

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

**APPLICATION NO. A/YL-TT/443**

<b><u>Applicant</u></b>	: Man Auto Parts HK Limited Company represented by Mr. Pang Hing Yeun
<b><u>Site</u></b>	: Lot 992 S.B (Part) in D.D. 116, Kong Tau San Tsuen, Yuen Long, New Territories
<b><u>Site Area</u></b>	: 1093.13m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Temporary Private Storage of Vehicle (Private Car, Motorcycle and Bicycle only) and Vehicle Part with Subsidiary Office and Rest Room 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 storage of vehicle (private car, motorcycle and bicycle only) and vehicle part with subsidiary office and rest room for a period of 3 years (**Plan A-1**). The Site is currently occupied for the applied uses and a vehicle parts shop without valid planning permission (**Plans A-2, A-4a to A-4b**).
- 1.2 The Site was involved in two previous applications (No. A/YL-TT/101 and 129) for proposed temporary private car and light goods vehicle park and temporary private car park respectively for a period of 3 years prior to the completion of the Yuen Long Bypass Floodway in 2006 (**Plan A-1**). Application No. A/YL-TT/101 was approved with conditions on a temporary basis by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) on 20.4.2001 and Application No. A/YL-TT/129 was rejected by the Committee and the Board on review on 12.4.2002 and 2.8.2002 respectively. Details of the previous applications are at paragraph 5 below and **Appendix II**.

- 1.3 The Site is accessible from Long Ho Road to its northwest via a bridge over the Yuen Long Bypass Floodway and a local track (**Plan A-2**). According to the applicant, the applied development is for private use only and will not be open to public. Only light goods vehicles would be used for delivery of vehicle parts to the Site and no car repairing activities will be carried out at the Site. Plans showing the site layout and the width of the access leading to the Site submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.4 The major development parameters of the current application are as follows:

Site Area	1,093.13 m <sup>2</sup>
Total Floor Area (Non-domestic)	500.06 m <sup>2</sup>
No. and Height of Structures	11 - 6 for storage (1 - 2 storeys, 4.4 - 6.4 m) - 1 for rest room and office (2 storeys, 6 m) - 1 for storage and rest room (2 storeys, 6 m) - 1 for storage and office (2 storeys, 5.4m) - 1 for toilet (1 storey, 4.8 m) - 1 for canopy (1 storey, 3 m)
Parking Spaces	2 (for private cars)
Loading/Unloading Space	1 (for light goods vehicle)
Operation Hours	11:00 a.m. to 4:00 p.m. from Mondays to Fridays, excluding Saturdays, Sundays and public holidays

- 1.5 In support of the application, the applicant has submitted the following document:
- Application Form with appendix and plans received on (**Appendix I**)  
16.8.2018

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

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form in **Appendix I**. They can be summarized as follows:

- (a) The applicant is an auto enthusiast who has bought the subject lot for storage of vehicles and vehicle parts a few years ago.
- (b) The applicant's collection largely comprises vintage cars, which is mostly for display rather than driving. The vehicles stored may be started every half a year to ensure their proper function. The Site is accessible to public roads. There is a 5m wide access and reversing space on site to ensure safe access of vehicles. In view of the above, the applied development will not induce additional loading on nearby roads.

- (c) The vehicle parts stored on site may be transported to other warehouses of the applicant once or twice every month. Such activity will be carried out by light goods vehicles during non-peak hours such that it will not affect people in the vicinity. A loading/unloading area is provided on site.
- (d) The Site has been filled for residential and storage uses more than a decade ago and is in proximity to open storage yards. The applied development is compatible with the surrounding areas and will not have environmental impacts. There has been no significant change in the character of the Site.
- (e) The applicant has fenced the Site and reconstructed the drains. Fire extinguishers have been placed on site.
- (f) The opening hours of the Site is from 11:00 a.m. to 4:00 p.m., Mondays to Fridays with no operation on Saturdays, Sundays and public holidays.

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

The applicant is the sole “current land owner”.

### **4. Background**

The current use at the Site is under investigation. Should there be sufficient evidence to prove that the current use on the Site constitutes an unauthorized development under the Town Planning Ordinance, enforcement action will be taken.

