

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

**APPLICATION NO. A/YL-LFS/367**

- Applicant** : Brilliant On Development Limited
- Site** : Lots 1210 S.B ss.1, 1210 S.B ss.2, 1210 S.B ss.3, 1210 S.B ss.4, 1210 S.B ss.5, 1210 S.B ss.6, 1210 S.B ss.7 and 1210 S.B RP in D.D. 129 and adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 750 m<sup>2</sup> (including about 170 m<sup>2</sup> of GL (about 22.7%))
- Lease** : Block Government Lease (Demised for Agricultural Use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Village Type Development” (“V”)  
*[Restricted to a maximum building height of 3 storeys (8.23m)]*
- Application** : Temporary Private Vehicle Park (Private Cars) for a Period of 3 Years and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary private vehicle park (private cars) for a period of 3 years and filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “V”. According to the Notes of the OZP for “V” zone, ‘Private Vehicle Park’ is neither a Column 1 nor Column 2 use and filling of land requires planning permission from the Town Planning Board (the Board). According to the covering Notes of the OZP, temporary use or development not exceeding a period of three years requires permission from the Board notwithstanding that the use or development is not provided for in terms of the OZP. The Site is hard-paved and currently partly vacant and partly occupied by the applied use without valid planning permission (**Plans A-4a and A-4b**). This application is intended to regularise the temporary private vehicle park with filling of land.
- 1.2 The Site is not involved in any previous planning application. It falls within the “V” zone and village ‘environs’ (‘VE’) of Mong Tseng Wai and is accessible via a local track leading from Deep Bay Road (**Drawing A-3 and Plan A-3**). The ingress/egress point is located at the southern boundary of the Site through GL (**Drawing A-2 and Plan A-2**). According to the applicant, the Site has been filled

with a depth of not more than 180mm. The filling materials include cement with reinforcement (i.e. iron mesh). No additional land filling will be carried out at the Site. 18 parking spaces for private cars (5m x 2.5m) are provided. The operation hours of the Site are 24 hours daily. Plans showing the lot boundaries, site layout, vehicular access and drainage proposal are at **Drawings A-1 to A-4** respectively.

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

- (a) Application Form with attachments received on 7.7.2020 (**Appendix I**)
- (b) Further Information (FI) received on 13.8.2020 providing responses to the comments of the Transport Department (TD) regarding the estimated trip generation and attraction (**Appendix Ia**)  
(*exempted from publication requirement*)
- (c) FI received on 7.9.2020 providing responses to the comments of the Drainage Services Department (DSD) and enclosing a drainage proposal (**Appendix Ib**)  
(*exempted from publication requirement*)
- (d) FI received on 12.10.2020 providing clarification on land filling information and a revised layout plan (**Appendix Ic**)  
(*exempted from publication requirement*)
- (e) FI received on 5.1.2021 providing responses to the comments of the DSD and enclosing a revised drainage proposal (**Appendix Id**)  
(*exempted from publication requirement*)

1.4 On 4.9.2020 and 6.11.2020, the Board agreed to defer the decisions on the application for two months each as requested by the applicant. The applicant submitted FI on 7.9.2020, 12.10.2020 and 3.12.2020 and the application is scheduled to be considered at this meeting.

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

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

- (a) The private vehicle park is intended to serve the local villagers so as to alleviate the problem of insufficient parking spaces in Mong Tseng Wai.
- (b) The applied use, which only involves 18 private car parking spaces, would not create adverse traffic impact to the area.

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

For the private land portion, the applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, 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) are not applicable.

#### **4. Background**

The Site is subject to an active enforcement case (No. E/YL-LFS/489) (**Plan A-2**) and the alleged unauthorized development (UD) is parking of vehicles. Enforcement Notice (EN) was issued to the registered land owner on 3.6.2020 requiring the UD to be discontinued by 3.9.2020. Site inspections on 4.9.2020 and 30.10.2020 indicated that UD was discontinued.

#### **5. Town Planning Board Guidelines**

The Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C) is relevant to this application. According to the said Guidelines, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

#### **6. Previous Application**

The Site does not involve any previous planning application.

#### **7. Similar Applications**

7.1 Within the same “V” zone, there is no similar application for vehicle park use. On the same OZP, there are 6 similar applications (No. A/YL-LFS/281, 309, 310, 319, 327 and 345) for temporary public/private vehicle park for private cars and/or light goods vehicles within another “V” zone to the southwest of the Site. All of them were approved with conditions by the Committee between 2016 and 2019 for a period of 3 years on the considerations that temporary approvals would not jeopardize the long-term planning intention of the “V” zone, the developments were not incompatible with the surrounding land uses, there were no adverse comments from the concerned Government departments and planning approvals were in line with the previous decision. Details of the applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7.2 There is no similar application for filling of land involving vehicle park use on the OZP.

