

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/566

<u>Applicant</u>	:	LEUNG Kwok Chiu represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	:	Lots 477 s.A (Part), 477 RP (Part), 483 s.B (Part) and 483 RP (Part) in D.D. 123, Tai Tseng Wai, Yuen Long, New Territories
<u>Site Area</u>	:	About 447.4 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Ping Shan Outline Zoning Plan No. S/YL-PS/17
<u>Zoning</u>	:	“Village Type Development” [Restricted to a maximum building height of 3 storeys (8.23 m)]
<u>Application</u>	:	Temporary Public Vehicle Park (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 public vehicle park (private cars) for a period of 3 years (**Plan A-1**). According to the Notes for the “V” zone on the OZP, ‘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 permission for a period of 3 years. The Site is currently being used for the applied use without a valid application.
- 1.2 The Site is the subject of one previous application (No. A/YL-PS/501) for the same use by the same applicant. The last Application No. A/YL-PS/501 for temporary public vehicle park (private cars) for a period of 3 years was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 4.12.2015. However, the permission was revoked on 4.5.2018 due to non-compliance with the implementation of drainage and landscape and tree preservation proposals. Details of the previous application are summarised at paragraph 6 below and at **Appendix II**.
- 1.3 Compared with the last application No. A/YL-PS/501, the current application is submitted by the same applicant for same use on a smaller site (- 60 m²) with less

parking spaces (- 2 spaces) and a similar parking layout.

- 1.4 The lot index plan, proposed layout plan, tree preservation and landscape proposal and drainage proposal are at **Drawings A1 to A4** respectively.
- 1.5 According to the applicant, the Site is accessible via a local track connecting to Fuk Shun Street. No queuing, reversing and manoeuvring of vehicles out of the Site is required for vehicles travelling into and out of the Site. No light, medium and heavy goods vehicle and container vehicle is allowed on-site. The operation hours of the public vehicle park are from 7:00 a.m. to 11:00 p.m. daily.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application form received on 6.7.2018 **(Appendix I)**
 - (b) Supplementary planning statement with location plan, lot index plan, proposed layout plan, tree preservation and landscape proposal and drainage proposal **(Appendix Ia)**
 - (c) Letter of 31.7.2018 providing response to the comments of the Transport Department (TD) **(Appendix Ib)**
(accepted and exempted from publication and recounting requirement)
 - (d) Letter of 8.8.2018 providing reasons for previous non-compliance with approval conditions **(Appendix Ic)**
(accepted and exempted from publication and recounting requirement)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendix Ia and Ic**. They can be summarised as follows:

- (a) The public vehicle park could serve the vicinity and benefit the residents in the area since there is no existing public vehicle park for the vicinity. The proposed use will continue to serve the demand for public vehicle park and help regulate the chaotic parking situation in the area.
- (b) The temporary nature of the application would not hinder the planning intention of the “V” zone.
- (c) The estimated daily trip generation and attraction rate is 14 per day at various times of the day. The number of trips generated and attracted to the Site is expected to be similar for both weekdays and weekends. No significant adverse impact is anticipated to the local network, especially Fuk Shun Street.
- (d) There are 3 similar applications (No. A/YL-PS/274, 285 and 328) in the same

“V” zone. These applications were approved with conditions on a temporary basis.

- (e) The existing trees in the Site will be properly maintained.
- (f) The proposed development would have no adverse environmental impact.
- (g) The contractors hired by the applicant were unfamiliar with departmental guidelines. The implementation of the approved drainage proposal and tree preservation and landscape proposal under application No. A/YL-PS/501 were thus delayed in order to rectify the situation according to departmental comments. The planning permission was then revoked as the approval conditions are not complied with by the time limit. The applicant had endeavoured to rectify the situation up to standard.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice of the application outside the Site and sending registered mail to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guideline

Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C) are relevant. According to the TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA) (**Plan A-1**). The relevant assessment criteria are summarised 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;
- (b) within the WBA, for development or redevelopment which requires planning permission from the Board, an ecological impact assessment (EcoIA) would also need to be submitted. Some local and minor uses (including NTEHs) are however exempted from the requirement of EcoIA;
- (c) within the WBA, for development or redevelopment which requires planning permission from the Board, an ecological impact assessment would also need to be submitted. Development/redevelopment which may have negative impacts on the ecological value of the WCA would not be supported by the Board, unless the ecological impact assessment can demonstrate that the negative impacts could be mitigated through positive measures. The assessment study should also demonstrate that the development will not cause net increase in pollution load to Deep Bay; and

- (d) in addition to ecological consideration, other planning considerations including development intensity, compatibility with the surrounding land uses, environmental impact (e.g. noise, air and water qualities), traffic and drainage impacts, provision of infrastructure and visual impact are also important in the assessment of an application within the Deep Bay Area.