### **5. Previous Applications**

- 5.1 The Site was involved in two previous applications (No. A/YL-TT/101 and 129) for temporary car park uses prior to the completion of the Yuen Long Bypass Floodway. Details of the applications are summarized in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.
- 5.2 Application No. A/YL-TT/101 for proposed temporary private car and light goods vehicle park for a period of 3 years submitted by a different applicant was approved by the Committee on 20.4.2001 with conditions for a period of 1 year on the grounds that the planning intention of the “AGR” zone was unlikely to be realized in the near future as the northwestern portion of the application site would be affected by the associated works of the then proposed Yuen Long Bypass Floodway and the Shap Pat Heung Rising Mains; the proposed use was considered not incompatible with the surrounding uses; and the proposed development was unlikely to cause significant environmental nuisances to the nearby residents. However, the planning permission was subsequently revoked on 20.10.2001 due to non-compliance with time-limited approval conditions requiring the implementation of the drainage and landscape proposals.

- 5.3 Application No. A/YL-TT/129 for temporary private car park for a period of 3 years submitted by the same applicant as that of Application No. A/YL-TT/101 was rejected by the Committee and the Board on review on 12.4.2002 and 2.8.2002 respectively on similar considerations that there was no/insufficient information in the submission to demonstrate that a proper vehicular access would be provided to the application site. Whilst the applicant had lodged an appeal against the Board's decision to the Town Planning Appeal Board on 9.10.2002, the appeal was later abandoned by the appellant on 3.12.2002.

## **6. Similar Application**

There is no similar application for storage and/or warehouse uses within the same "AGR" zone on the OZP.

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

7.1 The Site is:

- (a) accessible from Long Ho Road to its northwest via a bridge over the Yuen Long Bypass Floodway and a local track (**Plan A-2**);
- (b) paved and fenced-off;
- (c) occupied by a permanent structure for office and vehicle parts shop uses and some temporary warehouses and garages where vehicles and motorcycles are stored without valid planning permission; and
- (d) parked with forklifts and a medium goods vehicle bearing the logo of the applicant's company.

7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) to its northeast, east, south and southwest is an area of rural character which comprises mainly residential dwellings intermixed with vacant land and fallow agricultural land and disturbed by open storage/storage yards, vehicle parks and vehicle repair workshop;
- (b) to its northwest is the Yuen Long Bypass Floodway and to its further northwest across the Floodway is Long Ho Road, Shap Pat Heung Interchange and Yuen Long Highway;
- (c) the open storage/storage yards, vehicle parks and vehicle repair workshop in the vicinity are suspected unauthorized developments subject to enforcement action taken by the Planning Authority.

## **8. Planning Intention**

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

## **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 an 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 Long Ho Road via Government land (GL). Her Office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) For Structure 2 as shown on the site layout plan (**Drawing A-1**), the structure is not covered by any licence, permit or Short Term Wavier issued by her Office.
- (e) Given the proposed use is temporary in nature, no construction of New Territories Exempted Building(s) will be considered or allowed. Besides, applications for regularization or erection of temporary structure(s) involving domestic uses e.g. rest room etc. will not be considered. Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her Office to permit the structures to be erected or regularize any irregularities on site, if any. Such application(s) will be considered by her Department 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 premium or fee, as may be imposed by her Department.

9.1.2 Comments of the Manager/Squatter Control (New Territories West 2), Lands Department (M/SC(NTW2), LandsD):

Checking Squatter Control (SC) records, Structure 2 as shown on the site layout plan (**Drawing A-1**) bears SC No. and tallies with SC records. He has no adverse comment on the current proposal.

### **Traffic**

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

- (a) No medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, should be allowed to park or enter/exit the Site.
- (b) The land status of the access road/path/track leading to the Site from the bridge connecting Long Ho Road shall be checked with the lands authority.
- (c) The management and maintenance responsibilities of the access road/path/track shall be clarified with the relevant management and maintenance authorities accordingly.
- (d) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

#### 9.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The vehicular access arrangement shall be commented by the Transport Department.
- (b) His Department does not and will not maintain any access connecting the Site and Long Ho Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

#### 9.1.5 Comments of the Director of Environmental Protection (DEP):

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

### **Agriculture and Nature Conservation**

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

The Site is paved and occupied by some temporary structures. Nonetheless, agricultural activities are found in the vicinity and agricultural infrastructures such as road access and water source are available. The Site possesses potential for agricultural rehabilitation and can be used as greenhouse cultivation or plant nursery. As such, the application is not supported from agriculture point of view. Should the application be approved, however, the applicant should be advised to implement necessary measures to avoid causing pollution or disturbance to the adjacent watercourse to the northeast of the Site.

