

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/501

- Applicant** : Teng Fei Consultancy Company represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lots 2705 (Part), 2708 (Part), 2709 (Part), 2713 (Part), 2714 (Part), 2716 (Part), 2717 (Part), 2718, 2719 (Part), 2720, 2721 (Part), 2722 (Part), 2723 (Part), 2724 (Part), 2726 (Part), 2727 (Part), 2728 (Part), 2729 (Part), 2730, 2731, 2732 (Part), 2753 (Part), 2754 (Part), 2755 (Part), 2756 (Part) and 2757 (Part) in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 9,820m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plans** : (i) Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/11
(ii) Approved Tin Shui Wai OZP No. S/TSW/16
- Zonings** : (i) “Green Belt” (“GB”) on the approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11 (about 99.85%)
(ii) “Open Space (1)” (“O(1)”) on the approved Tin Shui Wai OZP No. S/TSW/16 (about 0.15%)¹
- Application** : Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary public vehicle park (private cars and light goods vehicles) for a period of three years at the application site (the Site) (**Plan A-1a**) zoned “GB” on the approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11. According to the Notes of the approved Lau Fau Shan and Tsim Bei Tsui OZP for the “GB” zone, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently hard paved and used for vehicle park without valid planning permission (**Plans A-2, and A-4a and A-4b**).

¹ Considered as minor boundary adjustment in zoning boundaries which is permitted under the covering Notes of the OZP.

- 1.2 The Site is accessible from Tin Wah Road via a local track, with the ingress/egress located at the southeast of the Site (**Drawing A-2**). As shown on the layout plan at **Drawing A-1**, 180 parking spaces for private cars (5m × 2.5m each) and 22 for light goods vehicles (7m × 3.5m each) are provided. Four single-storey structures (about 3m to 7.62m) with a total floor area of about 288m² are erected for rain shelter for vehicles², site office, security room and toilet uses. Drainage facilities (surface U-channels and catchpits) would be provided (**Drawing A-3**). According to the applicant, the operation hours would be between 7 a.m. to 11 p.m. daily, including Sundays and public holidays.
- 1.3 The Site is involved in three previous applications (No. A/YL-LFS/364, 375 and 376) for temporary public vehicle park for private cars and/or light goods vehicles covering different parts of the Site (**Plan A-1b**), which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2020 (details at paragraph 6 below). Compared with the previous applications, the current application is submitted by the same applicant for the same applied use, with smaller site area and total floor area than the sum of the three previous applications.
- 1.4 In support of the application, the applicant has submitted the Application Form with attachments which was received on 29.11.2023 (**Appendix I**).

2. Justifications from the Applicant

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

- (a) There is shortage of parking spaces in Sha Kong Wai and Tin Shui Wai, leading to proliferation of illegal parking which generates significant adverse impact on the local road network. The applied use can address the huge parking demand of the villagers of Sha Kong Wai Village and residents of Tin Shui Wai, many of them are working in the transport sector.
- (b) Although the Site falls within the “GB” zone, the Town Planning Board has granted permissions for various recreational uses thereat. In fact, the Site has been hard-paved since 1999. Hence, the applied use would not involve clearance of vegetation, but better utilise the Site.
- (c) Due to the pandemic and land boundary dispute, the applicant cannot comply with the time-limited approval conditions of the approved previous application No. A/YL-LFS/364 and A/YL-LFS/375 for the same use on time.

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 Ordinance (TPB PG-No. 31B) by posting notice at the site and sending notification letter to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’

² According to the applicant, the rain shelter for vehicles would only be used on rainy days.

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. Relevant extract of the Guidelines is at **Appendix II**.

5. Background

Majority of the Site is subject to planning enforcement actions (Cases No. E/YL-LFS/589 and 590) against unauthorized development (UD) involving parking of vehicles and/or storage use (**Plan A-2**). Enforcement Notices (EN) were issued to the concerned parties on 29.11.2023 requiring the discontinuance of the UD by 29.1.2024. If the EN is not complied with, prosecution action would be taken.

