

RNTPC Paper No. A/YL-KTN/768
For Consideration by
the Rural and New Town
Planning Committee
on 25.6.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/768

<u>Applicant</u>	: Mr. TANG Kam Leung represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 171 S.A RP (Part) and 171 S.B (Part) in D.D.109, Kam Hing Wai, Kam Tin, Yuen Long
<u>Site Area</u>	: 1,178 m 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, ‘Shop and Services’ and ‘Public Vehicle Park (excluding container vehicle)’ are Column 2 uses under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for parking of vehicle without planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of a previous application No. A/YL-KTN/737 submitted by the same applicant for proposed temporary public vehicle park (excluding container vehicles) which was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 5 years on 18.12.2020. The planning permission was revoked on 16.6.2021 due to non-compliance with approval conditions.

- 1.3 According to the applicant, the proposed shop and services (motor-vehicle showroom) involves 2 one-storey structures with building height not more than 3m and a total floor area of about 11m² for site office and guardhouse. There will be 8 open-air parking spaces for display of vehicles. The operation hours of the motor-vehicle showroom are from 9:00a.m. to 6:00p.m. daily, including public holidays. For the proposed public vehicle park, a total of 17 parking spaces including 15 for private cars and 2 for light goods vehicles will be provided on-site. The operation hour of the public vehicle park is 24 hours daily, including public holidays. The proposed uses are to serve the nearby locals. Medium or heavy goods vehicles exceeding 5.5 tonnes will not be parked at the Site. The Site is accessible from Chi Ho Road. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 Compared with the previous approved application No. A/YL-KTN/737, the current application is for same site area, with addition of shop and services use, a reduction of private car parking spaces for public vehicle park (-9/-35%) and addition of two structures and 8 spaces for display of vehicles for shop and services use.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with plans received on 28.4.2021 **(Appendix I)**
 - (b) Further Information (FI) received on 17.6.2021 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 application form and FI at **Appendix I** and **Ia**. They can be summarized as follows:

- (a) The proposed development is intended to serve the nearby locals and meet the genuine demand for parking spaces in the area on a temporary basis and will not frustrate the long-term planning intention. The Site is subject to a previous application for public vehicle park use and approval of the application will not set an undesirable precedent.
- (b) Adequate maneuvering space for vehicles will be provided within the Site. The proposed development will not cause significant adverse traffic, environmental, landscape and drainage impacts on surrounding areas.
- (c) The applicant committed to strictly follow the proposed scheme upon planning approval granted by the Board. The applicant will post a notice at a prominent location of the Site and staff will be deployed at the ingress/egress to ensure that there will be no medium or heavy goods vehicles exceeding 5.5 tonnes.

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 not subject to any active planning enforcement case. Some private cars without valid vehicle licences were observed within the Site. Should there be sufficient evidence to prove an unauthorized development on site, enforcement action would be instigated.

5. Previous Application

The Site is subject to one previous application (Application No. A/YL-KTN/737) submitted by the same applicant for proposed temporary public vehicle park (excluding container vehicles) which was approved with conditions by the Committee for a period of 5 years on 18.12.2020 mainly for the reasons that temporary approval would not frustrate the long-term planning intention; and relevant departments consulted had no adverse comments on the application. While the approval conditions on submission of fire services installation (FSIs) proposal has been complied with, those requiring no medium or heavy good vehicles exceeding 5.5 tonnes to be parked/stored on or enter/exit the Site and no vehicles without valid licences issued under Road Traffic (Registration and Licensing of Vehicles) allowed to be parked/stored at the Site have not been complied with. Hence, the permission was revoked on 16.6.2021. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There is no similar application for shop and services (motor-vehicle showroom) within the same “V” zone on the OZP.
- 6.2 There are two similar applications (Nos. A/YL-KTN/619 and 717) at one site for temporary public vehicle park (excluding container vehicle) (with or without eating place) for a period of 3 or 5 years within the same “V” zone. The applications were approved with conditions by the Committee in 2018 and 2021 respectively mainly for the reasons that temporary approval would not frustrate the long-term planning intention; and relevant departments consulted had no adverse comments on the application. The planning permission for A/YL-KTN/619 was revoked in 2021 due to non-compliance of approval conditions. Details of the applications are summarized in **Appendix III** and the location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently used for parking of vehicles without planning permission; and
- (b) accessible from Chi Ho Road.

