice will be posted indicating the number of vehicles permitted to be parked; no vehicle washing, vehicle repair, dismantling, paint spraying or other workshop activity; application of short term waiver (STW) will be made after obtaining planning approval; and that the existing toilets will be converted to storage use (Appendix Ic)
 - (e) Letter dated 31.5.2018 providing a swept path diagram to demonstrate that vehicles will not run over the cycle track, with a barrier indicated at the entrance of the Site on the diagram to protect the safety of pedestrians and cyclists (Appendix Id)
 - (f) Letter dated 5.6.2018 clarifying the need for car parking spaces for villagers related to the Ping Shan Heung Tang Tsap Ng Tso (Appendix Ie)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ie**. They can be summarized as follows:

- (a) The applicant is related to the Ping Shan Heung Tang Tsap Ng Tso (“the Tso”). There is a lack of car parking spaces for the villagers related to the Tso.
- (b) Before 1990, the Site was used for open storage of construction materials and storage of ceramic tiles. Short Term Waiver (STW) Nos. 474 and 478 were granted. The existing structure on the Site has already been covered by STW No. 571 since 1999.

- (c) Vehicles entering/leaving from the Site will not obstruct the footpath or cycle track.
- (d) Vehicles will only be parked/stored at the Site. No vehicle will be parked outside the Site.
- (e) The traffic survey counts of vehicles entering/leaving from the Site during peak hours are about 1 to 2, whereas for non-peak hours is about 0 to 1. Additional traffic flow or traffic congestion is not envisaged.
- (f) No toilet will be provided at the Site and thus, no sewage will be generated. The existing toilets at the Site will be converted to storage uses. No adverse impact to the surrounding environment will be created.
- (g) Upon obtaining planning approval, the applicant will apply for STW for erecting the structures at the Site.
- (h) The width of the entrance is about 3m. A barrier will be set up at the entrance to protect the safety of pedestrians and cyclists. (**Drawing A-2**)

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. 31A) by posting notice of the application outside the Site and sending a notice to the Tuen Mun Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The use in the Site is subject to investigation. Should a material change of use be identified and confirmed in this Site, which constitutes an unauthorized development under the Town Planning Ordinance, enforcement action would be instigated.

5. **Previous Application**

There is no previous application covering the Site.

6. **Similar Application**

- 6.1 There is one similar application (No. A/TM-LTYT/149) for proposed temporary car park (private car) within the same “R(B)2” zone on the OZP. Details of the similar application is summarized at **Appendix II** and its location is shown on **Plan A-1**.
- 6.2 Application No. A/TM-LTYT/149 was for proposed temporary car park (private car) for a period of 3 years. The application was rejected by the Town Planning Board (the Board) on review on 18.5.2007 on grounds that there was insufficient information in the submission to demonstrate that the proposed development would not have adverse traffic impacts on the surrounding areas.

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

7.1 The Site is:

- (a) currently occupied by vehicle servicing, parking and office uses without valid planning permission; and
- (b) accessible from Castle Peak Road – Hung Shui Kiu.

7.2 The surrounding areas have the following characteristics:

- (a) to the north and northwest across Castle Peak Road – Hung Shui Kiu are residential dwellings and a shop;
- (b) to the northeast and east are a shop, storage yards, warehouse and workshop, sanitary equipment shop, construction materials shop, restaurant and vehicle services;
- (c) to the west and southwest are petrol stations, open storage of construction materials and workshop, engineering company, motor service shop;
- (d) to the south is storage yards, warehouse, residential dwellings and engineering company.

8. Planning Intention

The planning intention of the “R(B)2” zone is intended primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood 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 summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) Site inspection revealed that existing structures on the Site were used for vehicles repairing and parking. The Site falls within Lot 2289 RP (Part) in D.D. 124 (“the Lot”). The Lot is 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. Currently, a number of Short Term Waivers (“STWs”) were issued on the Lot. The Site mainly falls within STW No. 571, which permitted the erection of structures for storage and retail sales of sanitary ware and decoration workshop. Part of the Site is also encroaching onto the limits of STW

Nos. 572 and 573 issued for “manufacture of construction materials” and “manufacture of plastic products” purposes respectively. As the existing use and the boundary of the Site do not comply with the aforesaid STWs, the lot owner has been requested by LandsD to rectify the situation. Application for cancellation and re-issue of the STW No. 571 and boundary rectification for STW Nos. 572 and 573 may be required.

