

RNTPC Paper No. A/YL-KTN/1038
For Consideration by
the Rural and New Town
Planning Committee
on 20.9.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1038

- Applicant** : Mr. CHOI Fai Man represented by Goldrich Planners and Surveyors Limited
- Site** : Lots 19 S.A. ss.1, 19 S.A ss.2, 19 S.A ss.3, 19 S.A ss.4, 19 S.A RP, 19 S.B, 19 S.C, 19 S.D, 19 S.E, 19 S.F, 19 S.G, 19 S.H and 19 RP in D.D. 109, Kam Tin, Yuen Long, New Territories
- Site Area** : About 2,005m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
- Zonings** : “Agriculture” (“AGR”) (72%)
“Village Type Development” (“V”) (28%)
[maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Public Vehicle Park (Excluding Container Vehicle) with Ancillary Electric Vehicle Charging Facility for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary public vehicle park (excluding container vehicle) with ancillary electric vehicle (EV) charging facility for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned partly “AGR” (72%) and partly “V” (28%) on the approved Kam Tin North OZP No. S/YL-KTN/11 (**Plan A-1**). According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use in the “V” zone which requires planning permission from the Town Planning Board (the Board). Whilst the proposed use is neither a Column 1 nor Column 2 use in the “AGR” zone, according to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Board. Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is fenced, largely vacant and covered by grass, and partly occupied by a few temporary structures (**Plans A-2 to A-4**).

- 1.2 The Site is accessible from Shui Tau Road via a local track (**Plans A-2 and A-3**). According to the applicant, the proposed use involves 50 parking spaces, including 45 for private car (19 of which will be equipped with EV chargers) and five for light goods vehicle (**Drawing A-1**). No container vehicles and vehicles exceeding 5.5 tonnes will be involved. Two single-storey structures with a height of 3m and a total floor area of 45m² for ancillary guardroom, office and storage will be erected. No car beauty services, vehicle repairing, dismantling or other workshop activities will be involved, and no public announcement systems, whistle blowing or portable loudspeaker will be used at the Site. The applicant also proposes filling of land for the entire Site with soil and concrete of 0.5m in depth (to about 4.1mPD) for site formation and vehicular circulation (**Drawing A-2**). The proposed operation hours will be 24 hours daily including Sundays and public holidays. The applicant undertakes to terminate the proposed use and reinstate the Site if there are Small House applications approved within the Site. The layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on 22.7.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 15.8.2024* (**Appendix Ia**)
 - (c) FI received on 9.9.2024* (**Appendix Ib**)

** accepted and 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 in the application form and FIs at **Appendices I to Ib** and can be summarised as follows:

- (a) The proposed use is mainly intended to meet the parking demand of nearby villagers of Shau Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai, with a view to alleviating the roadside illegal parking problem in the vicinity. The temporary nature of the application will not frustrate the long-term planning intentions of the “AGR” and “V” zones.
- (b) The proposed use is in line with the policy objectives to promote the use of EVs. The electricity supply at the Site is insufficient to install EV charging facilities to cater for all parking spaces, and hence only 19 parking spaces will be equipped with EV chargers.
- (c) The proposed use is not incompatible with the surrounding land uses. Adverse traffic and environmental impacts are not anticipated.
- (d) There are similar applications approved by the Rural and New Town Planning Committee (the Committee) of the Board within or straddling the same “AGR” and “V” zones. Given the planning context has not been significantly altered, the planning circumstances of the current application are comparable to the approved similar applications.

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. 31B) by posting site notices and sending notice to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection.

4. Background

The Site is currently not subject to any active planning enforcement action. Subject to the collection of sufficient evidence, appropriate enforcement action under Town Planning Ordinance would be undertaken.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

6.1 There are five similar applications (No. A/YL-KTN/717, 737, 768, 803 and 935), involving three sites for temporary public vehicle park (No. A/YL-KTN/717, 768 and 935 also involve temporary eating place or shop and services use) within the same “V” zone; and one similar application (No. A/YL-KTN/816) for temporary public vehicle park with filling of land straddling the same “AGR” and “V” zones in the vicinity of the Site in the past five years. All applications were approved with conditions by the Committee between December 2020 and August 2023 mainly on the considerations that the proposed/applied use on a temporary basis would not jeopardise the long-term planning intention(s); it was not incompatible with the surrounding uses; and the relevant government departments consulted generally had no adverse comments or their technical concerns could be addressed by approval conditions. The planning permissions under applications No. A/YL-KTN/717, 737 and 768 were revoked between May 2021 and May 2024 due to non-compliance with approval conditions.

