

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/386

<u>Applicant</u>	: Mr Mow Kai Bon
<u>Site</u>	: Lot 883 RP in D.D. 130, Lam Tei, Tuen Mun, New Territories
<u>Site Area</u>	: 5,431 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plans</u>	: Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/10 (LTYT OZP) and Approved Tuen Mun OZP No. S/TM/35 (TM OZP)
<u>Zoning</u>	: “Green Belt” (“GB”) (93% on the LTYT OZP and 7% on the TM OZP)
<u>Application</u>	: Proposed Temporary Public Vehicle Park (excluding Container Vehicle) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park (excluding container vehicle) for a period of 5 years (**Plan A-1**). The Site falls within an area zoned “GB” straddling the LTYT OZP and TM OZP. According to the Notes of the LTYT OZP, ‘Public Vehicle Park (Excluding Container Vehicle)’ is a Column 2 use under the “GB” zone which requires planning permission from the Town Planning Board (the Board). According to the covering Notes of the TM OZP, temporary use expected to be 5 years or less is always permitted and no planning permission is required. The Site is currently occupied by active agricultural uses. (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Fu Hang Road via a proposed vehicular access passing through the adjoining Fu Tai BBQ Land (**Drawing A-2 and Plans A-2 and A-3**). The ingress/egress point is located at the western boundary of the Site. As shown on **Drawing A-1**, 60 parking spaces for private car (2.5m x 5m) are proposed on the Site. According to the applicant, the proposed public vehicle park is to serve the nearby residents, villagers and visitors of the adjacent recreation facilities. There are 10 single-storey structures of office, storage and open sheds within the Site. The proposed layout plan, proposed site access plan and proposed drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

1.3 The major developments parameters of the application are as follows:

Site Area	About 5,431 m ²
Gross Floor Area (GFA)	About 481.9 m ²
No. of Structures and Building Heights	10 (i.e. 2 Containers for Office Use (6.1m (L) x 2.5m (W) x 2.5m (H) (1 storey)); 6 Containers for Storage (12.2m (L) x 2.5m (W) x 2.5m (H) (1 storey)); and 2 Open Sheds (12.2m (L) x 11m (W) x 2.5m (H) (1 storey))
No. of Parking Spaces	60 Private Car Parking Spaces (2.5m x 5m)
Operation Hours	24 hours from Mondays to Sundays including public holidays

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

- (a) Application Form and attachments received on 19.9.2019 **(Appendix I)**
- (b) Further Information (FI) received on 13.1.2020 including a revised site layout plan and responses to departmental comments **(Appendix Ia)**
- (c) FI received on 5.5.2020 providing responses to departmental comments **(Appendix Ib)**
- (d) FI received on 6.8.2020 providing responses to departmental comments and a drainage proposal **(Appendix Ic)**
[(b) not exempted from publication and recounting requirement, (c) and (d) exempted from publication and recounting requirements]

1.5 On 15.11.2019, 6.3.2020, 26.6.2020 and 18.9.2020 the Committee agreed to the applicant's requests to defer making a decision on the application each for two months to allow time for the applicant to prepare FI to address the departmental comments. Since no FI was received from the applicant after the two month period of the last deferral, the application is submitted to the Committee for consideration at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ib** respectively. They can be summarised as follows:

- (a) There is a lack of parking facilities in the vicinity of the Site and illegal parking in nearby streets has resulted in traffic safety issue.

- (b) No car-washing, car beauty and vehicle maintenance works would be carried out on the Site. A notice would be posted at a prominent location of the Site to indicate that only private cars are allowed to be parked on the Site.
- (c) The current tenant would move out soon and the proposed use would avoid the Site to be abandoned which results in hygiene and environmental problem. No pond filling is required.
- (d) The applicant is willing to designate a portion of the Site for cultivation purpose for the land owner and other tenants.

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 sending a registered mail to the Tuen Mun Rural Committee and posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any active enforcement action.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) are relevant to the application. The relevant assessment criteria are summarized as follows and detailed at **Appendix II**.

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone. In general, the Board will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use;
- (b) an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds;
- (c) passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. It should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, and cause any adverse visual impact on the surrounding environment;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;

- (f) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Application

There is no previous application covering the Site.

