

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/442

- Applicant** : Mr To Kin Chung represented by Metro Planning and Development Company Limited
- Site** : Lot 827 RP (Part) in D.D. 130, Fuk Hang Tsuen, Lam Tei, Tuen Mun, New Territories
- Site Area** : About 1,303 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/11 (at the time of submission)
- Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/12 (currently in force)
- Zoning** : “Residential (Group C)” (“R(C)”)
[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m) including car park]
- (no change to the zoning and restrictions of the application site under the current OZP)
- Application** : Temporary Public 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 public vehicle park (private cars only) for a period of three years (**Plan A-1a**). According to the Notes for the “R(C)” zone on the OZP, ‘Public Vehicle Park (excluding container vehicles)’ is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission (**Plans A-1b, A-2 to A-4b**).
- 1.2 The Site is accessible via a strip of government land (GL) leading to Fuk Hang Tsuen Road (**Plan A-2**). According to the applicant, no vehicle without valid licences issued under Road Traffic Ordinance will be permitted to park at the Site. No light goods vehicle, medium goods vehicle or heavy goods vehicle and container tractor/trailer will be allowed to enter/park at the Site. No workshop activities will be carried out at the Site. The site plan, proposed layout plan, proposed fire service installations plan and as-built drainage plan prepared by the

applicant are shown at **Drawings A-1 to A-4** respectively.

- 1.3 The Site is the subject of five previous applications (No. A/TM-LTYT/230, 294, 306, 349 and 399) for temporary public vehicle park approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2012 and 2020 (details at paragraph 5 below) (**Plan A-1b**).
- 1.4 Compared with the last approved application (A/TM-LTYT/399), the current application is submitted by the same applicant for the same use at the same site with similar development parameters but changes in the ingress/egress point and internal layout. The major development parameters of the current application and the last approved application are summarised as follows:

Major Development Parameters	Last Approved Application No. A/TM-LTYT/399 (a)	Current Application No. A/TM-LTYT/442 (b)	Difference (b)-(a)
Applied Use	Temporary Public Vehicle Park (Private Cars Only) for a Period of 3 Years		No change
Site Area	About 1,303 m ²		No change
Gross Floor Area (GFA)	384 m ²	194 m ²	-190 m ²
Number of Structures	3 (2 for rain shelters and 1 for portable toilet)	2 (1 for rain shelter and 1 for portable toilet)	-1
Maximum Building Height	Not exceeding 3.5m and 1 storey		No change
Car Parking Space	30 (5m x 2.5m) (for private cars only)		No change
Operation hours	7:00 a.m. to 11:00 p.m. daily (including Sundays and public holidays)		No change

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on **(Appendix I)**
24.10.2022
 - (b) Further Information (FI) received on 1.12.2022* **(Appendix Ia)**
 - (c) FI received on 13.12.2022* **(Appendix Ib)**
 - (d) FI received on 14.12.2022* **(Appendix Ic)**
 - (e) FI received on 23.2.2023* **(Appendix Id)**
**accepted and exempted from publication and
recounting requirements*
- 1.6 On 23.12.2022, the Committee agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

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

- (a) the applied development is in line with the planning intention of “R(C)” zone and is intended to serve the nearby residents. There is insufficient supply of parking space to meet the exigent demand in Fuk Hang Tsuen;
- (b) the applied development is compatible with the surrounding environment. There would be no significant traffic and environmental impacts to the surrounding areas. The applicant has provided trees and surface u-channel at the Site;
- (c) the applied development will be manned within the operation hours so that it could well protect the vehicles as well as properties within the vehicle for the car owners; and
- (d) the applicant has largely complied with all the planning conditions imposed to the last planning permission No. A/TM-LTY Y/399 except implementation of the run-in/out proposal as it is affected by the relocation works of the electric pole at the entrance of the Site maintained by the CLP Power Hong Kong (CLP). The applicant would implement the run-in/out proposal immediately after the completion of CLP’s electric pole relocation works.

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 sending a registered mail to the Tuen Mun Rural Committee and by posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site would be subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves five previous applications (No. A/TM-LTY Y/230, 294, 306, 349 and 399) for temporary public vehicle park. Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Applications No. A/TM-LTY Y/230 and 294 for temporary public vehicle park (for private cars/private cars only) for a period of three years at the Site were approved with conditions by the Committee on 24.2.2012 and 17.4.2015 respectively mainly on the considerations of not incompatible with the surrounding land uses and no objection or no adverse comments from government departments. However, the planning permissions were revoked on 24.10.2013 and 17.7.2015 respectively due to non-compliance with time-limited approval

conditions regarding the provision of peripheral/boundary fencing, implementation of run-in/run-out proposal and submission and implementation of drainage proposal/fire service installations proposals.