6.2 Details of the similar applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) fenced, largely vacant and covered by grass, and partly occupied by a few temporary structures; and

(b) accessible from Shui Tau Road via a local track.

7.2 The surrounding areas are rural in character with an intermix of residential structures, plant nurseries, parking of vehicles (with valid planning permission under application No. A/YL-KTN/816), holiday camps, and vacant land. To the northeast and east of the Site across Shui Tau Road are the village settlements of Pak Wai Tsuen and Shui Tau Tsuen.

8. Planning Intentions

8.1 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. According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

8.2 The planning intention of the “V” zone is to reflect existing recognised 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. 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 (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from the Relevant Government Departments

9.1 Apart from the government departments as set out in paragraphs 9.2 and 9.3 below, other 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.

9.2 The following government department supports the application:

Traffic

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

- (a) supports the application from traffic engineering perspective to address the local demand for parking spaces; and
- (b) detailed advisory comments are at **Appendix IV**.

9.3 The following government department does not support the application:

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site partly falls within the “AGR” zone and is generally vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (c) no comment from nature conservation perspective.

10. Public Comments Received During Statutory Publication Period

On 30.7.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received from Kadoorie Farm & Botanic Garden Corporation and an individual (**Appendix V**), both objecting to the application mainly on the grounds that the proposed use is to accommodate brownfield operation which is not in line with the planning intention of the “AGR” zone; there are concerns on the status of the Site and whether enforcement action is involved at the Site; and the current trend of proliferation of non-agricultural uses in the area.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary public vehicle park (excluding container vehicle) with ancillary EV charging facility for a period of three years and associated filling of land at the Site zoned “AGR” (72%) and “V” (28%) (**Plan A-1**). The planning intention of the “AGR” zone 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. The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the “V” zone is primarily intended for development of Small Houses by indigenous villagers. 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.
- 11.2 The proposed use is not in line with the planning intention of the “AGR” zone, and DAFC does not support the application from agricultural perspective. The proposed use is also not entirely in line with the planning intention of the “V” zone. Although the District Lands Officer/Yuen Long of the Lands Department

(DLO/YL, LandsD) advises that there are Small House applications under processing within the Site, he has no adverse comment on the application. In this regard, the applicant undertakes to terminate the proposed use and reinstate the Site when any of the Small Houses are approved. According to the applicant, the proposed use is intended to meet the needs of the villagers nearby and C for T supports the application as it could help address the local parking demand. In view of the above and taking into account the planning assessments below, the proposed use on a temporary basis for a period of three years could be tolerated.

- 11.3 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from drainage and environmental perspectives respectively. An approval condition requiring reinstatement of the “AGR” portion of the Site upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 11.4 The Site is largely vacant and covered by grass. The proposed use is considered not incompatible with the surrounding land uses which are rural in character with an intermix of residential structures, plant nurseries, parking of vehicles and holiday camps. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant adverse landscape impact arising from the proposed use is not anticipated and has no objection from landscape planning perspective.
- 11.5 Other relevant government departments consulted, including the Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimise any potential environmental nuisance caused by the proposed use.
- 11.6 There are six previously approved similar applications for temporary public vehicle park within or straddling the same “AGR” and “V” zones in the vicinity of the Site in the past five years as mentioned in paragraph 6.1 above. The planning circumstances of the current application are particularly similar to two of these applications (No. A/YL-KTN/803 and 816) approved in 2022. Approving the current application is in line with the Committee’s previous decisions.
- 11.7 For the public comments mentioned in paragraph 10, the departmental comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and taking into account the public comments in paragraph 10, the Planning Department considers that the proposed use could be tolerated for a period of three 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 three years until 20.9.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 20.3.2025;
- (b) in relation to (a) 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 20.6.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) 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 20.3.2025;
- (e) in relation to (d) 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 20.6.2025;
- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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
- (h) upon expiry of the planning permission, the reinstatement of the "AGR" portion 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 reason for rejection is suggested for Members' reference:

the proposed use with filling of land is not in line with the planning intentions of the "AGR" and "V" zones. The planning intention of the "AGR" zone 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, whilst 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. There is no strong planning justification given in the submission for a departure from the planning intentions, 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 supplementary information received on 22.7.2024
Appendix Ia	FI received on 15.8.2024
Appendix Ib	FI received on 9.9.2024
Appendix II	Similar applications
Appendix III	Government departments’ general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Paving plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2024**