

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/388

- Applicant** : Mr. LAU Chak Hung represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lots 2530 (Part), 2531 (Part) and 2918 (Part) in D.D.129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 1,926 m²
- Lease** : Block Government Lease (Demised for Agricultural Use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Temporary Public Vehicle Park (Private Cars) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary public vehicle park (private cars) for a period of 3 years and filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “V”. According to the Notes of the OZP for “V” zone, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use and filling of land requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved and occupied by the applied use without valid planning permission (**Plans A-4a to A-4c**). This application is intended to regularise the temporary public vehicle park with filling of land.
- 1.2 The Site is not involved in any previous planning application. The Site is accessible via Man Tak Road from Tin Wah Road (**Drawing A-1, Plans A-2 and A-3**). The ingress/egress point is located at the southern boundary of the Site (**Drawing A-3 and Plan A-2**). According to the applicant, the Site has been hard-paved and fenced off. 32 parking spaces for private cars (5m x 2.5m) are provided. Two single-storey (3 m) temporary structures with total gross floor area of about 44 m² for site office and electricity meter room are also provided. The operation hours of the Site are from 7 a.m. to 11 p.m. daily. The location plan with vehicular access, site plan, layout plan, proposed drainage plan and proposed fire services installations plan are at

Drawings A-1 to A-5 respectively.

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

- (a) Application Form with attachments received on 25.2.2021 (**Appendix I**)
- (b) Further Information (FI) received on 26.3.2021 providing (**Appendix Ia**) clarification on land filling information
(*exempted from publication requirement*)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I and Ia**. They can be summarized as follows:

- (a) The public vehicle park is compatible with the surrounding environment within Sha Kong Wai and in line with the planning intention of the “V” zone. Similar planning applications have been approved by the Committee/Board in the “V” zones of the OZP.
- (b) The public vehicle park is intended to serve the local villagers and alleviate the problem of insufficient parking spaces in the village. Only private cars are allowed to be parked on or enter/exit the Site.
- (c) The Site has been hard-paved and fenced off with metal fencing panels. So there would be no nuisance to the nearby residents.
- (d) In order to minimise the adverse impacts to the surrounding environment, a drainage proposal is also submitted for consideration.

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. 31A) by posting site notice and sending notice to the Ping Shan Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to an active enforcement case (No. E/YL-LFS/517) (**Plan A-2**) and the alleged unauthorized development (UD) is parking of vehicles and storage use (including deposit of containers). Enforcement Notice (EN) was posted to the registered land owner on 23.12.2020 requiring the UD to be discontinued by 23.3.2021. Site inspection indicated that UD has not been discontinued and hence EN has not been complied with upon the expiry. The Site would be under close monitoring and prosecution action would be taken.

5. **Previous Application**

The Site does not involve any previous planning application.

6. **Similar Applications**

- 6.1 Within the same “V” zone, there are 6 similar applications (No. A/YL-LFS/281, 309, 310, 319, 327 and 345) for temporary public/private vehicle park for private cars and/or light goods vehicles without involving filling of land. All of them were approved with conditions by the Committee between 2016 and 2019 for a period of 3 years on the considerations that temporary approvals would not jeopardize the long-term planning intention of the “V” zone, the developments were not incompatible with the surrounding land uses, there were no adverse comments from the concerned Government departments and planning approvals were in line with the previous decision. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 However, the planning permissions of 3 applications (No. A/YL-LFS/309, 310 and 319) were revoked in 2020 due to non-compliance with several approval conditions including the implementation of revised drainage proposal, implementation of tree preservation and landscape proposal and provision of fencing.
- 6.3 There is one similar application (No. A/YL-LFS/367) for temporary private vehicle park involving the filling of land in another “V” zone on the same OZP, which was approved with conditions by the Committee on 26.2.2021 mainly on similar considerations as mentioned in paragraph 6.1 above.

7. **The Site and Its Surrounding Areas** (Plan A-1 to Plan A-4c)

7.1 The Site is:

- (a) currently hard-paved, fenced off and occupied by the applied use without valid planning permission; and
- (b) accessible via Man Tak Road from Tin Wah Road (**Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) to its northwest and west are village houses, an open storage yard of vehicles which is suspected unauthorised development and vacant land;
- (b) to its northeast and east are the residential dwellings of Flowery Vila. To its further northeast is a temporary place of recreation, sports or culture (Venue for Villager Ceremony) with valid planning permission (Application No. A/YL-LFS/379); and
- (c) to its immediate south and southwest are the residential dwellings of Grandview Park and Enze Villa (the closest residential dwelling is about 1m

away) and village houses. To its further southeast is a proposed temporary institutional use for children life learning centre with valid planning permission (Application No. A/YL-LFS/347).

8. Planning Intention

- 8.1 The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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.
- 8.2 Any filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application and the public comments received 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 Schedule Agricultural Lots (OSALs). The OSALs are 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) of the lot(s) will need to immediately apply to his office for permitting the structures to be erected or to regularize any irregularity 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. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its soles 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 LandsD.
 - (c) There is no New Territories Exempted Hosues (NTEH) or Small

House application received/under processing/approved at the Site.

Environment

9.1.2 Comment of the Director of Environmental Protection (DEP):

- (a) The development would not involve operation of heavy vehicles nor dusty operations. Therefore, he has no objection to the application.
- (b) No environmental complaint pertaining to the Site has been received in the past three years.
- (c) The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP to minimize potential environmental nuisance to the surrounding area.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.
- (c) The local track leading to the Site is not under Transport Department (TD)’s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Man Tak Road.