6. Previous Applications

- 6.1 The Site is the subject of seven previous applications for various recreational uses and temporary public vehicle park. Five of them were approved whilst two were rejected by the Committee. Details of these previous applications are summarised in **Appendix III** and their locations are shown on **Plan A-1b**.

Approved Applications

- 6.2 Applications No. A/YL-LFS/40 and 74 for temporary golf driving range and recreational development for a period of three years each were approved by the Committee and the Board on review in 1999 and 2002 respectively. The planning considerations of these applications are not relevant to the current application which involves a different use.
- 6.3 Applications No. A/YL-LFS/364, 375 and 376 submitted by the same applicant of the current application for temporary public vehicle park for private cars and/or light goods vehicles covering different parts of the Site for a period of three years were approved with conditions by the Committee on 26.6.2020 and 4.12.2020 mainly on considerations that the application sites fell/largely fell within area covered by approved planning applications for recreational uses with ancillary vehicle parks; the sites had largely been hard-paved before the land filling restriction was first incorporated into the OZP in 2004³; the applied use did not involve extensive clearance of vegetation and were not entirely incompatible with the surroundings; there was no adverse comment from concerned government departments and the technical concerns could be addressed by approval conditions. Nevertheless, the planning permissions for all the three applications were subsequently revoked in 2022 and 2023 due to non-compliance with time-limited approval conditions regarding submission and implementation of drainage proposal (for applications No. A/YL-LFS/375 and 376), and/or provision of fencing (for applications No. A/YL-

³ There was no land filling restriction in the “GB” zone before the gazettal of the draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/6 on 26.3.2004.

LFS/364, 375 and 376).

Rejected Applications

- 6.4 Application No. A/YL-LFS/31 involving more or less the same site as applications No. A/YL-LFS/40 and 74 for proposed pond filling and various recreational facilities was rejected by the Board upon review on 18.12.1998. The considerations thereof were not relevant to the current application.
- 6.5 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 being not in line with the planning intention of the “GB” zone, TPB PG-No. 10, and the then TPB PG-No. 13E for “Application for Open Storage and Port Backup Uses under Section 16 of the Town Planning Ordinance”⁴; and setting an undesirable precedent.

7. Similar Applications

- 7.1 Within the same “GB” zone, there were six similar applications for temporary public vehicle park for private cars, light goods vehicles and/or medium goods vehicles with or without filling and excavation of land in the past five years. Four 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/341, 372, 394 and 433 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 2019 and 2022 mainly on similar considerations as summarised in paragraph 6.3 above.

Rejected Applications

- 7.3 Applications No. A/YL-LFS/417 and 444 for temporary public vehicle park for private cars and/or light goods vehicles for a period of three years and filling and/or excavation of land, which involved clearance of vegetation and hard-paving prior to the application for planning permission and all or majority of the Site was not subject to previous planning permission, were rejected by the Committee in 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; and failure to demonstrate no significant adverse landscape impact.

⁴ The then TPB PG-No. 13E was relevant to Application No. A/YL-LFS/357 as container vehicle park was involved. The Site falls within Category 4 areas, where application would normally be rejected except under exceptional circumstances.

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

8.1 The Site is:

- (a) hard-paved, erected with structures at its southeast, and used for vehicle park without valid planning permission; and
- (b) is accessible from Tin Wah Road via a local track.

8.2 The surrounding areas are predominated by vehicle parks to the north and east, shrubland to the south and west, and village houses of the recognised village of Sha Kong Wai to the southwest. Other uses such as parking of vehicles, cultivated agricultural land and ponds are also located in the vicinity. Some of the uses are covered by valid planning permissions, while some are suspected UD's subject to planning enforcement action.

8.3 To the further east across the Tin Shui Wai Nullah is the Tin Shui Wai New Town.

9. Planning Intention

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.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 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.

10.2 The following government department supports the application:

Traffic

10.2.1 Comments of Commissioner for Transport (C for T):

- (a) she supports the application from traffic engineering perspective to meet the public demand for car parking spaces; and
- (b) the applicant should note her advisory comments at **Appendix V**.

