

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/444

- Applicant** : Mr. 黃子聰 represented by Miss 許幸如
- Site** : Lots 2766 RP (Part), 2767 (Part), 2768, 2779 (Part) and 2781 in D.D.129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 2,410m²
- 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/11
- Zonings** : (i) “Green Belt” (“GB”) (about 98.2%)
(ii) “Village Type Development” (“V”) (about 1.8%)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Public Vehicle Park (Private Car and Light Goods Vehicle) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary public vehicle park (private car and light goods vehicle) for a period of three years and filling of land at the application site (the Site) (**Plan A-1a**). The Site falls mainly within an area zoned “GB” (about 98.2%) with a minor portion within an area zoned “V” (about 1.8%) on the approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11. According to the Notes of the OZP for the “GB” and “V” zones, both ‘Public Vehicle Park (excluding container vehicle)’, which is a Column 2 use, and filling of land require planning permission from the Town Planning Board (the Board). The Site is currently partly hard-paved and used for parking of vehicles without valid planning permission, and a local track (**Plans A-2 and A-4a to A-4d**).
- 1.2 The Site is accessible from Tin Wah Road via a local track (**Plans A-1a and A-2**). As shown on the layout plan at **Drawing A-1**, the proposal comprises two vehicle parking areas at the northeast and northwest, temporary structures at the south, as well as a local track bisecting the southern and northern portions. The parking areas would provide a total of 13 parking spaces for private cars (5m × 2.5m each) and 4 parking spaces for light goods vehicles (7m × 3.5m each). The temporary structures comprise two structures of one storey high (about 3m to 4m), with a total floor area

of about 70m² for guardroom and office, and rain shelter uses respectively. According to the applicant, the local track is being used by villagers of Sha Kong Wai and will remain open for public access. The proposed vehicle park would operate 24 hours daily.

- 1.3 Moreover, the applicant applies to regularise the land filling works that has already been carried out, and for further land filling at the Site. As shown on the layout and land filling plan at **Drawing A-1**, a total area of about 1,550m² (or 64%) has been or will be filled with concrete or tiles of about 0.15m to 0.3m in thickness. Upon implementation of the proposed development, the entire Site would be hard-paved¹.
- 1.4 The Site is involved in two previous applications (No. A/YL-LFS/39 and A/YL-LFS/341) (details at paragraph 6 below).
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 5.9.2022 (Appendix I)
 - (b) Further Information (FI) received on 21.9.2022* (Appendix Ia)
 - (c) FI received on 10.10.2022* (Appendix Ib)

** accepted and exempted from publication requirements*

2. Justifications from the Applicant

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

- (a) the proposed development is temporary in nature and is at a convenient location to serve the villagers of Sha Kong Wai;
- (b) the proposed development can concentrate vehicle parking within the Site in an orderly manner. With proper management, it will help improve the traffic condition and safety in the area whilst better safeguard the security of vehicles against thefts which are rampant in the New Territories. The environment and hygiene of the Site can also be enhanced;
- (c) only vehicles as defined under the Road Traffic Ordinance would be allowed to be parked on the Site. No open storage or workshop activities would be carried out on the Site. No storage of dangerous goods would be allowed;
- (d) temporary vehicle park would not generate significant adverse environmental, ecological and traffic impacts on the surrounding areas;
- (e) the proposed development could optimise the utilisation of land resources. By approving the application, the proposed development could be brought under regulatory control; and

¹ Part of the Site had been hard-paved before the incorporation of land filling restriction within the “GB” and “V” zones since the gazettal of the draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/6 on 26.3.2004. The said area is not included in the application for filling of land.

- (f) similar applications have been approved by the Board within the same “GB” and “V” zones.

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 notification letter to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for “Application for Development within the Green Belt Zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) are relevant to the application. The relevant assessment criteria are detailed at **Appendix II**.

5. Background

The filling of land at part of the Site would be subject to planning enforcement action.