- 5.3 Application No. A/TM-LTYT/306 for temporary public vehicle park (private cars only) for a period of two years and renewal of the planning approval (Application No. A/TM-LTYT/349) were approved with conditions by the Committee on 10.6.2016 and 4.5.2018 on similar considerations. All time-limited approval conditions have been complied with. The planning permission lapsed on 11.6.2020.
- 5.4 Applications No. A/TM-LTYT/399 for temporary public vehicle park (for private cars only) for a period of three years at the Site was approved with conditions by the Committee on 21.8.2020 mainly on the considerations of not incompatible with the surrounding land uses and no objection or adverse comments from government departments. Nevertheless, the planning permission was revoked on 21.1.2023 due to non-compliance with time-limited approval conditions regarding the implementation of the run-in/out proposal.

6. Similar Application

There is no similar application in the same “R(C)” zone.

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

7.1 The Site is:

- (a) currently used for the applied use without valid planning permission; and
- (b) accessible to Fuk Hang Tsuen Road via a strip of GL (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northeast are parking of vehicles which are suspected unauthorized developments (UDs) and residential dwellings. To the further north and northeast are warehouse and storage uses, vacant land and residential dwellings;
- (b) to its immediate east are an office and parking of vehicles which are suspected UD, residential dwellings and parking of vehicles. To the further east are residential dwellings, cultivated agricultural land and storage yards which are suspected UD and unused land;
- (c) to its immediate south are residential dwellings and a warehouse and storage yard which is a suspected UD. To the further south and southeast are residential dwellings, storage yards and engineering company which are suspected UD. To the further south across Fuk Hang Tsuen Road are parking of vehicles and Agricultural Fa Pao Committee; and
- (d) to the northwest, west and southwest across Fuk Hang Tsuen Road are residential developments including The Sherwood, Green View and Botania Villa and vacant land.

8. Planning Intention

The “R(C)” zone is intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

9. Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III** and **IV** respectively.

10. Public Comments Received During Statutory Publication Periods

On 24.10.2023, the application was published for public inspection. During the statutory public inspection periods, two public comment from two individuals were received. One commenter objects to the application and raises concerns on pollution and fire safety grounds which would have adverse effects on villagers’ safety and quality of life. The other one raises concern regarding conditions of previous cases remain unfulfilled (**Appendices V-1 to V-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary public vehicle park (private cars only) for a period of three years at a site zoned “R(C)” on the OZP. Whilst the applied use development is not entirely in line with the planning intention of the “R(C)” zone, there is no known development proposal of the Site, and the applied use could provide car parking spaces to serve any such demand in the area. Approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “R(C)” zone.
- 11.2 The Site is mainly surrounded by parking of vehicles, warehouse and storage uses, office and residential dwellings (**Plan A-2**). The applied use is not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including Commissioner for Transport, Chief Engineer/Mainland North, Drainage Services Department, Director of Environmental Protection, Director of Fire Services and Chief Town Planner/Urban Design & Landscape, Planning Department have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse traffic, drainage, environmental, fire safety and landscape impacts on the surrounding areas. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below.
- 11.4 The last application (No. A/TM-LTY/399) for the same use at the same site submitted by the same applicant of the current application was approved with conditions for a period of three years by the Committee on 21.8.2020. However, the planning permission was revoked on 21.1.2023 due to non-compliance with time-limited approval condition on the implementation of run-in/out proposal.

The applicant explains that the non-compliance was attributed to the relocation of electric pole proposed by CLP at the entrance of the Site. For the current application, the applicant has liaised with CLP and demonstrated that the proposal of relocation of the electric pole by CLP is in progress (**Appendix Id**). The applicant would implement the run-in/out proposal immediately once the electric pole relocation works are completed. As such, sympathetic consideration may be given to the application. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further application.

- 11.5 Given that five previous applications for the same use have been approved by the Committee mainly on the considerations of not incompatible with the surrounding land uses and no objection or no adverse comments from government departments since 2012, approval of the current application is generally in line with the Committee's previous decisions.
- 11.6 There are two public comments objecting to the application mainly on grounds stated in paragraph 10 above. The raising concerns on planning considerations and assessments in paragraphs 11.1 to 11.5 above 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 three years until **21.4.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) a 'Turn Left' traffic sign shall be erected at the junction of the access road with Fuk Hang Tsuen Road, as proposed by the applicant, at all times during the planning approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities within **3 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **21.7.2023**;
- (d) the submission of a run-in/out proposal within **6 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by **21.10.2023**;
- (e) in relation to (d) above, the implementation of the run-in/out proposal within **9 months** from the date of planning approval to the satisfaction

of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by **21.1.2024**;

- (f) 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 **21.10.2023**;
- (g) in relation to (f) 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 **21.1.2024**;
- (h) if any of the above planning condition (a) or (b) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (c), (d), (e), (f) or (g) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

- 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 the "R(C)" zone, which is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. 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

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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 and attachments received on 24.10.2022
Appendix Ia	FI received on 1.12.2022
Appendix Ib	FI received on 13.12.2022
Appendix Ic	FI received on 14.12.2022
Appendix Id	FI received on 23.2.2023

Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 to V-2	Public Comments
Drawing A-1	Site Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Fire Service Installations Plan
Drawing A-4	As-built Drainage Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2023**