

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

**APPLICATION NO. A/YL-LFS/319**

- Applicant** : Mr. MOK Kwai Leung represented by Metro Planning and Development Company Limited
- Site** : Lots 2816 (Part) and 2876 RP (Part) in D.D. 129 and Adjoining Government Land, Sha Kong Wai, Yuen Long
- Site Area** : About 1670 m<sup>2</sup> m<sup>2</sup> (includes Government Land of about 42m<sup>2</sup>)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan & Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/8
- Zoning** : “Village Type Development” ( “V” )
- Application** : Temporary Public Vehicle Park for Private Car for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public vehicle park for private car for a period of 3 years. The Site falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary planning permission for 3 years. The Site is currently being used for the applied use without a valid planning permission (**Plan A-2**).
- 1.2 The Site is accessible via a local track from Man Tak Road and the ingress and egress are located at the south-western and northern boundary of the Site (**Plans A-2, A-3 and Drawing A-1**). As shown on the proposed layout plan at **Drawing A-2**, the temporary public vehicle park will provide 38 private car parking spaces. 2 one-storey structures not exceeding 3m high with a total gross floor area of about 40m<sup>2</sup> are being proposed on the Site. According to the applicant, the operation hours of the Site are from 7:00 a.m. to 11:00 p.m. daily, including public holidays. The proposed landscape plan and proposed drainage plan are shown at **Drawings A-3 to A-4** respectively.

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

- (a) Application form received on 14.5.2018 **(Appendix I)**
- (b) Supplementary Planning Statement with proposed layout plan, proposed landscape plan and proposed drainage plan **(Appendix Ia)**
- (c) Letter from the applicant dated 25.6.2018 to clarify the site area and propose a notice on the Site to remind pedestrian safety **(Appendix Ib)**

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

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement in **Appendix Ia**. They can be summarized as follows:

- (a) The proposed use as “Public Vehicle Park” is a Column 2 use in the “V” zone.
- (b) The proposed development which is temporary in nature would not jeopardize the planning intention of the “V” zone in the long run.
- (c) The development is compatible with the surrounding environment. It is intended to serve the acute parking demand of villagers of Sha Kong Wai.
- (d) Similar public vehicle parks in “V” zone has been approved by the Board in Lau Fau Shan.
- (e) Except private car, neither vehicle exceeding 5.5 tonnes nor container tractor/trailer/coach would be allowed to enter the Site. So the proposed development would have minimal traffic impact in the area.
- (f) The proposed development would not generate adverse environment and drainage problems. A number of preventive and mitigation measures are proposed by the applicant to avoid degradation of surrounding environment.
- (g) In response to the public concern on the road safety, the applicant proposes to post a notice to remind the drivers of pedestrian safety.

## **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 Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

#### 4. **Background**

The Site is subject of an active enforcement case (No. E/YL-LFS/450 - UD: parking of vehicles and storage use (including deposit of containers). Enforcement Notice (EN) for the case was issued and the EN required Unauthorized Development (UD) be discontinued on or before 20.6.2018. If the UD continues, necessary prosecution action against the concerned lot owners will be taken under the Town Planning Ordinance subject to sufficient evidence collected.

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

5.1 The site involves 1 previous planning application (No. A/YL-LFS/268) for proposed filling of land (by about 1.5m) for permitted agricultural use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 27.3.2015.

5.2 Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

#### 6. **Similar Application**

6.1 There are 3 similar applications within the same “V” zone on the OZP (Nos. A/YL-LFS/281, 309 and 310) for temporary public vehicle park for private car and light goods vehicle use. All were approved with conditions for a period of 3 years by the Committee on 22.1.2016, 6.4.2018 and 6.4.2018 respectively.

6.2 Details of the application are summarized in **Appendix III** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) formed and currently used for parking of private cars and vans without valid planning permission; and
- (b) accessible via a local track from Man Tak Road.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly residential dwellings of Shan Kong Wai;
- (b) pond, cultivated agricultural land, orchard, fallow agricultural land and unused land in the vicinity; and
- (c) three carparks (one with planning permission under the Application No. A/YL-LFS/281) and storage yard in the vicinity which are suspected UD.

## **8. Planning Intention**

The planning intention of the “V” zone in the draft Lau Fau Shan & Tsim Bei Tsui OZP No. S/YL-LFS/8 is to designate both existing recognised villages and areas of land considered suitable for village expansion. 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.

## **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/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots 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) of about 42m<sup>2</sup> in area (subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (c) The Site is accessible to Man Tak Road through both GL and private land. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way over GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) According to her record, there is no Small House (SH) application(s) having been approved and no application(s) under processing within the “V” zone portion of the Site.
- (f) Should planning approval be given, the lot owners will need to apply to her office to permit the structures to be erected or regularize any irregularity on site. Besides, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Such application will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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.

### **Traffic**

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

- (a) He has no adverse comment on the application.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

9.1.3 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 at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Man Tak Road.

### **Environment**

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

- (a) There is no substantiated environmental complaint concerning the Site received over the past 3 years for the applied use.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' (COP).

### **Drainage**

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) He has the following comment to the submitted drainage proposal:
  - (i) The full alignment of the discharge path from the Site all the way down to the ultimate discharge point (e.g. a well-established stream course/public drainage system) should be indicated on plan. The relevant connection

details should be provided for comment. In the case that local village drains are involved, DO/YL should be consulted.

