

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

APPLICATION NO. A/YL-LFS/327

- Applicant** : Mr. WONG Kwok Wing represented by Metro Planning and Development Company Limited
- Site** : Lots 2632, 2634 (Part), 2796 (Part), 2797 (Part) & 2798 (Part) in D.D. 129, Sha Kong Wai, Yuen Long, N.T.
- Site Area** : About 1,484 m²
- 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”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Private Vehicle Park for Private Cars 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 private vehicle park for private cars 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 valid planning permission.
- 1.2 The Site is accessible via a local track from Tin Wah Road and the two ingress/egress points are located at the northern and southwestern boundaries of the Site respectively (**Plans A-2, A-3 and Drawing A-1**). As shown on the proposed layout plan at **Drawing A-2**, the temporary private vehicle park will provide 24 private car parking spaces. No structure is 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 Sundays and 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 16.8.2018 **(Appendix I)**
- (b) Supplementary Planning Statement with a location plan, **(Appendix Ia)** proposed vehicular access plan, proposed layout plan, proposed landscape plan and proposed drainage plan

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 development is in line with the planning intention of the “V” zone and compatible with the surrounding environment.
- (b) There is insufficient supply of parking space to meet existing parking demand.
- (c) Similar public vehicle park in “V” zone has been approved by the Board in Lau Fau Shan.
- (d) The proposed development would not generate significant adverse environment problem, traffic impact or drainage impact. A number of preventive and mitigation measures are proposed by the applicant to avoid degradation of the surrounding environment.

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 a subject of an active enforcement case (No. E/YL-LFS/468). The alleged unauthorised development (UD) is filling of pond and filling of land. EN was issued on 19.7.2018 and required the UD be discontinued by 2.8.2018. Chief Town Planner/Central Enforcement & Prosecution of Planning Department’s (CTP/CEP of PlanD) recent site inspection revealed the UD discontinued. He will keep the site under monitoring. If the UD reactivates without planning permission, his office will instigate planning enforcement action against it subject to sufficient evidence collected.

5. Previous Application

The Site involves 1 previous planning application (No. A/YL-LFS/39), which occupies

a much larger site, for recreational uses including barbecue spot, playground, refreshment kiosk, visitor centre, public car park & ancillary uses, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 14.5.1999. The current application is for temporary private vehicle park for private cars which is different in use with the last application. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

There are 4 similar applications within the same “V” zone on the OZP (Nos. A/YL-LFS/281, 309, 310 and 319) for temporary vehicle park use. All of them were approved with conditions for a period of 3 years by the Committee between 2016 and 2018. Details of the applications are summarized in **Appendix III** and their locations are 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) currently being used for the applied use without valid planning permission; and
- (b) accessible via a local track from Tin Wah Road.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural residential dwellings of Shan Kong Wai;
- (b) parking of vehicles, unused lands, cultivated agricultural land and vacant land in the vicinity; and
- (c) Tin Shui Wai Greenfield for recreational use (approved application No. A/YL-LFS/39) is located to its immediate south.

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) The Site is accessible from Tin Wah Road through both Government land (GL) and private land. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) According to her record, there is no Small House (SH) application(s) having been approved and no SH application(s) under processing within the “V” zone portion of the Site.
- (e) Should the application be approved, the lot owners will need to apply to her office to permit the structures to be erected or regularize any irregularity on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above 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 applications will be approved. If such applications are 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 or its adjacent area. 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 Tin Wah 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 Temporary Uses and Open Storage Sites' (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 existing nullah/channel/watercourse, to which the applicant proposed to discharge the stormwater from the subject site was not maintained by this office. The applicant should identify the owner of the existing drainage facilities and obtain consent from the owner prior to commencement of the proposed works. In the case that it is a local village drains, DO/YL should be consulted.
 - (ii) Consideration should be given to provide grating for the surface channels.
 - (iii) Cross sections showing the existing and proposed ground levels of the captioned site with respect to the adjacent areas should be given.
 - (iv) Sand trap or provision alike should be provided before the collected runoff is discharged to the public drainage facilities.
 - (v) Standard details should be provided to indicate the sectional details of the proposed u-channel and the catchpit/sand trap.
 - (vi) 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.

- (vii) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
 - (viii) 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 requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

His office has not received any comment from the locals on the application.

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

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Commissioner of Police (C of P);
- (e) Director of Agriculture, Fisheries and Conservation (DAFC);

- (f) Director of Electrical and Mechanical Services (DEMS); and
- (g) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD)

10. Public Comments Received During Statutory Publication Period

On 24.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 14.9.2018, one public comment from an individual of the public (**Appendix IV**) was received objecting to the application for the reason of inefficient use of land.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary private vehicle park for private cars 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 applied 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 eastern part of the village clusters of Sha Kong Wai. The applied use is considered not incompatible with the surrounding land uses which mainly comprise rural residential dwellings and vacant land (**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 UD 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 4 similar applications for public vehicle park use within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 One public comment was received objecting to the application mainly on grounds as summarized in paragraph 10. 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 comment mentioned in paragraph 10 above, the Planning Department considers that the temporary private vehicle park for private cars 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 **5.10.2021**. 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) no vehicle is allowed to queue back to or reverse onto/from public roads at any time during the planning approval period;
- (e) 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 **5.4.2019**;
- (f) in relation to (e) 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 **5.7.2019**;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 **5.4.2019**;
- (i) in relation to (h) 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 **5.7.2019**;
- (j) 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 **5.4.2019**;

- (k) if any of the above planning conditions (a), (b), (c), (d) or (g) 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;
- (l) if any of the above planning conditions (e), (f), (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; and
- (m) 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

Appendix I	Application form received on 16.8.2018
Appendix Ia	Supplementary Planning Statement with a location plan, proposed vehicular access plan, proposed layout plan, proposed landscape plan and proposed drainage plan
Appendix II	Previous s.16 application covering the Site
Appendix III	Similar applications within the same "V" zone on the draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/8

Appendix IV	Public Comment
Appendix V	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape Plan
Drawing A-4	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2018**