5. **Background**

The Site was the subject of a previous approved planning application for temporary public vehicle park (private cars) for a period of 3 years, planning permission of which was revoked on 4.5.2018. The current use at the Site is under investigation. Should there be sufficient evidence to form an opinion that there is an unauthorised development under the Town Planning Ordinance, planning enforcement action will be taken.

6. **Previous Application**

- 6.1 The Site is the subject of one previous planning application (No. A/YL-PS/501). Details of the previous application are summarised at **Appendix II** and its location is shown on **Plan A-1**.
- 6.2 Application No. A/YL-PS/501 for temporary public vehicle park (private cars), submitted by the same applicant of the current application, was approved by the Committee with conditions on 4.12.2015. However the permission was revoked on 4.5.2018 due to non-compliance with the implementation of drainage and landscape and tree preservation proposals.
- 6.3 Compared with the last application No. A/YL-PS/501, the current application is submitted by the same applicant for same use on a smaller site (- 60 m²) with less parking spaces (- 2 spaces) and a similar parking layout.

7. **Similar Applications**

- 7.1 There are three similar applications (Nos. A/YL-PS/274 and 285 for temporary public vehicle park for private cars and No. A/YL-PS/328 for temporary public vehicle park for private cars and light vans) use within the same “V” zone. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 7.2 All of these three similar applications were approved by the Committee on considerations that the temporary use would not frustrate the long term planning intention of the “V” zone, the use was not incompatible with the surrounding land uses, and the uses were unlikely to create significant adverse traffic, environmental, drainage and visual impacts on the surrounding areas. Applications Nos. A/YL-PS/274 and 328 were revoked due to non-compliance with approval conditions.

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

- 8.1 The Site is:
- (a) currently occupied by the applied use;

- (b) accessible via a local track connecting to Fuk Shun Street; and
- (c) located within the WBA of the Deep Bay Area (**Plan A-1**).

8.2 The surrounding areas have the following characteristics:

- (a) the surrounding areas are predominately village houses of Tai Tseng Wai intermixed with sites for parking of vehicles which are suspected unauthorised development; and
- (b) to the southeast across a nullah is the Yuen Long Industrial Estate.

9. Planning Intention

The planning intention of “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. 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 Town Planning Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 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 Fuk Shun Street through both Government Land (GL) and private land. His 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 his record, there are five Small House (SH)

applications having been approved and four SH applications under processing within the Site and in the vicinity. The two SH applications under processing at the Site are still in preliminary stage.

- (e) Should planning approval be given to the planning application, the lot owners will need to apply to his office to permit the structures to be erected or regularise any irregularities on site. 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

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

- (a) He has no adverse comment to the application from traffic engineering point of view.
- (b) Sufficient space within the Site should be provided for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.
- (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.

10.1.3 Comments of the Chief Highways 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 Fuk Shun Street.

Drainage

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

- (a) He notes that the drainage proposal was generally identical to the

one submitted under the previous application No. A/YL-PS/501. He has no objection in principle to the proposed development from a drainage point of view.

- (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction to his Division.

Environment

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

- (a) Should the application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environment Aspects of Temporary Uses and Open Storage Sites”.
- (b) There was no environmental complaint pertaining to the Site received in the past 3 years.

Fire Safety

10.1.6 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 should 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, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) However, the applicant should be reminded that if the proposed structure(s) is required to comply with Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

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

- (a) With reference to his record and aerial photo of 2018, it is

observed that the Site is mainly hard paved with trees generally along the northern and western boundaries. The Site is situated in an area of village landscape character. Significant change to the landscape character arising from the application is not envisaged. Noted tree planting is proposed to mitigate the impact to the adjoining village houses, he has no objection to the application from the landscape planning perspective.

- (b) Should the Board approve the application, he would recommend the implementation of the approved landscape proposal to the satisfaction of the Director of Planning or of the Board.
- (c) The applicant is advised that approval of the landscape proposal by the Board does not imply approval of tree works such as pruning, transplanting or felling under lease. Tree work applications should be submitted direct to DLO for approval.
- (d) In event that any tree requires replacing, in consideration of the nature of proposed land use of the application, the applicant may wish to propose other native species of aesthetic or fruiting tree species complementary to the vicinity as replacement trees in lieu of the proposed *Ficus microcarpa* that requires considerable aerial and underground space for its canopy and root system.
- (e) The applicant shall be reminded of the importance of proper tree care. Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 (Chinese version: http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) published by the GLTM Section, DEVB; and Technical Notes on Submission and Implementation of Landscape Proposal for Compliance with Conditions for Approved Applications for Open Storage and Port Back-up Uses (Chinese Version: http://www.info.gov.hk/tpb/tc/forms/Technical_Doc/chi_technicalx20note.pdf) published by the PlanD.