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

8.1 The Site is:

- (a) hard-paved and currently partly vacant and partly occupied by the applied use without valid planning permission;
- (b) located in the 'VE' of Mong Tseng Wai and within the WBA (**Plan A-1**); and
- (c) accessible via a local track leading from Deep Bay Road (**Plan A-3**).

8.2 The surrounding areas have the following characteristics:

- (a) to its north, west and south are village houses (the nearest one is being about 1.5 m away) intermixed with some vacant land;
- (b) to its further northeast are parking of vehicles and village houses;
- (c) to its east is the Yuen Kwan Tai Temple (玄關帝廟); and
- (d) to its southeast is abandoned cultivated land.

## **9. Planning Intention**

9.1 The planning intention of "V" zone is to designate both existing recognized 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9.2 Any filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

## **10. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) The Site comprises GL and Old Schedule Agricultural Lots (OSALs). The OSALs are 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 the GL included in the Site (about 170 m<sup>2</sup>). The act of occupation of GL without Government's prior approval is not allowed.
- (c) Should planning approval be given to the planning application, the lot owner(s) of the lot(s) will need to apply to his office for permitting the structures to be erected or to regularize any irregularity on site, if any. Only application for regularization or erection of temporary structure(s) will be considered. Also, 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. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.
- (d) There is no New Territories Exempted Houses (NTEH) or Small House application received or approved at the Site.

### **Environment**

#### 10.1.2 Comment of the Director of Environmental Protection (DEP):

- (a) The development would not involve operation of heavy vehicles nor dusty operations. Therefore, he has no adverse comment on the application.
- (b) No environmental complaint pertaining to the Site has been received in the past three years.
- (c) The applicant is advised to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the DEP to minimize potential environmental nuisance to the surrounding area.

### **Traffic**

#### 10.1.3 Comments of the Commissioner for Transport (C for T):

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse

onto/from the 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.

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

**Landscape**

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

- (a) The Site, located in Mong Tseng Wai, falls within an area zoned "V" and the WBA. The Site is not the subject of any previous planning application. The current application seeks planning application for temporary private vehicle park (private cars) for a period of 3 years and filling of land.
- (b) According to the aerial photo of 2019, the Site is vacant and concrete paved. The Site is located in an area of rural fringe landscape predominated by village houses, woodlands, fallow lands with some open car parks in the proximity. The proposed development is considered not entirely incompatible to the landscape character of the surrounding area. Significant adverse landscape impact arising from the proposed development is not envisaged and hence she has no objection to the application from landscape planning perspective.
- (c) In view that there is limited available space for effective landscape treatment to enhance the public realm, a landscape condition is considered not required should the application be approved by the Board.

**Nature Conservation**

10.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

She has no comment on the application from nature conservation point of view as the Site is largely paved and disturbed.

### **Building Matters**

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

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Building Ordinance (BO).
- (b) The applicant should be reminded of the detailed comments at **Appendix VI**.

### **Drainage**

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

- (a) He has no objection in principle to the application from drainage point of view.
- (b) 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 including flood mitigation measures, to implement and maintain the proposed drainage facilities to the satisfaction of his department.
- (c) The applicant should be reminded of the detailed comments at **Appendix VI**.

### **Fire Safety**

10.1.9 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 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. The applicant should be reminded of the detailed comments at **Appendix VI**.

### **District Officer's Comments**

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

His office has received one comment from the village representative of Mong Tseng Wai on the application objecting to the application mainly on the grounds of traffic, drainage and flooding problems (**Appendix IV**).

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

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Project Manager (West), CEDD (PM(W), CEDD);
- (c) Principal Project Coordinator/Special Duty, DSD (PPC/SD, 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).

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

On 14.7.2020, the application was published for public inspection. During the statutory public inspection period, 8 public comments were received from villagers and individuals (**Appendices V-1 to V-8**). All object to the application and their reasons are summarized below:

- (a) the Board should not encourage “develop first, apply later” attitude;
- (b) there is a lack of various impact assessments;
- (c) the proposed development is not compatible with the surrounding area;
- (d) the proposed development will generate possible adverse traffic, environmental, landscape, drainage, sewerage, flooding, health, road safety and fung shui impacts and lead to degradation of the surrounding area; and
- (e) approval of the application would set an undesirable precedent for future similar applications within the same “V” zone and the WBA.