- (b) It is noted that the details shown on the application that some cars are proposed to be parked inside the existing structure. The ancillary office is for the use of the villagers for meeting and handling village matters. It appears that the said uses are not in line with the application.
- (c) The Site is accessible via a strip of government land leading from Castle Peak Road. LandsD does not carry out maintenance works for the said road nor guarantee that right-of-way will be given to the Site.
- (d) If planning permission is given by the Board, the applicant may consider liasing with the owner of the Lot to apply for issue of a fresh short term waiver to permit the use of “Temporary Open Parking of Vehicles with Ancillary Office” purposes. However, there is no guarantee that the application will be approved and he reserves his right to take any action as may be appropriate. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion and details will be further examined when received. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, deposit and administrative fee, etc.
- (e) Notwithstanding the above, LandsD reserves the right to take enforcement actions as consider appropriate against any unauthorized erection/extension/alteration of the structures concerned irrespective of whether planning permission will be given or not.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, BD is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) 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 building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed 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) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively.
- (f) 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 Building (Planning) Regulation at the building plan submission stage.

Traffic

9.1.3 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) In view that the proposed development will make use of an existing vehicular access to Castle Peak Road and that the applicant will regulate their vehicles not to run over the existing cycle track according to their vehicular swept path provided, he has no further comment. **(Drawing A-2)**
- (b) Should the application be approved, it is suggested to impose the following approval condition :

“the provision of vehicular access of the Site to the satisfaction of the Commissioner for Transport or of the Town Planning Board”.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and road drains.
- (c) There is a strip of unallocated government land between the Site and Castle Peak Road – Hung Shui Kiu, which is not and will not be

maintained by HyD.

Environment

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

- (a) The application is to seek planning permission for temporary open storage of vehicles (10 parking spaces for private car) and ancillary office use at the Site falling within an area zoned “R(B)2”.
- (b) The applicant has confirmed in the further information that no toilet will be provided and also no sewage will be discharged from the Site.
- (c) He does not anticipate the proposed use will cause adverse environmental impact and he has no objection to the application.
- (d) An approval condition that “no car washing activities shall be conducted in the Site” should be incorporated.
- (e) Should the application be approved, the applicant will 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”.
- (f) There was no substantiated environmental complaint pertaining to the Site received in the past 3 years.

Drainage

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

- (a) He has no objection in principle to the application from public drainage point of view.
- (b) According to the submission material, it is understood that the application proposed to make use of the existing drainage facilities for the Site. Should the application be approved, a condition should be included to request the applicant to submit a condition record of the existing drainage facilities, and to maintain the drainage facilities at all times during the planning approval period.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (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.

- (c) 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.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

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

With reference to the site records and aerial photos of 2017, the Site appears to be hard paved and partly occupied by a large temporary structure. The Site is situated in an area of village landscape character. Significant change arising from the continued use of the application is not envisaged.

Long Term Development

- 9.1.9 Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) and the Chief Town Planner/Housing & Office Land Supply, Planning Department (CTP/HOLS, PlanD):

The Site falls within the Study Area of the on-going Preliminary Land Use Study for Lam Tei Quarry and the Adjoining Areas (the Study) jointly commissioned by CEDD and the Planning Department. They have no specific comment as far as the Study is concerned.

District Officer's Comments

- 9.1.10 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

He has distributed consultation letters to the locals concerned and understands that they would provide their comments (if any) to the Board direct. He has no further comment.

- 9.2 The following government departments have no comment on the application:

- (a) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Engineer/Project Management, Drainage Services Department (CE/PM, DSD);
- (d) Commissioner of Police (C of P);

- (e) Director of Agriculture, Fisheries and Conservation (DAFC);
- (f) Director of Electrical and Mechanical Services (DEMS);
- (g) Director of Food and Environmental Hygiene (DFEH); and
- (h) Director of Leisure and Cultural Services (DLCS).

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

On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 25.5.2018, one public comment was received (**Appendix III**). An individual objects to the application on grounds of incompatible with the planning intention and approval of the application encourages inefficient land use.