7. Similar Applications

Within this part of the “GB” zone on the LTYO OZP, there are 3 similar applications (No. A/TM-LTYO/129, 133 and 137) for temporary vehicle park for various types of vehicles with or without repair area. All of them were rejected by the Committee or the Board upon review in 2006 on the grounds of not in line with the planning intention of the “GB” zone; not compatible with the surrounding areas; no/insufficient information in the submission to demonstrate that the development would not have adverse traffic, drainage, environmental and/or landscape impacts on the surrounding areas; and would set an undesirable precedent for similar applications. Details of the similar applications are summarized at **Appendix III** and the locations of the sites are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently occupied by active agricultural uses with some residential dwellings in the northern boundary (**Plans A-2, A-4a and A-4b**); and
- (b) accessible via a strip of footpath leading from Fu Hang Road (**Plan A-3**).

8.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) to the immediate north is a nullah and to the further north crossing the nullah is Yuen Long Highway;
- (b) to the east is an active agricultural land; and
- (c) to the immediate west and south is Fu Tai BBQ Land and a vehicle park on the TM OZP. To the further south is Fu Tai Estate.

9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

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/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site falls within Lot No. 883 RP in D.D. 130 (“the Lot”). The Lot is Old Schedule 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. Subject to survey, an existing temporary structure covered by Government Land Licence No. M2177 may have slightly encroached onto the north-eastern side of the Lot.
- (b) Site inspection revealed that the site was currently used for cultivation. The existing fence and a number of existing structures on the northern side of the Lot were found extending to the adjoining government land (GL). No permission has been given for the erection of the structures nor has any permission been given for the occupation of the GL concerned. The layout of the existing structures does not entirely tally with the layout of the eight containers proposed to be placed within the Site. Depending on the structural details, these containers may be regarded as structures and prior permission will be required for their erection. He reserves his rights to offer further comments and take appropriate action when the containers are found to be in contravention of the lease restriction.
- (c) Currently, the Site is accessible via a strip of footpath leading from Fu Hang Road. His office does not carry out maintenance works for the said footpath.
- (d) The applicant proposed to construct a vehicular access over Lot Nos. 884 RP, 886 RP and 920 RP in D.D. 130 and the adjoining GL. It is the applicant’s own responsibility to ensure that he has the right to construct, use and maintain the proposed access. There is no guarantee that right-of-way will be given to the application site through the existing footpath or any GL that is or will be affected.
- (e) If planning permission is given by the Board, the lot owner may consider submitting a formal application to his office for a Short Term Waiver (“STW”) to permit erection of structures on the Lot if applicable. 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. 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 administration fee etc.

- (f) Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations of the structures affected irrespective of whether planning permission will be given or not. Enforcement action will also be taken should any structures be found erected without any prior approval given by his office or any unauthorized occupation of GL.

Traffic

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

- (a) The applicant should:
 - (i) provide more details with layout plan of the traffic arrangement at Fu Hang Road;
 - (ii) clarify if the proposed development only allows parking of private vehicles;
 - (iii) carry out traffic survey to assess if Fu Hang Road is capable of the additional traffic flow to the proposed development; and
 - (iv) advise if there is any significant traffic impact on nearby road network including Castle Peak Road.
- (b) As the applicant did not submit further information to address his comments above and demonstrate the technical feasibility of the application from traffic point of view, he could not provide technical assessment and render support to the application.

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

- (a) The proposed access from the Site to Fu Hang Road and HyD structure No. N745 is not and will not be maintained by HyD.
- (b) Adequate drainage measures should be provided to prevent surface water flowing from the Site to nearby public roads and drains.

Environment

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

Should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (CoP) issued by DEP to minimise potential environmental impacts on the surrounding environment.

Agriculture

10.1.5 Comments of the Director of Agricultural, Conservation and Fisheries (AFCD):

The Site is currently under active cultivation uses and occupied by several temporary structures. The Site also possesses potential for agricultural rehabilitation. The proposed non-agricultural development on the Site is not supported from an agricultural development perspective.

