

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/418

<u>Applicant</u>	: Honour Will Development Limited represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 830 and 831 in D.D. 102, Lots 397 (Part) and 401 (Part) in D.D. 105 and Adjoining Government Land, Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 1,034 m ² (including 154m ² (about 14.9%) of GL)
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. A/YL-NTM/12
<u>Zoning</u>	: “Village Type Development” (“V”) (about 96%); and “Open Storage” (“OS”) (about 4%)
<u>Application</u>	: Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles Only) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public vehicle park (private cars and light goods vehicles only) for a period of 3 years. The Site falls within an area mainly zoned “V” (about 96%) with a small portion zoned “OS” (about 4%) on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1a**). According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use under “V” zone which requires planning permission from the Town Planning Board (the Board), and a Column 1 use under “OS” zone which is always permitted.
- 1.2 The Site is the subject of a previous application (No. A/YL-NTM/363) (**Plan A-1b**) approved by the Rural and New Town Planning Committee (the Committee) on 2.11.2018 which was submitted by the current applicant for same use as the current application. The planning approval was revoked on 2.4.2021 due to non-compliance with an approval condition. The Site is now occupied by the applied use without planning permission.

- 1.3 According to the layout plan (**Drawing A-1**) submitted by the applicant, ingress/egress (6m wide) to the Site is located at the western site boundary (**Plan A-2**), which is accessible to Shek Wu Wai Road. A total of 12 parking spaces including 10 parking spaces (2.5m x 5m) for private cars and 2 parking spaces (3.5m x 7m) for light goods vehicles (LGV) of not exceeding 5.5 tonnes are provided at the Site. There are 3 structures in the western and southern portions of the Site with a total floor area of about 163m² and of single-storey (not more than 4m high) as site office, open shed for parking of LGV, and toilet. The operation hours are between 7:00 a.m. and 11:00 p.m. daily.
- 1.4 The current application is largely the same as the last approved Application No. A/YL-NTM/363 except for the reduction in number of structures from 4 to 3 and total floor area from 167m² to 163m². There is no change in terms of site area, applied use, height of the structures, number of parking spaces and operation hours.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 2.3.2021. **(Appendix I)**
 - (b) Further Information (FI) received on 19.4.2021 providing **(Appendix Ia)** response to departmental comments. *

Remarks: * *accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

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

- (a) The public vehicle park (excluding container trailer) is a Column 1 use in “OS” zone and a Column 2 use in “V” zone. It is in line with the planning intention of the “V” zone and is primarily for the convenience of the villagers and meeting the exigent parking demand in Shek Wu Wai. It is also compatible with the surrounding environment.
- (b) The Site is the subject of a previous planning application (No. A/YL-NTM/363) for public vehicle park use in 2018. The applicant has complied with all the planning conditions except the implementation of drainage proposal due to tenancy problem. The applicant has submitted a drainage proposal in the current application and would implement the proposal should the planning application be approved by the Board.
- (c) Similar applications have been approved by the Board in the nearby “V” zone (e.g. A/YL-NTM/392).
- (d) No significant traffic, noise and environmental impacts are anticipated. No workshop activity will be carried out at Site.

- (e) Only private cars, LGVs and vehicles with valid licences issued under the Road Traffic Ordinance are permitted to park at the Site.

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

The applicant is not the “current land owner” for the private land within the Site and 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 San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the “Owner’s Consent/ Notification” requirements are not applicable.

4. **Background**

The Site is not subject to any active planning enforcement action.

5. **Previous Application**

5.1 The Site is involved in a previous application (No. A/YL-NTM/363) submitted by the current applicant for the same use which was approved by the Committee on 2.11.2018 (**Plan A-1b**) on considerations that the development would not frustrate the long-term planning intention of the “V” zone; not incompatible with the surrounding land uses, and there were no adverse departmental comments. Approval conditions relating to submission and implementation of fire services installations (FSIs) proposal had been fulfilled, but the planning approval was revoked on 2.4.2021 due to non-compliance with the approval condition regarding implementation of the accepted drainage proposal.