11. **Planning Considerations and Assessments**

- 11.1 The “R(B)” zone is intended primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Whilst the development is not entirely in line with the planning intention of the “R(B)2” zone, there is no known development proposal to implement the zoned use. According to the applicant, the proposed development could provide parking spaces to serve any such demand in the villages nearby. Furthermore, according to the applicant, the office use could allow people related to “tso tong”/ villagers to hold meetings or handle village matters. Approval of the application on a temporary basis will not frustrate the planning intention of the “R(B)2” zone.
- 11.2 The Site is mainly surrounded by storage yards, warehouses and residential dwellings (**Plan A-2**). The proposed use is not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including AC for T/NT of TD, CE/MN of DSD, CHE/NTW of HyD, CTP/UD&L of PlanD, DEP and D of FS have no objection to or no adverse comment on the application. The proposed use will unlikely create significant adverse traffic, environmental and drainage impacts to the surrounding areas. There has been no substantiated environmental complaint concerning the Site received in the past 3 years. To minimize any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 For the similar Application No. A/TM-LTY/149, it was rejected by the Board on review on 18.5.2007 for the reason that there was insufficient information to demonstrate that the proposed development would not have adverse traffic impacts on the surrounding areas. In commenting on Application No.

A/TM-LTYT/149, AC for T/NT, TD considered that given the speed limit of Castle Peak Road was 70km/hr and there were already many existing ingress/egress points facing Castle Peak Road, he had reservation on any proposal to provide new ingress/egress point at the concerned section of Castle Peak Road. For the current application, the proposed development will make use of an existing vehicular access and TD has no objection to the application.

11.5 There is one public comment received objecting to the application mainly on land use planning grounds as summarized in paragraph 10 above. The planning considerations and assessments above are relevant.

12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10, the Planning Department considers that the proposed temporary open-air vehicle park and ancillary office could be tolerated for a period of 3 years.

12.2 Should the Rural and New Town Planning Committee (the Committee) decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 15.6.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) only private cars as defined in the Road Traffic Ordinance are allowed to enter/be parked on the Site, as proposed by the applicant, at all times during the planning approval period;
- (b) a notice shall be posted at a prominent location of the Site at all times to indicate that only private cars as defined in the Road Traffic Ordinance are allowed to enter/be parked on the Site during the planning approval period;
- (c) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (d) no vehicle washing, vehicle repair, dismantling, paint spraying or other workshop activity is allowed on the Site, as proposed by the applicant, 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 existing fencing of the Site shall be maintained at all times during the approval period;
- (g) the submission of a condition record of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.9.2018;

- (h) in relation to (g) above, the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a 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 **15.12.2018**;
- (j) in relation to (i) above, the implementation of the 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 **15.3.2019**;
- (k) the provision of vehicular access of the Site within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by **15.12.2018**;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (h) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (m) if any of the above planning conditions (g), (i), (j) or (k) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (n) upon the 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 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 "R(B)" zone is intended primarily for sub-urban medium-density residential development. The development is not in line with the planning intention of the "R(B)" zone. No strong planning justification has been given in the submission for a departure from the planning intention.

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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form received on 24.4.2018
Appendix Ia	Letter dated 14.5.2018 providing responses to comments from the DEP and the AC for T/NT, TD
Appendix Ib	Letter dated 24.5.2018 clarifying the technical constraints in modifying the proposed run-in/out and suggesting measures to protect the safety of road users
Appendix Ic	Letter dated 29.5.2018 stating that a notice will be posted indicating the number of vehicles permitted to be parked; no vehicle washing, vehicle repair, dismantling, paint spraying or other workshop activity; application of STW will be made after obtaining planning approval; and that the existing toilets will be converted to storage use
Appendix Id	Letter dated 31.5.2018 providing a swept path diagram to demonstrate that vehicles will not run over the cycle track, with a barrier indicated at the entrance of the Site on the diagram to protect the safety of pedestrians and cyclists
Appendix Ie	Letter dated 5.6.2018 clarifying the need for car parking spaces for villagers related to the Ping Shan Heung Tang Tsap Ng Tso
Appendix II	Similar application within the same “R(B)2” zone on the draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTYYY/9
Appendix III	Public comments received during statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Swept Path Diagram
Drawing A-3	Planting Proposal
Drawing A-4	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**