## **12. Planning Considerations and Assessments**

12.1 The application is for temporary private vehicle park (private cars) for a period of 3 years and filling of land in the “V” zone of Mong Tseng Wai. Although the applied use is not entirely in line with the planning intention of the “V” zone which is primarily intended for development of Small Houses by indigenous villagers, the development could serve the local villagers/residents for meeting their car parking needs. Besides, DLO/YL of LandsD advises that there is no Small House application approved or under processing within the Site at present. As such, approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “V” zone.

12.2 The Site is situated in an area of rural fringe landscape character predominated by village houses, woodland, fallow land with some open car parks in the proximity.



The Site is also located at the eastern part of the village clusters of Mong Tseng Wai. The applied use is considered not incompatible with the surrounding land uses (**Plan A-2**).

- 12.3 The requirement for planning permission for filling of land within the “V” zone is to address the possible drainage impact. In this regard, CE/MN of DSD advises that he has no objection to the application from drainage point of view, and the applicant should submit a revised drainage proposal including flood mitigation measures and to implement the proposed drainage facilities to the satisfaction of his department. As such, relevant approval conditions are recommended in paragraph 13.2 below to address DSD’s concern. Any non-compliance with the approved conditions would result in revocation of the planning permission. Upon compliance with the recommended approval conditions, it is anticipated that the filling of land would not create adverse drainage impact on the surrounding area.
- 12.4 The Site falls within the WBA under the TPB PG-No. 12C. The intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds. According to the TPB PG-No. 12C, temporary uses are exempted from EcoIA submission requirement. DAFC has no adverse comment on the application from nature conservation perspective. In view of the above, the application is considered not in contravention with the TPB PG-No. 12C.
- 12.5 Other relevant Government departments, including DEP, C for T, D of FS and CTP/UD&L of PlanD have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse environmental, traffic, fire safety and landscape 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 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the 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 “COP” in order to minimize the potential environmental nuisance to the surrounding area.
- 12.6 The Site is not subject to any previous planning approval. However, the Committee has approved six similar applications for public/private vehicle park use within another “V” zone to the southeast of the Site on the same OZP (**Plan A-1**). Approval of the current application is in line with the previous decisions of the Committee.
- 12.7 There are 9 public comments received objecting to the application on the grounds as summarized in paragraphs 10.1.10 and 11 above. The planning considerations and assessments in paragraph 12.1 to 12.6 above are relevant.

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

- 13.1 Based on the assessment made in paragraph 12 above and having taken into account

the public comments mentioned in paragraphs 10.1.10 (relayed by DO/YL, HAD) and 11 above respectively, the Planning Department considers that the application for temporary private vehicle park for private cars could be tolerated for a period of 3 years.

- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **26.2.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no additional filling of land, as proposed by the applicant, is allowed to be carried out at the Site;
- (b) only private cars as defined in the Road Traffic Ordinance are allowed to be parked on or enter/exit the Site at any time during the planning approval period;
- (c) 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 be parked on or enter/exit the Site during the planning approval period;
- (d) 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;
- (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 submission of a revised drainage proposal including flood mitigation measures 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 **26.8.2021**;
- (g) in relation to (f) above, the implementation of the revised drainage proposal including flood mitigation measures 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 **26.11.2021**;
- (h) in relation to (g) above, the implemented drainage facilities 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 **26.8.2021**;
- (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 **26.11.2021**;

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

#### Advisory Clauses

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

- 13.3 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 primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

#### **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 approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

#### **15. Attachments**

<b>Appendix I</b>	Application Form Received on 7.7.2020
<b>Appendix Ia</b>	Further Information Received on 13.8.2020
<b>Appendix Ib</b>	Further Information Received on 7.9.2020
<b>Appendix Ic</b>	Further Information Received on 12.10.2020
<b>Appendix Id</b>	Further Information Received on 5.1.2021
<b>Appendix II</b>	Relevant Extracts Town Planning Board Guidelines for Application for Developments within Deep Bay Area (TPB PG-No.12C)
<b>Appendix III</b>	Similar Applications within "V" zone on the Approved Lau Fau Shan and Tsim Bei Tsui OZP
<b>Appendix IV</b>	Public Comment Relayed by DO/YL, HAD

<b>Appendices V-1 to V-8</b>	Public Comments Received During Statutory Publication Period
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Plan with Lot Boundaries
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Vehicular Access Plan
<b>Drawing A-4</b>	Drainage Proposal
<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 and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
FEBRUARY 2021**