District Officer's Comments

10.1.8 Comments of the District Officer (Yuen Long), HAD (DO(YL), HAD):

His office has not received any comment from locals upon the end of consultation period.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (d) Chief Building Surveyor/New Territories West, Buildings Department

- (CBS/NTW, BD);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (g) Commissioner of Police (C of P); and
- (h) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

11. Public Comments Received During Statutory Publication Period

On 13.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.8.2018, one public comment (**Appendix IV**) was received raised concerns that the Site for non-public housing development was a form of inefficient land use.

12. Planning Considerations and Assessments

- 12.1 The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The development could provide vehicle parking spaces to meet any such parking demand in the area. Whilst there are two SH applications under processing on the Site, DLO/YL, LandsD advises that they are still in preliminary stage. Approval of the application on a temporary basis will not frustrate the planning intention of the “V” zone.
- 12.2 The Site is mainly surrounded by residential dwellings and sites for parking of vehicles (**Plan A-2**). The proposed use is not incompatible with the surrounding land uses.
- 12.3 Although the Site falls within the Wetland Buffer Area of the TPB PG-No. 12C, the guidelines also specify that planning applications for local and minor uses (including temporary uses) are exempted from the requirement of EcoIA. The DAFC has no comment on the application. Adverse ecological impacts are not envisaged.
- 12.4 Relevant Government departments, including AC for T/NT, DEP, CE/MN of DSD and CTP/UD&L of PlanD, have no objection to or adverse comment on the application. The proposed use will unlikely create significant adverse traffic, environmental, drainage and landscape impacts to the surrounding areas. There has been no environmental complaint concerning the Site received in the past 3 years. To minimize any potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.

- 12.5 The Committee has approved one previous application for the same use at the Site and three similar applications within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 The last application No. A/YL-PS/501 submitted by the same applicant for the same use was revoked due to non-compliance with the time-limited approval conditions on the implementation of drainage and landscape and tree preservation proposals. The applicant explained that his contractor was unfamiliar with departmental guidelines thus resulting delay in implementation of the approved drainage proposal and tree preservation and landscape proposal within the specified time limit. For the current application, the applicant has submitted drainage proposal and tree preservation and landscape proposal. CE/MN, DSD and CTP/UD&L, PlanD have no objection to the application. Sympathetic consideration may be given to the current application. Nevertheless, shorter compliance periods are recommended in order to closely monitor the progress of compliance with approval conditions. Should the application be approved, the applicant should be advised that should the applicant fail to comply with any of the approval conditions again resulting in the revocation of planning permission, sympathetic consideration would not be given to any of the application.
- 12.7 There is one public comment raising concerns as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 above, the Planning Department considers that the temporary public 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 17.8.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars as defined in the Road Traffic Ordinance are allowed to enter/be parked on the Site, as proposed by the applicant, at all times during the planning approval period;
- (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 enter/be parked on 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, as proposed by the applicant, at any time during the planning approval period;
- (e) no vehicle washing, vehicle repair, dismantling, paint spraying or other workshop activity is allowed on the Site, as proposed by the applicant, at any time during the planning approval period;
- (f) 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 at all times during the planning approval period;
- (g) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (h) the implementation of the accepted drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **17.2.2019**;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) the submission of a fire service installations proposal within **3** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **17.11.2018**;
- (k) in relation to (j) above, the implementation of the fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **17.2.2019**;
- (l) the implementation of the accepted landscape proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **17.2.2019**;
- (m) the provision of boundary fencing on the Site within **3** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **17.11.2018**;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) 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;
- (o) if any of the above planning conditions (h), (j), (k), (l) or (m) 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
- (p) upon the expiry of the planning permission, the reinstatement of the Site

to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

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

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

the planning intention of "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The proposed development is not in line with the planning intention of the "V" zone. 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

Appendix I	Application form received on 6.7.2018
Appendix Ia	Supplementary planning statement with location plan, lot index plan, proposed layout plan, tree preservation and landscape proposal and drainage proposal
Appendix Ib	Letter of 31.7.2018 providing response to the comments of TD
Appendix Ic	Letter of 8.8.2018 providing reasons for previous non-compliance with approval conditions
Appendix II	Previous Application covering the Site
Appendix III	Similar Applications within the same "V" zone
Appendix IV	Public comments received during statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Lot index plan
Drawing A-2	Proposed layout plan
Drawing A-3	Tree preservation and landscape proposal
Drawing A-4	Drainage proposal
Plan A-1	Location Plan
Plan A-2	Site Plan

Plan A-3
Plan A-4

Aerial Photo
Site Photos

PLANNING DEPARTMENT
AUGUST 2018