

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/418

<u>Applicant</u>	: Sam Lai Holding Limited represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lots 2384 (Part) and 2386 (Part) in D.D.130, Tsoi Yuen Tsuen, Tuen Mun, New Territories
<u>Site Area</u>	: About 640 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plans</u>	: Draft Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/11 (currently in force) Approved Lam Tei and Yick Yuen OZP No. S/TM-LTYT/10 (at the time of submission)
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) <i>[Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]</i> <i>[no change on the zoning]</i>
<u>Application</u>	: Proposed Temporary Public Vehicle Park (Private Car) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park (private car) for a period of 3 years (**Plan A-1**). According to the Notes for the “R(D)” 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 Site is currently vacant and overgrown with grass and vegetation (**Plans A-2 and A-4a**).
- 1.2 According to the applicant, the Site is accessible from a proposed vehicular access leading to Tat Fuk Road (**Drawing A-1, Plans A-2 and A-3**). The proposed development will provide 21 private car parking spaces, with two one-storey structures (not exceeding 3m) for guard room and portable toilet. Only private car will be allowed to enter/park at the Site. No vehicle without valid licences issued under Road Traffic Ordinance is permitted to park at the Site. No workshop activity will be carried out at the Site. The operation hours are from 7:00 a.m. to 11:00 p.m. daily, including

public holidays. The proposed vehicular access plan, layout plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

- (a) Application Form received on 10.8.2021 **(Appendix I)**
- (b) Supplementary Information (SI) received on 16.8.2021 **(Appendix Ia)**
- (c) Further Information (FI) received on 3.9.2021 providing responses to departmental comments **(Appendix Ib)**
[exempted from publication and recounting requirements]

2. Justifications from the Applicant

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

- (a) The proposed use is Column 2 use in the “R(D)” zone. It will benefit the residents in Tsoi Yuen Tsuen by catering their parking demand especially that there is no similar carpark at present.
- (b) The illegal parking of vehicle along Tat Fuk Road may deter the arrival of emergency vehicle and seriously affect the residents of Tsoi Yuen Tsuen. The proposed development would help to meet the parking demand of Tsoi Yuen Tsuen’s residents.
- (c) The proposed development is not incompatible with the surrounding environment. The proposed development will generate insignificant environmental and drainage impacts to its surrounding.

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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Tuen Mun Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is no similar application within the same “R(D)” zone.

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

7.1 The Site is:

- (a) currently vacant and overgrown with grass and vegetation (**Plan A-2 and A-4a**); and
- (b) accessible from a proposed vehicular access leading to Tat Fuk Road (**Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to the east are residential dwellings, land for parking of vehicles and storage uses which are suspected unauthorised developments (UD);
- (b) to the south are residential dwellings and vacant land. To the further south is Tat Fuk Road;
- (c) to the west are an orchard and residential dwellings; and
- (d) to the north are residential dwellings intermixed with vacant land, godown and storage use which are suspected UD.

8. Planning Intention

The “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site falls within portions of Lot 2384 and 2386 in D.D. 130 (the “Lots”). The Lots are 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 Government land (GL) fronting the proposed ingress/egress at south-east of the Site is fenced-off. No approval has been given for the occupation of GL. His office reserves the right to take any land control action as may be consider appropriate.
- (c) The Site is currently accessible from Tat Fuk Road through a footbridge, a footpath and the fenced-off GL mentioned above. His office is not responsible for the maintenance and management of the footbridge and footpath nor guarantee that any right-of-way over GL will be given. Moreover, his office is not the approving authority for construction, the maintenance and management of the proposed vehicular access.
- (d) If planning permission is given by the Board, the lot owner is required to submit an application to his office for a Short Term Waiver to permit erection of structures on the Lots. However, there is no guarantee that the application will be approved and he reserves his right to take any action as may be appropriate. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, deposit and administration fee etc.
- (e) His office reserves the right to take enforcement actions as considered appropriate against any unauthorised erection/extension/alternations of structures within the Lots irrespective of whether planning permission will be given or not. Enforcement action will also be taken should any structures are found erected without any prior approval given by his office or any unauthorised occupation of GL.