5.2 Details of the application are at **Appendix II**.

6. **Similar Applications**

6.1 There are 2 similar applications (No. A/YL-NTM/392 and 400) for temporary public vehicle park use within the “V” zones on the Ngau Tam Mei OZP (**Plan A-1**), which were approved by the Committee on 4.10.2019 and 24.4.2020 mainly on considerations that the developments would not frustrate the long-term planning intention of the “V” zone; not incompatible with the surrounding land uses; and there were no adverse departmental comments.

6.2 Details of the applications are at **Appendix III**.

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

7.1 The Site is:

- (a) accessible via Shek Wu Wai Road to its west; and
- (b) currently used for the applied use without planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is a temporary vehicle park, vehicle repair workshop, open storage and ancillary offices with planning approval (No. A/YL-NTM/416) and a vehicle park. To the northwest across Shek Wu Wai Road are vehicle park, storage and some residential dwellings within “OS”.
- (b) to its immediate east within the same “V” zone are residential dwellings. Further east across a watercourse are open storage of container vehicles and vehicle repair workshop, cargo handling and forwarding facility within “OS” zone;
- (c) to its immediate west is a storage and residential dwelling within the same “V” zone. Across Shek Wu Wai Road are vehicle park and unused land within “Green Belt” zone. ; and
- (d) to its immediate south are residential dwellings, warehouse, ponds, sitting-out area and unused land within the same “V” zone.

8. Planning Intention

The Site falls mainly within “V” (about 96%) zone (**Plan A-1**). The planning intention of “V” zone is to designate both existing recognised 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.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):

- (a) The Site comprises GL and Old Schedule 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) A portion of the GL (about 5m²) of the Site is covered by a Short Term Tenancy (STT) No. 180 for the purpose of “Bone Crushing”.
- (c) No permission is given for occupation of the remaining GL of about 149m² in area (subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (d) Should planning approval be given to the subject application, the STT holder(s) will need to immediately apply to his office for modification of the STT conditions where appropriate. The applicant has to either exclude the remaining GL from the Site or apply for a formal approval prior to the actual occupation of the remaining GL. Moreover, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularity on the Site, if any. Besides, given the applied use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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.
- (e) According to his record, there is no Small House application has been approved/under processing in respect of the Site.

Traffic

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

- (a) The Site is connected to Shek Wu Wai Road via a section of local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Shek Wu Wai Road should be approved by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Shek Wu Wai Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, HyD (CE/RD 2-2, RDO, HyD):

He has no comment from railway development point of view as the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any rail systems.

Environment

9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) The applicant is advised to follow the environmental mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) issued by DEP.
- (b) No environmental complaint pertaining to the Site has been received over the past 3 years.

Landscape

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

- (a) It is noted that there is no change in the major development parameters and layout of the application compared to that in the previous application (No. A/YL-NTM/363), landscape impact arising from the proposed use within the Site is not anticipated.
- (b) The Site is not abutting major public frontage and adverse landscape impact within the Site arising from the proposed use is not anticipated. Should the Board approve this application, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.
- (c) He has the following advisory comments to the applicant:

- (i) It is noted that the applicant has provided a proposed landscape plan in the submission which involves felling and replacement of trees. The applicant is advised that approval of section 16 application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/government department(s) direct to obtain the necessary approval on tree works.
- (ii) According to his site photos, 6 no. of existing trees of common species are found along the northern site boundary. The applicant should refer to the guidelines promulgated by the Development Bureau on tree management to undertake proper and regular tree maintenance work.
- (iii) The applicant is advised to provide precautions measures (i.e. kerbs, bollards or barriers) at a minimum distance of 1m away from the planting strip(s) for tree protection.