- (ii) Further to (i) above, since there is no record of the said discharge path, please provide evidence (e.g. site photos) to demonstrate its presence/existing condition.
  - (iii) Consideration should be given to provide grating for the surface channels.
  - (iv) The cover levels and invert levels of the proposed u-channels, catchpits/sand traps should be shown on the drainage plan.
  - (v) Cross sections showing the existing and proposed ground levels of the captioned site with respect to the adjacent areas should be given.
  - (vi) Sand trap or provision alike should be provided before the collected runoff is discharged to the public drainage facilities.
  - (vii) Standard details should be provided to indicate the sectional details of the proposed u-channel and the catchpit/sand trap.
  - (viii) Where walls or hoarding are erected are laid along the site boundary, adequate opening should be provided to intercept the existing overland flow passing through the site.
  - (ix) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
  - (x) The applicant should consult DLO/YL and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.
- (c) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

### **Fire Safety**

#### 9.1.6 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 (FSIs) being provided to the satisfaction of D of FS.
- (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 are to be installed should be clearly marked on the layout plans.
- (d) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Building Ordinance (Cap. 123), detailed fire service requirement will be formulated upon receipt of formal submission of general building plans.

### **Building Matter**

9.1.7 Comment 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, he is not in a position to offer comments on the 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 Buildings Department (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 the 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.

### **District Officer's Comment**

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

His office has received one objection letter from the locals on the application, which has also been submitted by the locals during the public inspection period.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD).
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Commissioner of Police (C of P); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

10.1 On 25.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 15.6.2018, three public comments objecting to the application including one from a district council member and two individuals of the public were received (**Appendices IVa to c**). The objection reasons include adverse environmental impact and drainage impacts, closure of pavement, traffic safety concern and already sufficient parking spaces in the village.

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

11.1 The application is for proposed temporary public vehicle park for private car in the "V" zone of Sha Kong Wai. Whilst the applied use is not entirely in line with the planning intention of "V" zone which is primarily intended for development of Small Houses by indigenous villagers, the use could provide parking facilities to meet any such demand in the area. DLO/YL of LandsD advises that no SH applications have been approved or under processing on the Site. As such, temporary approval for 3 years of the application would not jeopardise the long-term planning intention of the "V" zone.

11.2 The Site is located at the south-eastern part of the village clusters. The applied development is considered not incompatible with the surrounding land uses which mainly comprise rural residential dwellings/structures (**Plan A-2**).

11.3 There is no adverse comment from the concerned Government departments, including DEP, AC for T/NT of TD and CE/MN of DSD. The applied use will unlikely create significant adverse traffic, environmental and drainage impacts to the surrounding area. To minimize any possible environmental impacts and nuisance on the surrounding developments, and to address the technical requirements of the concerned Government departments, relevant 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 planning application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental impacts on the nearby sensitive receivers.

- 11.4 The Committee has approved 3 similar applications for public vehicle park use within the same “V” zone. Approval of the current application is in line with the previous decision of the Committee.
- 11.5 Three public comments were received objecting to the application mainly on grounds as summarized in paragraph 10. However, relevant Government departments including DEP, CE/MN of DSD, AC for T/NT, TD have no adverse comments on the application. On the concern of road safety, the applicant proposes to post a notice to remind the drivers of pedestrian safety. A relevant approval condition is recommended in paragraph 12.2 below. For other concerns, the planning considerations and assessments in the above paragraphs are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the temporary public vehicle park for 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 **6.7.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation from 11:00 p.m. to 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicles without valid licenses issued under the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site during the planning approval period;
- (c) except private car, no light, medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) a notice shall be posted at a prominent location of the Site to indicate that except private car, no light, medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;

- (e) a notice shall be posted at a prominent location of the Site to remind drivers on pedestrian safety on the access road to the Site, as proposed by the applicant, at any time during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public roads at any time during the planning approval period;
- (g) the provision of fencing of the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.1.2019**;
- (h) the submission of a revised 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 **6.1.2019**;
- (i) in relation to (h) above, the implementation of the revised 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 **6.4.2019**;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) 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 **6.1.2019**;
- (l) in relation to (k) 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 **6.4.2019**;
- (m) the submission of a tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.1.2019**;
- (n) relation to (m) above, the implementation of the tree preservation and landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.4.2019**;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (j) 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;
- (p) if any of the above planning conditions (g), (h), (i), (k), (l), (m) or (n) 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
- (q) 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 V**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The applied use is not in line with the planning intention of the "V" zone, which is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within the 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 reasons for rejection should be given to the applicant.

### **14. Attachments**

<b>Appendix I</b>	Application form received on 14.5.2018
<b>Appendix Ia</b>	Supplementary Planning Statement with proposed layout plan, proposed landscape plan and proposed drainage plan
<b>Appendix Ib</b>	Letter from the applicant dated 25.6.2018 to clarify the site area and propose a notice on the Site to remind pedestrian safety
<b>Appendix II</b>	Previous application covering the Site
<b>Appendix III</b>	Similar applications within the same "V" zone on the Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/8
<b>Appendix IVa to c</b>	Public Comments
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Landscape Plan
<b>Drawing A-4</b>	Proposed Drainage 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 to 4b</b>	Site Photos