

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/849

<u>Applicant</u>	: Mr. TANG Sai Yu represented by R-riches Consultants Limited
<u>Site</u>	: Lots 1845 RP and 1846 RP in D.D. 107, Kam Tin, Yuen Long
<u>Site Area</u>	: About 1,325m 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>	: “Residential (Group B)” (“R(B)”) [restricted to a maximum domestic gross floor area (GFA) of 79,497m ² , non-domestic GFA of 2,215m ² and a maximum building height of 3 storeys (excluding basement floors)]
<u>Application</u>	: 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 temporary public vehicle park (excluding container vehicle) for a period of 5 years. The Site falls within an area zoned “R(B)” on the Kam Tin North OZP and ‘public vehicle park (excluding container vehicle)’ is a Column 2 use under the “R(B)” zone which requires planning permission from the Town Planning Board (the Board). The Site is paved, partly fenced and used for the applied use without planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, 33 parking spaces for private cars are provided within the Site to serve the nearby residents. A site office with building height of about 3m (1-storey) and floor area of about 9m² is provided within the Site. The operation hours will be 24 hours daily, including public holidays. The Site is accessible via a local track branching off from Ying Ho Road. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site is involved in three previous applications (No. A/YL-KTN/31, 90 and 664) (details at paragraph 5 below). The last application No. A/YL-KTN/664, submitted by the same applicant for the same use as the current application, was approved with conditions by the Rural and New Town Planning Committee (the

Committee) in November 2019. However, the planning permission was revoked in April 2022 owing to non-compliance with approval conditions. A comparison of the major development parameters submitted under the last application and the current application is summarised below:

	Last Application No. A/YL-KTN/664 (a)	Current Application (b)	Difference (b) - (a)
Applied Use	Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 3 Years	Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 5 Years	No change (except approval period sought increased from 3 years to 5 years)
Site Area	1,325 m ²	1,325 m ²	-
No. of Parking Spaces	30 (for private car)	33 (for private car)	+3 (+10%)
No. of Structure	-	1	+1
Total Floor Area	-	9 m ²	+9 m ²
Building Height	-	One storey, 3 m	N/A

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

- (a) Application form with supplementary information received on 4.7.2022 **(Appendix I)**
- (b) Further Information (FI) received on 16.8.2022 **(Appendix Ia)**

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 and FI in **Appendices I** and **Ia**. They can be summarized as follows:

- (a) The applicant would like to continue to use the Site for public vehicle park to serve the nearby residents living in Riva (爾密) and Ko Po Tsuen. The application is on a temporary basis and would not frustrate the long-term planning intention of the “R(B)” zone.
- (b) The last approved application (No. A/YL-KTN/664) was revoked due to non-compliance with approval conditions related to the provision of boundary fencing and implementation of the drainage proposals. The applicant explains that it was because of the outbreak of COVID-19 that led to insufficient manpower and logistical problem on supply of construction materials for completion of the relevant approval conditions. In the current application, the applicant submitted drainage and FSIs proposals in support of the application. The applicant also commits to comply with all the approval conditions should the application be approved.

- (c) The development would not induce adverse traffic, environmental, landscape and drainage impacts. The 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by EPD will be followed.

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

The applicant is not the “current land owner” of the Site but has complied with the requirement 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 notice at the Site and sending notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not the subject of any planning enforcement action.

5. Previous Applications

- 5.1 The Site is involved in three previous applications (No. A/YL-KTN/31, 90 and 664) for temporary open storage of vehicles and vehicle parts, and temporary public vehicle park uses, all of which were approved with conditions by the Committee between June 1997 and November 2019. The former two applications, which are for temporary open storage use, are not relevant to the current application. The last application No. A/YL-KTN/664 submitted by the same applicant for the same use as the current application was approved with conditions by the Committee in November 2019 mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the applied use was not incompatible with the surrounding land uses; relevant departments consulted in general had no adverse comments and / or their technical concerns could be addressed by appropriate approval conditions. Nevertheless, the planning permission was revoked in April 2022 due to non-compliance with the approval conditions related to the provision of boundary fencing and implementation of drainage proposal.
- 5.2 Compared with the last application No. A/YL-KTN/664, the current application is submitted by the same applicant for the same temporary public vehicle park (excluding container vehicle) use with no change in the site area / boundary and minor changes to the site layout and major development parameters and the approval period sought increased from 3 years to 5 years. A comparison of the two applications are provided at paragraph 1.3 above.
- 5.3 Details of the previous applications are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application for ‘public vehicle park (excluding container vehicle)’ use within the same “R(B)” zone on the OZP.