Landscape

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

- (a) With reference to the site visit conducted by his office and the aerial photo of 2019, the Site is in active agricultural use with some existing trees located at the centre and at the western portion of the Site. Existing tree clusters are found to the east and along the southern boundary outside the Site. The Site is situated in an area of rural fringe landscape character predominated by agricultural land and tree clusters with Yuen Long Highway to the north and village houses to the further north. Fu Tai BBQ Land, vehicle park and high rise buildings are found to the south and further south of the site respectively. The proposed use with extensive hard paving is not entirely incompatible with the surrounding rural environment and its planned landscape character.
- (b) There is concern that approval of the application would uproot all the existing agricultural uses altering the landscape character of the area. This would create an undesirable precedent to encourage other similar applications within the "GB" zone. The cumulative impact of which would result in the general degradation of the natural environment and undermine the planning intention of the "GB" zone.
- (c) In view of the above, he has reservation on the application from the landscape planning perspective.

Drainage

10.1.7 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) Should the application be approved, a condition should be included to request the applicant to submit, implement and maintain a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.
- (c) The applicant should note the detailed comments at **Appendix V**.

Fire Safety

10.1.8 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. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should note the detailed comments at **Appendix V**.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) The applicant should note the detailed comments at **Appendix V**.

Others

10.1.10 Comments of the Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO):

- (a) Part of the Site is situated within the Fu Tei Ha Site of Archaeological Interest (**Plan A-1**). Considering the location and proposed use of the Site as well as Section 8 of the Application Form at **Appendix I** that the development proposal does not involve excavation or site formation works, he has no objection to the application.
- (b) The applicant should note the detailed comments at **Appendix V**.

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

There are 400kV extra high voltage overhead lines running across the Site, which is within the preferred working corridor of the concerned overhead lines as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG). He has no objection in principle to the development subject to the detailed comments at **Appendix V** pertaining to electricity supply safety and reliability, being strictly complied by the applicant and its contractor.

District Officer's Comments

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

He has distributed consultation letters to the concerned locals and understand that they would provide their comments (if any) to the Board direct. He trust the Board will take into account the public views when further deliberating on the application.

10.2 The following government departments have no comment on the application:

- (a) Director of Leisure and Cultural Services (DLCS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Food and Environmental Hygiene (DFEH);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (e) Head (Geotechnical Engineering Office), CEDD (H(GEO), CEDD); and
- (f) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Periods

11.1 On 27.9.2019 and 21.1.2020, the application was published for public inspection. During the statutory public inspection periods, 17 public comments were received, 3 of them support the application (including two groups of individuals with 36 signatures (**Appendices IV-1 and IV-2**) and an individual (**Appendix IV-3**)) and the other 14 (including Kadoorie Farm and Botanic Garden Corporation (**Appendices IV-4 and IV-5**), World Wide Fund For Nature Hong Kong (**Appendices IV-6 and IV-7**), The Hong Kong Bird Watching Society (**Appendices IV-8 and IV-9**), Designing Hong Kong Limited (**Appendix IV-10**), a Tuen Mun District Council member (**Appendix IV-11**), an individual (**Appendices IV-12 and 13**) and two groups of individuals in two standard letters with a total of 118 signatures (**Appendices IV-14 to IV-17**)) raise objections to the application.

11.2 Major reasons of supporting the application (**Appendices IV-1 to IV-3**) are:

the proposed use could alleviate the illegal parking problem in the vicinity, provide parking spaces for future developments, improve pedestrian safety and address the hygiene problem.

11.3 Major reasons of objection to the application (**Appendices IV-4 to IV-17**) are:

- (a) the proposed use is not in line with the planning intention of the “GB” and the Town Planning Board Guidelines for “Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10);
- (b) incompatible with the surrounding areas;
- (c) the parking provision in the Tuen Mun District could meet the demand;
- (d) the proposed use will generate adverse traffic, environmental (including air pollution and noise), drainage, ecology and tree preservation impacts;
- (e) there is previous rejected application for the same use; and