6. Previous Applications

- 6.1 Part of the Site is involved in two previous applications. Application No. A/YL-LFS/39 for recreational uses including barbecue spot, playground, refreshment kiosk, visitor centre, public car park and ancillary use within the “GB” and “V” zones was approved with conditions by the Committee on 14.5.1999. The previous application only takes up about 39.2% of the Site of the current application, while the considerations thereof were not relevant to the current application for public vehicle park use.
- 6.2 Application No. A/YL-LFS/341 covering the northeastern part of the Site for proposed temporary public vehicle park for private cars for a period three years was approved with conditions by the Committee on 31.5.2019 mainly on considerations that the application site fell largely within area covered by approved planning applications for recreational uses with ancillary vehicle parks; the applied use did not involve clearance of vegetation and was not incompatible with the surroundings; there was no adverse comment from concerned government departments and technical concerns could be addressed by approval conditions. However, the planning permission was subsequently revoked on 30.6.2021 due to non-compliance with time-limited approval condition requiring the implementation of drainage proposal.
- 6.3 Compared to the application No. A/YL-LFS/341, the current application is submitted by a different applicant for similar use involving a largely different site (with only 28.6% of the Site overlaps with application No. A/YL-LFS/341). Details of the previous applications are summarised in **Appendix III** and their locations are shown

on **Plan A-1b**.

7. Similar Applications

7.1 Within the same “GB” zone, there were eight similar applications for temporary public vehicle park for private cars, light goods vehicles, medium goods vehicles and/or heavy goods vehicles with or without filling and excavation of land in the past five years. Six applications were approved while two were rejected. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

Approved Applications

7.2 Applications No. A/YL-LFS/364, 372, 375, 376, 394 and 433 involving five sites for temporary public vehicle park for private cars, light goods vehicles and/or medium goods vehicles with or without filling of land within/straddling the “GB” zone were approved with conditions by the Committee between 2020 and 2022 mainly on similar considerations as summarised in paragraph 6.2 above.

Rejected Application

7.3 Application No. A/YL-LFS/357 for temporary public vehicle park (private car, medium goods vehicle, heavy goods vehicle and container vehicle) for a period of three years was rejected by the Committee on 6.3.2020 mainly on the grounds of not in line with the planning intention of the “GB” zone; and not in line with TPB PG-No. 10 and No. 13E²; and setting undesirable precedent for similar applications involving heavy goods vehicle and container vehicle.

7.4 Application No. A/YL-LFS/417 for temporary public vehicle park for private cars for a period of three years and filling and excavation of land, which involved clearance of vegetation and hard-paving since 2015 prior to applying for planning permission, was rejected by the Committee on 14.1.2022 mainly on the grounds of not in line with the planning intention of the “GB” zone; not in line with TPB PG-No. 10 for being incompatible with the surrounding areas; and failure to demonstrate no significant adverse landscape impact.

8. The Site and Its Surrounding Areas (Plans A-1a to A-4d)

8.1 The Site:

- (a) can be divided into the southern, northeastern and northwestern portions, and a local track bisecting the northern and southern portions;
- (b) the southern portion was hard-paved with tiles and concrete, and erected with a temporary structure used as guardroom, and a pavilion. The northeastern portion is concrete-paved and vacant. The northwestern portion is largely cultivated land and vegetated land, with a portion hard-paved and parked with vehicles. The local track bisecting the northern and southern portions is

² TPB PG-No. 13E was related to application for open storage and port back-up uses, and was superseded by TPB-PG No. 13F in March 2020.

erected with gate bars to its east restricting vehicular access; and

- (c) is accessible from Tin Wah Road to its south via a local track on Government land and private land.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north, northeast and northwest are a shrine, vacant land and cultivated land respectively. To the further north are a tract of shrubland, a pond and a vehicle park covered by valid planning permission under application No. A/YL-LFS/375;
- (b) to the immediate east is vacant land. To the further east across a local track and Tin Ying Road is the Tin Shui Wai Nullah;
- (c) to the south is a recreational development named Tin Shui Wai Greenfield Garden which is covered by valid planning permission under application No. A/YL-LFS/424. To the further south are vehicle parks, one of which is covered by valid planning permission under application No. A/YL-LFS/394; and
- (d) to the immediate west is a temple. To the further west is the recognised village of Sha Kong Wai intermixed with parking of vehicles and cultivated land.

9. Planning Intentions

9.1 Majority of the Site (about 98.2%) falls within the “GB” zone. The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

9.2 As filling of land/pond or excavation 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.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraphs 10.2 and 10.3 below, other 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 IV and V** respectively.

Traffic

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

- (a) she supports the application from traffic engineering perspective to meet the public demand on car parking spaces; and

- (b) the applicant should be reminded of the advisory comments at **Appendix V**.