### **Landscape**

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

- (a) The Site, which is located to the south of Yuen Long Bypass Floodway, lies in an area of “AGR” zone. The Site is subject to last approved Application No. A/YL-TT/101 for temporary private car and lorry park but was revoked due to non-compliance with approval conditions including the landscape condition. The current application seeks planning permission for private storage for a period of 3 years by a different applicant.
- (b) With reference to the site photographs dated 13.9.2018, the Site is observed to be hard paved and without any vegetation. The applied use appears to be already in operation. The Site is situated in an area of rural landscape character with scattered tree clusters but disturbed by open storage yards and temporary structures. Significant change to the landscape character arising from the application is not anticipated. Hence she has no objection to the application from the landscape planning perspective.
- (c) Having reviewed the submitted information, in consideration of the required manoeuvring/circulation area, there is no scope for meaningful landscape treatment within the site boundary. In view of the row of existing trees adjoining the Site along the public frontage providing tolerable screening, it is opined not necessary to impose a landscape condition.
- (d) The applicant is advised that the approval of the application by the Board under s.16 application does not imply the approval of tree works such as pruning, transplanting and felling under lease. Tree work application should be submitted direct to District Lands Office for approval.

### **Drainage**

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

- (a) He has no objection in principle to the applied development 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, and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

### **Fire Safety**

9.1.9 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 his satisfaction.
- (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. In addition, the applicant should also be advised on the following points:
  - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
  - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

9.1.10 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 for the existing structures at 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 the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any applied 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) 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.

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

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

The local consultation was completed and his Office has not received any comment from the village representatives in the vicinity regarding the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

## **10. Public Comments Received During the 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, two public comments were received. The Chairman of the Yuen Long District Council expresses no comment on the application (**Appendix III-1**) while a member of the public objects to the application on grounds of legitimizing unapproved brownfield use and setting an undesirable precedent of encouraging brownfield operations (**Appendix III-2**).

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

- 11.1 The subject application is for temporary private storage of vehicle (private car, motorcycle and bicycle only) and vehicle part with subsidiary office and rest room at a site zoned “AGR” on the OZP. The planning intention of “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The applied development for storage use is not in line with the planning intention of the “AGR” zone. In this regard, DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation such as greenhouse cultivation or plant nursery. However, it should be noted that the Site is located at the fringe of the “AGR” zone with previous planning approval and has been formed. Approval of the current application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The applied development with a total floor area of 500.6m<sup>2</sup> and building heights of 3 m - 6.4 m is considered not incompatible with the surrounding rural environment which comprises mainly residential dwellings intermixed with vacant land, fallow agricultural land, open storage/storage yards, vehicle parks and vehicle repair workshop uses. In this regard, CTP/UD&L, PlanD considers significant change to the landscape character arising from the application is not anticipated.
- 11.3 There is no adverse comment on the application from concerned government departments, except DAFC as mentioned in paragraph 11.1 above, and there has been no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise any potential environmental impact.

- 11.4 The Site was involved in two previous applications (No. A/YL-TT/101 and 129) for temporary car park uses prior to the completion of the Yuen Long Bypass Floodway. Whilst the last application (No. A/YL-TT/129) was rejected by the Committee and the Board on review mainly on consideration that there was no/insufficient information in the submission to demonstrate that a proper vehicular access would be provided, there has been a change in the access arrangements in the vicinity with the completion of the Yuen Long Bypass Floodway.
- 11.5 Should the application be approved, the applicant should be advised that the development/use not under application (i.e. shop and services use) which currently exists on the Site is not condoned by the approval.
- 11.6 There are two public comments (**Appendices III-1 and III-2**) received during the statutory publication period providing views on/raising objection to the application as summarized in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 above 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, the Planning Department considers that the temporary private storage of vehicle (private car, motorcycle and bicycle only) and vehicle part with subsidiary office and rest room 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' consideration:

### Approval conditions

- (a) no operation between 4:00 p.m. and 11:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no car repairing activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, 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;
- (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 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;
- (g) in relation to (f) 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 5.7.2019;
- (h) in relation to (g) above, the implemented drainage facilities on the Site 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 5.4.2019;
- (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 5.7.2019;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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), (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 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 IV**.

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

- (a) the applied development is not in line with the planning intention of the "AGR" zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "AGR" zone.

The cumulative effect of approving such application would result in general degradation of the rural environment of the area.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application Form with appendix and plans received on 16.8.2018
<b>Appendix II</b>	Previous Applications covering the Application Site
<b>Appendices III-1 and III-2</b>	Public Comments received during the Statutory Publication Period
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Plan showing the Width of the Existing Access Leading to the Site
<b>Plan A-1</b>	Location Plan with Previous Applications
<b>Plan A-2</b>	Site Plan
<b>Plans A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2018**