Landscape

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) The applied use for public vehicle park involves two single-storey structures not exceeding 3m high. The applied site office and the

electricity meter room have a GFA of not more than 40 m² and 4 m² respectively. The Site is within “V” zone surrounded with village houses. Considering the scale of the proposed structures, significant visual impact from the applied development is not anticipated.

- (b) With reference to the aerial photo of 2019 and the site photos, the Site is fully hard paved with existing vehicle park in operation. There is no tree observed within the boundary. The Site is situated in an area of rural inland plains landscape character. Significant change to the character arising from the application is not anticipated.
- (c) In view that no significant adverse landscape impact arising from the applied development is envisaged, it is considered not necessary to impose any landscape condition should the application be approved by the Board.

Building Matters

9.1.6 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) are to be carried out on the Site, prior approval and consent of the Building Authority (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 Building Ordinance (BO).
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal including flood mitigation measures, to implement and maintain the proposed drainage facilities to the satisfaction of his department.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The FSIs proposal submitted by the applicant is considered acceptable to his Department. The applicant should be reminded of the detailed comments at **Appendix IV**.

Geotechnical

9.1.9 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

According to his records, his advice on a suspected unauthorised land filling/land excavation/site formation works within or in the vicinity of the Site was provided to PlanD and concerned departments in 2016, in that all fill materials should be removed or flatten. The above information should be taken into account in considering the application.

District Officer's Comments

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DLO/YL, HAD):

His office has not received any comment from the locals on the application.

9.2 The following Government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (c) Project Manager (West), CEDD (PM(W), CEDD);
- (d) Principal Project Coordinator/Special Duty, DSD (PPC/SD, DSD);
- (e) Commissioner of Police (C of P); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 5.3.2021, the application was published for public inspection. During the statutory public inspection period, 11 public comments were received from villagers and individuals (**Appendices III-1 to III-11**). One public comment supporting the application on the grounds that the applied use can alleviate insufficient parking spaces in the village. The other ten public comments, one of which has obtained 40 signatures from villagers, object to the application and their reasons are summarized below:

- (a) the applied use is an illegal development, which has occupied the Site for several years without a valid planning permission. The Board should not encourage

“develop first, apply later” attitude; and

- (b) the applied use will generate possible adverse traffic, air, noise, environmental, health and structural impacts, as well as road, fire and personal safety problems and lead to poor quality of life for the nearby residents.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary public vehicle park (private cars) for a period of 3 years and filling of land in the “V” zone. Although the applied use is not entirely in line with the planning intention of the “V” zone which is primarily intended for development of Small Houses by indigenous villagers, the development could serve the local villagers/residents for meeting their car parking needs. Besides, DLO/YL of LandsD advises that there is no Small House application approved or under processing within the Site at present. As such, approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “V” zone.
- 11.2 The Site is situated in an area of rural inland plains landscape character with no tree observed within the site boundary. The Site is also located at the southern part of the village clusters of San Hing Tsuen and Ngau Hom. The applied use is considered not incompatible with the surrounding land uses which mainly comprise rural residential dwellings (**Plan A-2**).
- 11.3 The requirement for planning permission for filling of land within the “V” zone is to address the possible drainage impact. In this regard, CE/MN of DSD advises that he has no objection to the application from drainage point of view, and the applicant should submit a revised drainage proposal including flood mitigation measures and to implement the proposed drainage facilities to the satisfaction of his department. As such, relevant approval conditions are recommended in paragraph 12.2 below to address DSD’s concern. Any non-compliance with the approved conditions would result in revocation of the planning permission.
- 11.4 Other relevant Government departments, including DEP, C for T, D of FS and CTP/UD&L of PlanD have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse environmental, traffic, fire safety and landscape impacts to the surrounding area. To minimize any possible environmental impacts and nuisance on the surrounding developments, and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 12.2 below. Should the planning application be approved, the applicant will be advised to follow the latest “COP” in order to minimize the potential environmental nuisance to the surrounding area.
- 11.5 The Site is not subject to any previous planning approval. However, the Committee has approved 6 similar applications for temporary public/private vehicle park use without filling of land within the same “V” zone and 1 similar application for temporary private vehicle park with filling of land in another “V” zone on the same OZP (**Plan A-1**). Approval of the current application is in line with the previous

decisions of the Committee.

- 11.6 There are 11 public comments received, in which 1 supporting and 10 objecting to the application on the grounds as summarized in paragraph 10 above. The planning considerations and assessments in paragraph 11.1 to 11.5 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid for a temporary basis for a period of 3 years until **16.4.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation from 11:00 p.m. to 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked on or enter/exit the Site at any time during the planning approval period;
- (c) a notice shall be posted at a prominent location of the Site at all times to indicate that only private cars as defined in the Road Traffic Ordinance are allowed to be parked on or enter/exit the Site during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a revised drainage proposal including flood mitigation measures 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 **16.10.2021**;
- (f) in relation to (e) above, the implementation of the revised drainage proposal including flood mitigation measures 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 **16.1.2022**;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the implementation of the accepted 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 **16.1.2022**;

- (i) if any of the above planning conditions (a), (b), (c), (d) or (g) is not complied with during the 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 conditions (e), (f) or (h) is not complied with by the above 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 applied use is not in line with the planning intention of the "V" zone which 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 Received on 25.2.2021
Appendix Ia	Further Information Received on 26.3.2021
Appendix II	Similar Applications within the "V" zone on the Approved Lau Fau Shan and Tsim Bei Tsui OZP
Appendices III-1 to III-11	Public Comments Received During Statutory Publication Period
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan with Vehicular Access
Drawing A-2	Site Plan
Drawing A-3	Layout Plan
Drawing A-4	Proposed Drainage Plan
Drawing A-5	Proposed Fire Service Installations Plan

Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

PLANNING DEPARTMENT
APRIL 2021