Landscaping

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

- (a) the Site is situated in area of miscellaneous rural fringe predominated by residential blocks, public vehicle park, vacant land, village houses, pond and scattered tree groups. Part of the Site was hard-paved, erected with temporary structures, and occupied by the applied use. While part of the proposed filling of land has been completed, vegetation and cultivated land was founded at the northwest of the Site;
- (b) when comparing the site condition as shown on the aerial photo taken on 29.12.2021 (**Plan A-3**) and the site photos taken in September and October 2022 (Photos 7 to 9 of **Plans A-4c and A-4d**), tree felling and hard paving has been carried out at the northwestern portion of the Site. Significant adverse landscape impact arising from the proposed development has already taken place. No information on the mitigation of the landscape impacts arising from the proposed development is provided; and
- (c) the “GB” zone is primarily intended to promote the conservation of the natural environment. There is concern that approval of the application would alter the landscape character of the “GB” zone and further degrade the landscape quality of surrounding environment.

11. Public Comments Received During Statutory Publication Period

On 20.9.2022, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received (**Appendices VI-1 and VI-2**) objecting to the application on grounds that the application is for destroy to build, and the proposed use would generate adverse traffic, environmental and fire safety impacts.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary public vehicle park (private car and light goods vehicle) for a period of three years and associated filling of land at the Site. The Site falls mainly within the “GB” zone (about 98.2%) with only a minor portion within the “V” zone (about 1.8%) of the OZP. There is a general presumption against development within “GB” zone. Moreover, filling of land within the “GB” zone requires planning permission from the Board as it may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. The proposed use and associated filling of land, which involve vegetation clearance at the Site, are not in line with the planning intention of the “GB” zone. There is no strong planning justification given in the submission for a departure of such planning intention, even on a temporary basis.

- 12.2 The Site is surrounded by shrubland, a recreational development, vehicle parks, village houses and vacant land. The proposed use and associated filling of land are considered not entirely incompatible with the surrounding area. However, according to the TPB PG-No. 10, application for new development within “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The development should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. In this regard, CTP/UD&L of PlanD points out that trees were felled and hard-paving was undertaken at the northwestern portion of the Site and significant adverse landscape impact has taken place. Nevertheless, no information is provided in the submission on the mitigation of the adverse landscape impacts arising from the proposed development. She also concerns that approval of the application would alter the landscape character of the “GB” zone and further degrade the landscape quality of surrounding environment. As such, the proposed use and associated filling of land are considered not in line with TPB PG-No. 10.
- 12.3 While C for T supports the application from traffic engineering point of view as it could meet public demand for car parking spaces, other concerned departments including Director of Environmental Protection, Director of Agriculture, Fisheries and Conservation, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no comment on the proposed use and associated filling of land from environmental, nature conservation, drainage and fire safety perspectives.
- 12.4 Part of the Site is involved in a previous application (No. A/YL-LFS/341) for temporary public vehicle park for private cars approved by the Committee in 2019. Moreover, the Committee has approved six similar applications involving five sites for temporary public vehicle park within the subject “GB” zone between 2020 and 2022. However, it should be noted that they are approved mainly on considerations that the sites were generally covered by planning permissions for recreation uses with ancillary vehicle parks; the sites had generally been hard-paved before the first introduction of land filling restriction into the OZP in 2004, and clearance of vegetation was not involved. For the current application, majority of the site (about 59%) is not covered by any previous planning application (**Plan A-1b**), while tree felling and hard-paving has recently been undertaken at the Site and further hard paving is proposed at the northwestern portion currently covered with vegetation or occupied by cultivated land. Hence, the circumstances of the current application are different from those of the approved similar applications. In fact, the Committee rejected a similar application (No. A/YL-LFS/417) in 2022, which was not covered by any previous planning approval and had involved vegetation clearance and unauthorised land-filling since 2015. As such, rejecting the current application is not in conflict with the previous decisions of the Committee.
- 12.5 There are two public comments received objecting to the application on grounds as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.4 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department

does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) the proposed development is not in line with the Town Planning Board Guidelines for ‘Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that the applicant fails to demonstrate that the proposed development would not have significant adverse landscape impact on the surrounding areas.

13.2 Alternatively, 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 3 years until **28.10.2025**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container trailer/tractor, as defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (b) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) 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 **28.4.2023**;
- (d) in relation to (c) 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 **28.7.2023**;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 **28.4.2023**;
- (g) in relation to (f) 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 **28.7.2023**;
- (h) if any of the above planning condition (a), (b) 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;

- (i) if any of the above planning condition (c), (d), (f) or (g) 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; and
- (j) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant planning permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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 permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application Form received on 5.9.2022
Appendix Ia	Further Information received on 21.9.2022
Appendix Ib	Further Information received on 10.10.2022
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10)
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendices VI-1 and VI-2	Public Comments Received During Statutory Publication Period
Drawing A-1	Layout and Land Filling Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4d	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2022**