

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/803

<u>Applicant</u>	: Mr. TANG Pui Yin
<u>Site</u>	: Lot 36 (Part) in D.D. 109, Kam Tin, Yuen Long, N.T.
<u>Site Area</u>	: About 1,030.58m 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 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 public vehicle park (excluding container vehicle) for a period of 5 years. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is hard-paved and currently vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, 15 private car parking spaces will be provided within the Site to serve the nearby residents. There will be one single-storey structure (about 2.8m in height) with floor area of about 4m² for guardhouse. The operation hour is 24 hours daily. Medium or heavy goods vehicles exceeding 5.5 tonnes will not be parked at the Site. The Site is accessible from Shui Tau Road. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with plans received on 18.11.2021 (**Appendix I**)
 - (b) Further Information (FI) received on 6.1.2022 in (**Appendix Ia**) response to 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 supplementary information and FI at **Appendices I and Ia**. They can be summarized as follows:

The proposed development is for meeting the car parking needs of the nearby residents. The temporary car park will be operated on a monthly rental basis. Sufficient space for ingress / egress and car manoeuvring will be provided to ensure not result in adverse traffic impact to the surrounding area.

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 Kam Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently subject to an on-going planning enforcement case (No. E/YL-KTN/591) (**Plan A-2**) against unauthorised development (UD) involving parking of vehicles. Enforcement Notice was issued on 13.7.2021 to the concerned parties requiring discontinuation of the UD.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Applications

There are four similar applications (No. A/YL-KTN/619, 717, 737 and 768) involving two sites within the same “V” zone in the vicinity of the Site on the OZP for temporary public vehicle park (excluding container vehicle) (with or without eating place and/or shops and services) for a period of 3 or 5 years within the same “V” zone. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between August 2018 and June 2021 mainly for the reasons that temporary approval would not frustrate the long-term planning intention of the “V” zone; the developments were not incompatible with the surrounding land uses; and relevant departments consulted had no adverse comments on the applications. However, the planning permissions for Applications No. A/YL-KTN/619 and 737 were revoked in 2021 due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) hard-paved and vacant; and
- (b) accessible from Shui Tau Road.

7.2 The surrounding area is rural in character predominated by residential dwellings/structures, parking of vehicles, ancestral halls, a pond, woodland and vacant land:

- (a) to its north and northeast are residential dwellings/structures, an ancestral hall named Tang Tsing Lok Ancestral Hall (清樂鄧公祠) and parking of vehicles;
- (b) to its west and northwest, across a nullah, are parking of vehicles, tree groups, a pond, an open storage yard, residential dwellings/structures and a plant nursery;
- (c) to its east are residential dwellings/structures, an ancestral hall named Tang Kwong U Ancestral Hall (廣瑜鄧公祠) and a temple named Hung Shing Temple (洪聖宮), and a few graded historic buildings, including Cheung Chun Yuen (長春園) and Lik Wing Tong Study Hall (力榮堂書室); and
- (d) to its south and southeast are residential dwellings/structures and parking of vehicles.

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 Scheduled 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 planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure 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 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 rent or fee, as may be imposed by the LandsD.
- (c) There is no Small House application approved or being processed at the Site.

Traffic

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

- (a) He supports the planning application from traffic engineering perspective to meet the public demand of car parking spaces.
- (b) The Site is connected to the public road network via a section of 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. Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period.

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

- (a) Shui Tau Road is not maintained by HyD.
- (b) His Department shall not be responsible for the maintenance of any access connecting the Site and Chi Ho Road.

- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads or drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received 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 to minimize any potential environmental nuisance.
- (c) It is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

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 the public drainage point of view.
- (b) Should the application be approved, approval conditions on the submission, implementation and maintenance of a drainage proposal for the proposed development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

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

- (a) He has no in-principle objection to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval.
- (c) The applicant is reminded that if the proposed structure 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 Buildings Ordinance (BO).
- (b) His detailed comments on UBW, provision of access, permitted development density and temporary or licensed structures are at **Appendix IV**.
- (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 falls within the “V” zone and has been paved. As such, 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):

She has not received any locals’ comment on the application and has no comment on the application.

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

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

10. Public Comments Received During Statutory Publication Period

On 26.11.2021, the application was published for public inspection. During the three-week statutory publication period, five public comments from the local villagers and individuals were received (**Appendices III-1 to III-5**). The comments submitted by local villagers support the application for reasons that the temporary car park is needed

to serve the increased population of the village; and it can alleviate the shortage of parking spaces and provide ease of parking for emergency vehicles. The comments submitted by individuals object to the application mainly on the grounds that the development would induce adverse traffic, environmental, landscape, fire safety and security impacts; and the proposed development is to legitimize an existing operation.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary public vehicle park (excluding container vehicle) for a period of 5 years in the “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 this 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 approval of the application on a temporary basis for 5 years would not jeopardise the long-term planning intention of the “V” zone.
- 11.2 The proposed use is for provision of 15 private car parking spaces intended to serve the nearby residents. It is considered not incompatible with the surrounding area which is rural in character predominated by residential dwellings/structures, ancestral halls, religious institution, study halls, parking of vehicles and vacant land.
- 11.3 Taking into account the nature and small 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 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. Should the application be approved, the applicant will also be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas.
- 11.4 The Site is not involved in any previous application. There are four similar applications involving two sites within the same “V” zone in the vicinity of the Site for temporary public vehicle park approved by the Committee between 2018 and 2021 mainly for the reasons as stated in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decisions on similar applications.
- 11.5 The public comments indicating support to the application are noted. For the comments raising objection to the application, the departmental comments as well as the planning assessments and considerations 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 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 14.1.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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 any time during the planning approval period;
- (b) 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;
- (c) 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;
- (d) 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 14.7.2022;
- (e) in relation to (d) 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 14.10.2022;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installations 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 14.7.2022;
- (h) in relation to (g) 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 14.10.2022;

- (i) if any of the above planning condition (a), (b), (c) or (f) 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
- (j) if any of the above planning condition (d), (e), (g) or (h) 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 attached in **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 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 Government projects. Land within this 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.

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 Plans received on 18.11.2021
Appendix Ia	FI received on 6.1.2022
Appendix II	Similar Applications within the Same "V" Zone in the vicinity of the Site on the Kam Tin North OZP
Appendices III-1 to III-5	Public Comments received during the Statutory Publication Period

Appendix IV	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
January 2022