

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/423

- Applicant** : Mr Wong Ka Sing represented by Mr Lee Wai Leung
- Site** : Lot 3169 in D.D. 120, Sham Chung Road, Yuen Long
- Site Area** : 390.58m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Private Vehicle Park (Private Cars only)
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 (private cars only) for a period of 3 years. The Site is currently used for parking of vehicles without valid planning permission (**Plans A-2 and A-4**). The Site is not subject to any previous application.
- 1.2 Major development parameters of the application are summarized in table below:

Site Area	About 390.58m ²
Total Floor Area (Non-domestic)	Nil
No. of Structures	Nil
Parking Spaces	5 (for private cars (5m x 3m))
Loading/ Unloading Spaces	Nil

- 1.3 The Site is accessible from Sham Chung Road via an ingress/egress to its east (**Plan A-2**). According to the applicant, there will be 2 trips daily and the destination is either Yuen Long or Tuen Mun. A plan showing the vehicular

access leading to the Site and a site layout plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received on 2.1.2018 **(Appendix I)**
 - (b) Further information dated 1.2.2018 providing a revised site layout plan showing the width of ingress/egress and information on parking use and vehicular trip generation **(Appendix Ia)**
 - (c) Further information dated 23.2.2018 undertaking that a notice limiting access to private cars only will be posted at the Site and there will be no workshop activities **(Appendix Ib)**

2. Justifications from the Applicant

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

- (a) The applicant lives nearby the Site which has been leased by him for parking of private cars for years. The vehicle park is for family use and not for commercial purpose.
- (b) The Site will be landscaped to enhance visual amenity of the area.
- (c) There will be no parking, queuing and reverse movement of vehicles on public road as there is sufficient manoeuvring space within the Site and hence there will be no adverse impact on local traffic.
- (d) The applicant undertakes to post a notice indicating that only private cars are allowed at the Site. Moreover, there will be no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities.

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) through obtaining the written consent of the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The current use on Site is subject to investigation. Enforcement action would be instigated should a material change of use be identified and confirmed to be an unauthorized development under the Town Planning Ordinance.

5. Previous Application

The Site is not subject to any previous planning application.

6. Similar Application

There is a similar application (No. A/YL-TT/45) submitted on 21.10.1998 for temporary lorry park (with site area 1,858m², and no proposed number of parking spaces) up to end of July 1999 within the subject “V” zone. The application was rejected by the Town Planning Board (the Board) upon review on 23.4.1999 on the grounds of not being in line with the planning intention of the “V” zone; not compatible with the surrounding rural area and the nearby village houses; no information in the submission on vehicular access arrangement and the layout of the proposed lorry park; and setting of an undesirable precedent for proliferation of similar uses resulting in a general degradation of the environment of the area. Details of the application are in **Appendix II** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Sham Chung Road via an ingress/egress to its east (**Plan A-2**); and
- (b) formed and used for the parking of vehicles without valid planning permission (**Plans A-2 and A-4**).

7.2 The surrounding areas have the following characteristics:

- (i) the surrounding areas comprise mainly of rural residential dwellings/structures, with the nearest one located to the immediate east of the Site;
- (ii) to the immediate south and west of the Site are vacant/unused land and fallow/cultivated agricultural land;
- (iii) to the immediate north of the Site are sites with works in progress;
- (iv) to the further south of the Site are storage yards and to the further northwest is a vehicle park, which are suspected unauthorized developments subject to enforcement action by the Planning Authority; and
- (v) across Sham Chung Road to the east are rural residential dwellings/structures, an orchard and a basketball court.

8. Planning Intention

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. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized 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 Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) The Site is accessible to Sham Chung Road via Government land (GL). Her office does not provide maintenance works for the GL involved and does not guarantees any right-of-way to the Site.
- (c) According to her record, there is no Small House (SH) application approved or under processing within the Site. In the vicinity (about 30m) of the Site, 23 SH applications have been approved and 3 SH applications are received and under processing.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the planning application, the lot owner(s) will need to apply to her office to permit structures to be erected or regularize any irregularities on Site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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 LandsD.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The applicant is reminded that 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.
- (b) The lands authority on the land status of the access road/path/track leading to the Site from Sham Chung Road should be checked.
- (c) The management and maintenance responsibilities and relevant authorities of the access road/path/track should be checked.

