

RNTPC Paper No. A/YL-KTN/796
For Consideration by the
Rural and New Town Planning
Committee
on 24.12.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/796

<u>Applicant</u>	: Mr. Tang Wai Ip
<u>Site</u>	: Lot 537 RP (Part) in D.D. 109, Kam Tin North, Yuen Long, New Territories
<u>Site Area</u>	: About 1,534m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Temporary Shop and Services (Motor-vehicle Showroom) and Public Vehicle Park (excluding Container Vehicle) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (motor-vehicle showroom) and public vehicle park (excluding container vehicle) for a period of 5 years. According to the Notes of the OZP, both ‘Shop and Services’ and ‘Public Vehicle Park (excluding Container Vehicle)’ are Column 2 uses under the “V” zone which require planning permission from the Town Planning Board (the Board). The Site is partly vacant and partly covered by weeds (**Plans A-2 and A-4**).
- 1.2 According to the applicant, there will be 9 open-air parking spaces for display of vehicles for sale. 18 parking spaces for private car and 3 parking spaces for light goods vehicle (LGV) will also be provided at the Site. No vehicle exceeding 5.5 tonnes will be stored at or enter the Site. The proposed development will also involve 4 one to two-storey structures with a total floor area of about 175.94m² and building height ranging from 3.5m to 5.5m for meeting room, open shed, site office and electricity meter room

uses. The Site is accessible via a local track branching off from Kam Tin Bypass. The operation hours will be from 9:00 a.m. to 7:00 p.m. daily for the motor vehicle showroom and 24 hours daily for the public vehicle park (both include public holidays). The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in two previous applications (No. A/YL-KTN/200 and 708) with the last one proposed for similar use as shop and services (for motor vehicle showroom use) submitted by the same applicant. It was rejected by the Rural and New Town Planning Committee (the Committee) on 29.5.2020. The last application involved a much larger scale of display of 59 vehicles for sale as compared to 9 in the current application. The rejection reasons are stated in paragraphs 5.1 and 5.2 below. A comparison of the major development parameters of the current application and the last rejected application (No. A/YL-KTN/708) is given in the following table:

Major Development Parameters	Last Rejected Application No. A/YL-KTN/708 (a)	Current Application (b)	Difference (b)-(a)
Applied Use	Proposed temporary shop and services for 3 years	Proposed temporary shop and services (motor-vehicle showroom) and public vehicle park (excluding container vehicle) for 5 years	--
Site Area (m ²)(about)	1,826.1	1,534	-292.1 (-16%)
Total floor area (m ²)	175.94	175.94	N/A
Building Height (m)	3.5 to 5.5	3.5 to 5.5	N/A
Total no. of vehicles	63	30	-33 (-52%)
- No. of vehicle for sale	59	9	-50 (-85%)
- No. of Parking Spaces			
- private car	3	18	+15 (+500%)
- LGV	1	3	+2 (+200%)

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

- (a) Application form with supplementary information (**Appendix I**) and plans received on 26.10.2021
- (b) Further Information (FI) received on 12.12.2021 in (**Appendix Ia**) response to departmental comments
[exempted from publication requirement]
- (c) FI received on 17.12.2021 in response to (**Appendix Ib**) departmental comments
[exempted from publication requirement]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information, plans and FI in **Appendices I to Ib**. They can be summarized as follows:

- (a) The application is for temporary use and no permanent structure is proposed at the Site. The Site would not affect the long-term planning intention of the “V” zone.
- (b) The proposed use is to meet the local demand on parking space and provide quality service for vehicle transaction for the nearby villagers and residents. The application is not incompatible with the surrounding areas.
- (c) The proposed development would not induce adverse traffic, drainage, sewerage, environmental and fire safety impacts. The applicant undertakes to comply with the relevant planning conditions as required by concerned government departments should the application be approved.

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

The applicant is not the “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 posting site notice and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to any active enforcement action.

5. **Previous Application**

- 5.1 The Site, in part or whole, is the subject of two previous applications (No. A/YL-KTN/200 and 708). The former application includes a small portion of the Site for temporary open storage of construction machineries and the latter application covers the Site and some adjoining area for temporary shop and services (for motor vehicle showroom use). Both applications were rejected by the Board on 26.11.2004 (on review) and by the Committee on 29.5.2020 mainly on the grounds that the developments were not in line with the planning intention of the “V” zone; approval of the applications would set undesirable precedents for similar applications; the developments did not comply with the then Town Planning Board Guidelines for Open Storage and Port Back-up Uses (for Application No. A/YL-KTN/200) in that residential dwellings located in close proximity would be susceptible to adverse environmental nuisance generated by the

development and the proposed motor vehicle showroom involving the display of 59 vehicles for sale was akin to open storage which was considered not compatible with the surrounding land uses (for Application No. A/YL-KTN/708). Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

- 5.2 Compared with the last rejected application No. A/YL-KTN/708, the current application submitted by the same applicant is for the same site but the applied use is changed from temporary motor vehicle showroom (for display of 59 vehicles for sale and parking of 4 vehicles) to proposed temporary motor vehicle showroom and public vehicle park (for display of 9 vehicles for sale and parking of 18 private cars and 3 LGVs).