- (f) approval of the application would set an undesirable precedent for similar application within the “GB” zone.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary public vehicle park (excluding container vehicles) for a period of 5 years at the Site zoned “GB” mainly within the LTYO OZP (93%) with a minor portion on the TM OZP (7%). The planning intention of the “GB” zone is to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within the “GB” zone. The proposed use is not in line with the planning intention of the “GB” zone and there is no strong planning justification given in the submission for a departure of such planning intention, even on a temporary basis.
- 12.2 The Site is located in an area predominantly rural in character, comprising active cultivation land, barbeque ground, car park and residential dwellings (**Plans A-2 and A-3**). Peripheral trees are located along the southern boundary of the Site segregating the Site from the barbeque ground and the carpark to the south of the Site. The proposed use is considered not entirely incompatible with the developments in the surrounding areas.
- 12.3 According to the TPB PG-No.10 for Application for Developments within the “GB” zone, there is a general presumption against development within the “GB” zone. New development will only be considered in exceptional circumstances and must be justified with very strong planning grounds. DAFC does not support the application from agricultural development perspective as the Site is currently under active cultivation uses and possesses potential for agricultural rehabilitation. Moreover, there are existing tree located within the Site and the applicant did not submit a tree preservation and landscape proposal to support the application. In this regard, CTP/UD&L, PlanD has reservation on the application from the landscape planning perspective as the Site is in active agricultural use with some existing trees located at the centre and at the western portion of the Site. Existing tree clusters are also found to the east and along the southern boundary outside the Site. Approval of the application would uproot all the existing agricultural uses altering the landscape character of the area and create an undesirable precedent to encourage other similar applications within the “GB” zone. The cumulative impact of which would result in the general degradation of the natural environment and undermine the planning intention of the “GB” zones. In this regard, the proposed use is not in line with the TPB PG-No. 10.
- 12.4 C for T could not render support to the application from the traffic engineering point of view as the applicant has yet to demonstrate the technical feasibility of the application from traffic engineering point of view.
- 12.5 Relevant departments including CE/MN of DSD, DEP and D of FS have no objection to or adverse comment on the application on drainage, environmental and fire safety aspects.

12.6 The Site is not involved in any previous application. The Committee and the Board have rejected 3 similar applications for temporary vehicle park for various types of vehicles with or without repair area in this part of “GB” zone on the OZP. Rejection of the application is in line with the previous decisions of the Committee and the Board.

12.7 Amongst the 17 public comments received during the statutory publication, 14 of them objecting to the application on grounds as summarised in paragraph 11 above. The planning considerations and assessments in the paragraphs 12.1 to 12.6 are relevant.

13. Planning Department’s Views

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the proposed use is not in line with the planning intention of the “GB” zone, which is for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the proposed use is not in line with Town Planning Board Guidelines No.10 for Application for Developments within “GB” zone in that the proposed use would have adverse impact on the existing landscape character of the area and the applicant fails to demonstrate that the proposed use would not generate adverse traffic impacts on the surrounding areas; and
- (c) approval of the application would set an undesirable precedent for other similar applications in the “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the landscape character and affect the integrity of the “GB” zone.

13.2 Alternatively, 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 5 years until 18.12.2025. 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, is allowed to enter/exit the site, as proposed by the applicant, at any time during the planning approval period;
- (b) a notice should 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 be parked/stored 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 is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) no car-washing, car beauty and vehicle maintenance works is allowed to be carried out on the Site, as proposed by the applicant, at any time during the planning approval period;
- (f) the existing tree planting within the Site shall be maintained in good condition at all times during the planning approval period;
- (g) 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 **18.6.2021**;
- (h) in relation to (g) 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 **18.9.2021**;
- (i) the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) 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 **18.6.2021**;
- (k) in relation to (j) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **18.9.2021**;
- (l) the provision of boundary fencing within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **18.6.2021**;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (i) 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 (g), (h), (j), (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 the expiry of the planning permission, the reinstatement of the application 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 V**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form and attachments received on 19.9.2019
Appendix Ia	FI Received on 13.1.2020
Appendix Ib	FI Received on 5.5.2020
Appendix Ic	FI Received on 6.8.2020
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Development within the Green Belt Zone (TPB PG-No. 10)
Appendix III	Similar Applications
Appendices IV-1 and IV-17	Public Comments Received During the Statutory Publication Periods
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Site Access Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**