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 the Transport Department (TD).
- (b) If the proposed run-in is agreed by TD, the applicant should provide the run-in/run-out at Sham Chung Road in accordance with the latest version of Highways Standard Drawings No. H1113 and I1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to the nearby public roads/drains.
- (d) His department shall not be responsible for the maintenance of any access connecting the Site and Sham Chung Road.

Environment

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

- (a) The applicant is advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storages Sites” issued by the Environment Protection Department (EPD).
- (b) There was a substantiated environmental complaint received in 2016 related to landfilling activities covering the Site and its vicinity which were filled and flattened with soil and rubble.

Drainage

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

- (a) He has no in-principle objection to the application from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal, the implementation and maintenance of drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Building Matters

9.1.6 Comments 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 (BA) for any existing structures on the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
 - (ii) 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.
 - (iii) 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 should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iv) 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 (B(P)R) respectively.
 - (v) 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 B(P)R at the building plan submission stage.

Nature Conservation

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

- (a) She has no adverse comment on the application having regard that the Site is paved and disturbed.
- (b) Should the application be approved, the applicant should be advised to avoid affecting the existing trees and vegetation on GL in the vicinity of the Site during operation.

Others

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

He has no specific comments on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the subject application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where appropriate) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

9.1.9 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the Study). The Site falls within the Study Area of YLS but outside the development area of YLS. Hence, the Site would not be affected by any development proposal under the Study.

District Officer’s Comments

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any comments from the village representatives in the vicinity regarding the application.

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

- (a) Director of Fire Services;
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager (New Territories West), CEDD (PM(NTW), CEDD); and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 9.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 30.1.2018, a public comment (**Appendix III**) was received from a member of the public who raises concerns on the application on the grounds of not in line with the planning intention of “V” zone; not compatible with the surrounding residential use; adverse environmental impact on surrounding residences; and setting an undesirable precedent for similar uses leading to general degradation of the environment of the area.

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary private vehicle park (private cars only) to serve the applicant’s family use for a period of 3 years at a Site zoned “V” on the OZP. The applied use is not entirely in line with the planning intention of the “V” zone which is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion, and for development of SH by indigenous villagers. Nonetheless, DLO/YL of LandsD advises that there is no SH application approved or under processing within the Site at present. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The applied development is considered not incompatible with the surrounding land uses comprising predominantly of residential dwellings/structures and unused/vacant land nearby (**Plan A-2**).
- 11.3 The Site is located on the fringe of the subject “V” zone and is accessible directly from Sham Chung Road and does not require traversing through any village clusters (**Plan A-2**). The concerned Government departments consulted, including DEP, C for T, CHE/NTW of HyD and C of P have no objection to or adverse comment on the application. 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 There is a similar application (No. A/YL-TT/45) for a temporary lorry park within the subject “V” zone rejected by the Board on 23.4.1999. However, the current application is different in that only parking of private cars is involved.
- 11.5 There is a public comment (**Appendix III**) received on the application raising concerns on the application on the grounds as summarised in paragraph 10 above. 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 (private cars only) 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 2.3.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) only private cars, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (b) no vehicle without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) a notice shall be posted at a prominent location of the Site to indicate that only private cars, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site, as proposed by the applicant, at any time during the planning approval period;
- (f) the submission of a run-in/run-out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 2.9.2018;
- (g) in relation to (g) above, the provision of run-in/run-out within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 2.12.2018;

- (h) the submission of 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 2.9.2018;
- (i) in relation to (h) above, the implementation of the 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 2.12.2018;
- (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) if any of the above planning conditions (a), (b), (c), (d), (e) or (j) 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;
- (l) if any of the above planning conditions (f), (g), (h) or (i) 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 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 at **Appendix IV**.

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

- (a) 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. The 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; and
- (b) the applicant fails to demonstrate that the development would not generate adverse environmental impact on the residential uses in the surrounding areas.

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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with supplementary information received on 2.1.2018
Appendix Ia	Further information dated 1.2.2018 providing a revised site layout plan showing the width of ingress/egress and information on the parking use and vehicular trip generation
Appendix Ib	Further information dated 23.2.2018 undertaking that a notice limiting access to private cars only will be posted at the Site and there will be no workshop activities
Appendix II	Similar application within the subject "V" Zone on the Tai Tong OZP No. S/YL-TT/16
Appendix III	Public comment received during the statutory publication period
Appendix IV	Recommended advisory clauses
Drawing A-1	Plan showing the access leading to the Site
Drawing A-2	Site layout plan
Plan A-1	Location plan with similar application
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MARCH 2018**