11. Public Comments Received During Statutory Publication Period

On 8.12.2023, the application was published for public inspection. During the statutory public inspection period, two public comments from the Kadoorie Farm & Botanic Garden Corporation and an individual (**Appendices VI-1 and VI-2**) were received objecting to

the application on grounds that the applied use is not in line with the planning intention; and the approval conditions of the previous applications had not been complied with.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary public vehicle park (private cars and light goods vehicles) for a period of three years within the “GB” zone of the OZP (**Plan A-1a**). There is a general presumption against development within the “GB” zone. The applied use is not in line with the planning intention of the “GB” zone. Nevertheless, the Site was previously granted with planning permissions for temporary recreational uses in 1999 and 2002, and had been hard-paved before the incorporation of land filling restriction to the subject “GB” zone on the Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/6 gazetted in 2004. Moreover, C for T supports the current application from traffic engineering perspective as it could meet the public demand for car parking spaces. In view of the above and taking into account the planning assessments below, sympathetic consideration may be given to the application.
- 12.2 The Site is sandwiched between the vegetated knoll to the west and the Tin Shui Wai New Town to the east, with vehicles parks in the immediate surroundings and village settlement intermixed with parking of vehicles to the further southwest, some of which are covered with valid planning permissions. The applied use is considered not entirely incompatible with the surrounding land uses.
- 12.3 According to the TPB PG-No. 10, the design and layout of any development should be compatible with the surrounding areas; and the development and its vehicular access road should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. The issue of compatibility has been discussed in paragraph 12.2 above. Regarding existing natural vegetation, the Site was previously granted with planning permissions for temporary recreational uses in 1999 and 2002, and had been hard-paved before the incorporation of land filling restriction to the subject “GB” zone in 2004. Hence, the applied use did not involve clearance of vegetation. The Director of Agriculture, Fisheries and Conservation and Chief Town Planner/Urban Design and Landscape of Planning Department have no comment on the application from nature conservation and landscape planning perspectives.
- 12.4 Other concerned government departments including the Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Fire Services (D of FS) have no objection to/no adverse comment on the application from environmental, drainage and fire safety perspectives. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions recommended in paragraph 13.2 below.
- 12.5 Different parts of the Site are involved in three previous application (No. A/YL-LFS/364, 375 and 376) for temporary public vehicle park for private cars and/or light goods vehicles for a period of three years (**Plan A-1b**), which were approved with conditions by the Committee in 2020. However, the planning permissions were revoked in 2022 and 2023 due to non-compliance with time-limited approval conditions regarding submission and implementation of drainage proposal (for applications No. A/YL-LFS/375 and 376), and/or provision of fencing (for applications No. A/YL-LFS/364, 375 and 376). For the current application, the

applicant has submitted a drainage proposal, and CE/MN of DSD have no objection to the current application. As such, sympathetic consideration may be given to the current application. Should the application be approved, the applicant will be advised that should it fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further application.

- 12.6 There are four approved similar applications for temporary private cars, light goods vehicles and/or medium goods vehicles within/straddling the same “GB” zone in the past five years. Although the Committee rejected two similar applications, the circumstances of the applications are different as stated in paragraph 7.3 above. As such, approval of the current application is generally in line with the previous decisions of the Committee.
- 12.7 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 12.6 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 has no objection to the application.
- 13.2 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 three years until **26.1.2027**. 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 (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) the submission of a revised 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 **26.7.2024**;
- (d) in relation to (c) above, the implementation of the revised 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 **26.10.2024**;
- (e) in relation to (d) above, the implemented drainage facilities 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 **26.7.2024**;
- (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 **26.10.2024**;
- (h) the provision of boundary fencing of the Site within **6 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **26.7.2024**;
- (i) 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; and
- (j) if any of the above planning condition (c), (d), (f), (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 at **Appendix V**.

- 13.3 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 "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. No strong planning justification has been provided in the submission for a departure from the planning intention, even on a temporary basis.

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 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with attachments received on 29.11.2023
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 Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Site Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2024**