7.2 The surrounding area is rural in character predominated by residential dwellings/structures, storage yards, parking of vehicles, cultivated agricultural and vacant/unused land:

- (a) to its west are residential dwellings/structures of Kam Hing Wai, parking of vehicles, a storage yard and a temple;
- (b) to its north are parking of vehicles, cultivated agricultural land and vacant/unused land;
- (c) to its east are residential dwellings/structures, parking of vehicles and vacant land; and
- (d) to its immediate south is unused land and further south are Chi Ho Road and Kam Tin River.

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 Old Scheduled Agricultural Lots 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(s) 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 has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by 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/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Chi Ho Road.
- (b) 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.

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 submission, implementation and maintenance of a drainage proposal for the 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) 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 FSI 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) As there is no record of approval granted by the Building Authority (BA) for existing structures at the Site, he is not in a position to offer comments on the suitability for the use proposed in the application.
- (b) 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 BA 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.
- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix IV**.
- (d) 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):

According to the aerial photos of the LandsD, the Site is largely paved with some trees located at the periphery of the Site. Kam Tin River is located to the south of the Site. He has no adverse comment on the application from nature conservation perspective. Should the application be approved, the applicant shall be advised to avoid adverse impacts on the trees and the nearby watercourse.

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 locals' comment on the application and has no comment from departmental point of view.

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 11.5.2021, the application was published for public inspection. During the three-week statutory publication period, three public comments from individuals were received (**Appendices IV-1 to IV-3**). The comments object to the application mainly on the ground that the development will induce traffic congestion, environmental pollution and fire safety concern and affect living quality and safety of the villagers; there is sufficient parking space in the village and the proposed development would be operated as car sales; and the Site is currently used for parking of lorries and vehicles without licenses and workshop.

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 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, LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that temporary approval for 5 years would not jeopardise the long-term planning intention of the “V” zone.
- 11.2 The proposed use is located at the fringe of the “V” zone adjoining Chi Ho Road. It is considered not incompatible with the surrounding area which is rural in character predominated by residential dwellings/structures and vacant/unused land. According to the applicant, the proposed use is intended to serve the nearby locals.
- 11.3 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 nuisance, approval conditions restricting the operation hours and the vehicle type are recommended in paragraph 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 C for T, CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraph 12.2 (f) to (j) below.

- 11.4 The Site is subject to a previous application submitted by the same applicant for proposed temporary public vehicle park (excluding container vehicles) which was approved with conditions by the Committee for a period of 5 years in 2020. The planning permission was revoked in June 2021 due to non-compliance with approval conditions on parking of medium or heavy goods vehicles and unlicensed vehicles. The applicant committed to strictly follow the proposed scheme if the current application is approved. When compared with the previous approved application, the current application is subject to the same site area and public vehicle park use. There is no major change in planning circumstance since the last approval. It is considered that sympathetic consideration could be given to the current application. Shorter compliance periods are proposed to monitor the progress of compliance of approval conditions should the Committee decide to approve the current application. The applicant will be advised that should he fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 There are two similar applications for temporary public vehicle park (with or without eating place) for a period of 3 or 5 years within the same “V” zone approved by the Committee in 2018 and 2021 respectively mainly for the reasons as stated in paragraph 6 above.
- 11.6 Three public comments were received during the statutory publication period objecting to the application as set out in paragraph 10 above. In this regard, 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 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 25.6.2026. The following conditions of approval with shorter compliance period and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) For motor-vehicle showroom, no operation between 6:00 p.m. and 9:00 a.m., 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 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 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of drainage proposal 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 25.9.2021;
- (g) in relation to (f) above, the implementation of 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 25.12.2021;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.9.2021;
- (j) in relation to (i) above, the implementation of 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 25.12.2021;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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
- (l) if any of the above planning conditions (f), (g), (i) or (j) 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 advisory clauses are in **Appendix V**.

- 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. 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 plans received on 28.4.2021
Appendix Ia	FI received on 17.6.2021
Appendix II	Previous application covering the Site
Appendix III	Similar applications within the same "V" zone on the Kam Tin North OZP
Appendices IV-1 to IV-3	Public comments received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan

Plan A-1	Location Plan with similar application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**