6. **Similar Application**

There is no similar application for temporary shop and services (motor vehicle showroom) but there are two similar applications for temporary open public vehicle park (excluding container vehicle) (No. A/YL-KTN/640 and 764) within the same “V” zone in the vicinity of the Site. The applications were approved with conditions by the Committee in February 2019 and May 2021 respectively mainly for the reasons that temporary approval would not frustrate the long-term planning intention of “V” zone; the proposed developments were not incompatible with the surrounding land uses; and departments concerned had no adverse comment on the applications. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

7. **The Site and Its Surrounding Areas** (Plans A-2 to A-4b)

7.1 The Site is:

- (a) partly vacant and partly covered by weeds; and
- (b) accessible from Kam Tin Bypass via a local track.

7.2 The surrounding areas are rural in character and intermixed with residential dwellings/structures, chicken farm and warehouse:

- (a) to its north, across Kam Tai Road and Kam Tin River, are a chicken farm, residential dwellings/structures and vacant land;
- (b) to its immediate east and south is a residential estate (i.e. Seasons Monach (四季名園)) which is zoned “Residential (Group C)2”. To its further south are a storage yard, a warehouse and a site with planning permission for temporary public vehicle park within the same “V” zone; and
- (c) to its west are vacant land and a site with planning permission for temporary eating place (currently vacant).

8. Planning Intention

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. 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 an Old Schedule Agricultural Lot 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) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above 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 will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.
- (c) There is no Small House application approved or under processing within the Site.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) The applicant is reminded that sufficient manoeuvring space shall be provided within the Site. In addition, no vehicle should be allowed to queue back to or reverse onto / from public roads.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) Kong Tai Road (**Plan A-3**) is not maintained by HyD.
- (b) His department is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Bypass.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Environment

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

- (a) There is no environmental complaint concerning the Site received by DEP in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

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 proposed development from public drainage point of view.

- (b) Should the application be approved, approval conditions requiring the applicant to submit, implement and maintain the drainage proposal for the development should be included in the planning permission.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) 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

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

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix V**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

Nature Conservation

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

The Site is paved and left vacant. He has no comment on the application from nature conservation perspective.

District Officer's Comments

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

He has not received any comment from locals and he has no comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 2.11.2021, the application was published for public inspection. During the three-week statutory publication period, nine public comments from individuals were received (**Appendices IV-1 to IV-9**). The commenters object to the application mainly on the grounds that the proposed development will create adverse traffic impact and environmental nuisance, and increase the fire safety and security risks to the nearby residents; there is no demand for car parking space in the locality; the Site is too close to the nearby residential development; and the Site should be reserved for housing development.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (motor vehicle showroom) and public vehicle park (excluding container vehicles) for a period of 5 years at "V" zone. 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. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. The proposed use is not entirely in line with the planning intention of the "V" zone. Nevertheless, DLO/YL of LandsD advises that there is no Small House application approved or under processing at the Site. It is considered that temporary

approval of the application for a period of 5 years would not jeopardize the long-term planning intention of the “V” zone.

- 11.2 The Site is located in an area predominantly rural in character, with low-rise residential development / dwellings and village settlements and some vacant land. The proposed development is considered not incompatible with the surrounding areas
- 11.3 According to the applicant, the proposed use is for parking of a total of 21 vehicles including 18 private cars and 3 LGVs, and display of not more than 9 vehicles for sale. The proposed uses can meet the car parking demand of the nearby residents and provide car selling service to the locals. Taking into account the nature and scale of the proposed development, it is envisaged that the proposed use would unlikely result in adverse traffic, environmental and drainage impacts to the surrounding areas. Relevant departments consulted, including C for T, DEP, CE/MN of DSD and D of FS, have no adverse comment on the application. To minimize any possible environmental nuisance, approval conditions restricting the operation hours of the motor vehicle showroom, posting a site notice and restricting the parking /storing of vehicle are recommended in paragraphs 12.2 (a) to (d) below. Besides, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraphs 12.2 (e) to (i) below.
- 11.4 The Site is involved in a previous application (No. A/YL-KTN/708) for temporary motor vehicle showroom use but its scale (involving display of 59 vehicles for sale) was much larger than the current one (involving display of 9 vehicles for sale). The previous application was akin to an open storage use and was rejected by the Committee in May 2020 as it was not compatible with the surrounding land uses. The circumstances of the previously rejected application were different from the current application. There are also two similar applications for temporary public vehicle park within the same “V” zone in the vicinity of the Site, which were approved by the Committee in February 2019 and May 2021 respectively mainly for the reasons as stated in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Nine public comments from individuals objecting to the application were received during the statutory publication period as detailed in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated 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 comments mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary shop and services (motor-vehicle showroom) and public vehicle park (excluding container vehicle) for a period of 5 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 5 years until 24.12.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m. for the proposed motor vehicle showroom, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or 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;
- (c) a notice should be posted at a prominent location of the Site to indicate that no medium or 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 at all times during the planning approval period;
- (d) for the public vehicle park, no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (e) 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 24.6.2022;
- (f) in relation to (e) 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 24.9.2022;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;

- (h) 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 24.6.2022;
- (i) in relation to (h) 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 24.9.2022;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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
- (k) if any of the above planning condition (e), (f), (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.

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

the proposed development is not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by the Government projects. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

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, 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 and Plans received on 26.10.2021
Appendix Ia	FI received on 12.12.2021
Appendix Ib	FI received on 17.12.2021
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within the Same “V” Zone in the vicinity of the Site on the Kam Tin North OZP
Appendices IV-1 to IV-9	Public Comments Received During the Statutory Publication Period
Appendix V	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**