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

7.1 The Site is:

- (a) paved, partly fenced and used for the applied use without planning permission; and
- (b) accessible via a local track branching off from Ying Ho Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north is Ko Po Road and Kam Tin River;
- (b) to its southeast across Ying Ho Road is grassland zoned “Government, Institution or Community” on the OZP. To its further southeast are some residential dwellings/structures within the “Village Type Development” zone of Ko Po Tsuen (**Plan A-1**); and
- (c) to its south and west is a residential development named Riva (爾巒) within an area zoned “R(B)” on the OZP.

8. Planning Intention

The “R(B)” zone is intended primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

9. Comments from Relevant Government Department

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 Comment Received During the Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory publication period, a public comment from an individual was received. The individual objects to the application mainly on the grounds that the applicant has failed to comply with the approval conditions granted under the previous application (No. A/YL-KTN/664); and the Board should take into consideration the impact of the development on the local residents.

11. Planning Considerations and Assessments

- 11.1** The application is for temporary public vehicle park (excluding container vehicle) for a period of 5 years in the “R(B)” zone. The planning intention of the “R(B)”

zone is for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Whilst the applied use is not entirely in line with the planning intention of the “R(B)” zone, there is no known proposal for permanent development of the Site, and the applied use could satisfy the demand of car parking spaces in the area. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(B)” zone.

- 11.2 The development is considered not incompatible with the surrounding rural land uses which are mainly residential development (i.e. Riva), residential dwellings/structures, Kam Tin River and grassland.
- 11.3 According to the applicant, the applied use is for provision of 33 private car parking spaces to serve the nearby residents. Taking into account the nature and scale of the development, it is envisaged that the applied use would unlikely result in significant adverse traffic, environmental and drainage impacts on 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 possible environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 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” issued by the DEP.
- 11.4 The Site is the subject of a previous application (No. A/YL-KTN/664) approved for the same use in 2019 for reasons as stated in paragraph 5.1 above, which was submitted by the same applicant as the current application. Nevertheless, the planning permission was revoked in April 2022 due to non-compliance with approval conditions on the provision of boundary fencing and implementation of drainage proposal. For the current application, the applicant has submitted drainage and FSIs proposals in support of the application with no adverse comment received from CE/MN of DSD and D of FS. The applicant also undertakes to comply with all the approval conditions to be stipulated by the Board. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 A public comment objecting to the application was received during the statutory publication period. In this regard, the departmental comments and planning assessments and considerations 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 comment mentioned in paragraph 10 above, the Planning Department has no objection to the 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 26.8.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no vehicle other than private car, as proposed by the applicant, is allowed to access 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 only private cars as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked on the Site at all time during the planning approval period;
- (c) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations, as proposed by the applicant, are allowed to be parked/stored on the Site at any time during the planning approval period;
- (d) the implementation of the accepted 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 26.2.2023;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the implementation of the accepted 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 26.2.2023;
- (g) if any of the above planning condition (a), (b), (c) or (e) 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
- (h) if any of the above planning condition (d) or (f) 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 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 development is not in line with the planning intention of the "R(B)" zone which is intended primarily for sub-urban medium-density residential developments in rural areas 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

- 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 4.7.2022
Appendix Ia	FI received on 16.8.2022
Appendix II	Previous applications
Appendix III	General departmental comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Plan A-1	Location plan with previous applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
AUGUST 2022**