Traffic

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

The road connected to the vehicular access of the proposed site is not a public road managed by his office.

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

- (a) The proposed vehicular access road leading from Tat Fuk Road to the Site is not and will not be maintained by HyD.
- (b) The applicant should note the detailed comments at **Appendix III**.

Environment

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

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” (“COP”).

Landscape

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

- (a) With reference to the aerial photo of 2021 and the site photos, the Site is a scrubland while some existing trees are observed at the eastern part of the Site. It is situated in an area of miscellaneous rural fringe landscape character dominated by village houses, tree groups and vacant lands with some temporary structures and open storage yards in the proximity. The proposed development is considered not entirely incompatible with the landscape character of the surrounding environment. In view that no significant adverse landscape impact due to the proposed development is envisaged, he has no objection on the application from landscape planning perspective.
- (b) The applicant should note the detailed comments at **Appendix III**.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, DSD (CE/MN, DSD):

- (a) He has no in-principle objection to the application from public drainage viewpoint.
- (b) Should the application be approved, a condition should be stipulated requiring the applicant to submit a detailed drainage proposal for the development and to implement and maintain the drainage facilities proposed in the drainage proposal to his satisfaction.
- (c) The applicant should note the detailed comments at **Appendix III**.

Fire Safety

9.1.7 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) The applicant should note the detailed comments at **Appendix III**.

Building Matters

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

- (a) Before any new building works are to be carried out on the Site, the prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorised building works (UBWs). An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with Building Ordinance.

- (b) The applicant should note the detailed comments at **Appendix III**.

District Officer's Comments

- 9.1.9 Comments of District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

He has distributed consultation letters to the locals concerned and understand that they would provide their comment (if any) to the Board direct.

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

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

10. Public Comments Received During the Statutory Publication Period

On 19.8.2021, the application was published for public inspection. During the statutory public inspection period, nine objecting comments (**Appendices II-1 to II-9**) were received from a member of Tuen Mun District Council (TMDC) and eight individuals mainly on the grounds that the proposed use would have adverse traffic, noise, hygiene, drainage, pedestrian safety, fire safety and environmental impacts.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary public vehicle park (private car) for a period of 3 years at the Site zoned "R(D)" on the OZP, which is primarily intended for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. Whilst the proposed development is not entirely in line with the planning intention of the "R(D)" zone, the development could provide private car parking spaces to the nearby residents to serve any such demand in the area. Moreover, there is no known development programme at the Site. As such, approval of the application on a temporary basis for 3 years would not jeopardise the long-term planning intention of the "R(D)" zone.
- 11.2 The Site is at the fringe of the "R(D)" zone of Tsoi Yuen Tsuen and in an area predominantly occupied by residential dwellings intermixed with storage, parking of vehicle, orchard and vacant land (**Plan A-2**). The proposed development is considered not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including C for T, DEP, CE/MN, DSD, CTP/UD&L, PlanD and D of FS have no objection to or no adverse comments on the application. The proposed use will unlikely create significant adverse traffic, environmental, drainage, landscape and fire safety impacts to the surrounding areas. To minimise any potential environmental nuisances and to address the technical

requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on 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 relevant mitigation measures and requirements in the “COP” in order to minimise any potential environmental impact on the surrounding areas.

- 11.4 There is no previous application at the Site or similar application within the same “R(D)” zone.
- 11.5 There are nine objecting comments received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in the paragraphs 11.1 to 11.4 are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 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 24.9.2024. 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. is allowed on the Site, as proposed by the applicant, 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 repairing, dismantling, car beauty or other workshop use is allowed on the Site, as proposed by the applicant, at any time during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (g) 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 **24.3.2022**;
- (h) in relation to (g) 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 **24.6.2022**;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) 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 **24.3.2022**;
- (k) in relation to (j) 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 **24.6.2022**;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) 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; and
- (m) if any of the above planning conditions (g), (h), (j) or (k) 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.

Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

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

the applied use is not in line with the planning intention of "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

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

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with Attachments received on 10.8.2021
Appendix Ia	SI received on 16.8.2021
Appendix Ib	FI received on 3.9.2021
Appendices II-1 to II-9	Public Comments
Appendix III	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a & A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**