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 the drainage operation and maintenance point of view.
- (b) The drainage proposal submitted by the applicant is considered unacceptable from drainage operation and maintenance point of view. The applicant is requested to duly address his comments as detailed in **Appendix V** and re-submit the proposal for his comment.
- (c) After completion of the drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (d) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (e) The applicant is reminded that the proposed drainage proposal/works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (f) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.

- (g) The applicant should consult DLO/YL regarding all the proposed drainage works outside the lot boundary in order to ensure unobstructed discharge from the Site in future.
- (h) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proper maintenance at all times.

Nature Conservation

9.1.8 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

He has no comment on the application noting that previous application for the same use had been approved. Nevertheless, there is a watercourse abutting the eastern boundary of the Site. Should the planning application be approved, the applicant shall be reminded to adopt appropriate measures to avoid polluting and disturbing the watercourse during operation.

Fire Safety

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

- (a) He has no objection in principle to the application subject to 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 applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs 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

9.1.10 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BA, they are unauthorised building works (UBW) under BO and should not be designated for any proposed use under the application.
- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under BO.
- (c) His detailed comments are at **Appendix V**.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Commissioner of Police;
- (c) Project Manager (West), Civil Engineering and Development Department (CEDD);
- (d) Head of Geotechnical Engineering Office, CEDD; and
- (e) District Officer (Yuen Long).

10. Public Comment Received During Statutory Publication Period

On 9.3.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 30.3.2021, one public comment was received from an individual (**Appendix IV**) raising concerns that conditions of the previous approval have not been complied with, the development is not in line with the planning intention; and parking spaces shall be accommodated in buildings, underground or stacked facilities.

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission to continue to use the Site, mainly zoned “V”, for temporary public vehicle park (private cars and LGVs only) for a period of 3 years. The planning intention of the “V” zone is to designate both existing recognised 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. DLO/YL of LandsD advised that there is no Small House application approved or under processing within the Site. According to the applicant, the proposed public vehicle park will address the local parking demand. Although the temporary public vehicle park

under application is not entirely in line with the planning intention of the “V” zone, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “V” zone and the vehicle park can provide parking spaces to serve the local residents.

- 11.2 The applied use is considered not incompatible with the surrounding land uses comprising residential dwellings, vehicle parks, storages/open storages, workshop, and cargo handling and forwarding facility (**Plans A-2**).
- 11.3 The public vehicle park under application would unlikely cause significant adverse traffic, environmental, drainage, fire safety and landscape impacts on the area. There are no adverse comments from the concerned Government departments including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD. Should the application be approved, technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by imposing the approval conditions recommended in paragraphs 12.2 (f) to (k) below. There was no environmental complaint relating to the Site received by DEP in the past 3 years. To mitigate the potential environmental impacts of the development on the surrounding areas, approval conditions restricting the types of vehicles and prohibiting workshop type activities at the Site are recommended in paragraphs 12.2 (a) to (e) below. Besides, the applicant will be advised to follow the latest COP.
- 11.4 Previous approval had been granted to the same applicant for the same use (No. A/YL-NTM/363) at the Site as set out in paragraph 5. The applicant had fulfilled the approval conditions relating to FSIs, but the approval was revoked due to non-compliance with the condition on implementation of the drainage proposal owing to tenancy problem as claimed by the applicant. The applicant has included a drainage proposal to support the current application. While CE/MN of DSD considers the drainage proposal not acceptable, he has no objection to the current application. D of FS also has no objection to the application. Sympathetic consideration may therefore be given to the current application. However, shorter compliance periods are recommended to closely monitor the progress of compliance with the approval conditions if the current application is approved. Moreover, the applicant will be advised that should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given to any further application.
- 11.5 There are 2 similar applications for the temporary public vehicle park use within the “V” zones on the OZP approved by the Committee as detailed in paragraph 6 above. Approval of the subject application is in line with the previous decision of the Committee.
- 11.6 One objecting comment was received during the statutory public inspection period of the application as detailed in paragraph 10. The planning assessment and departmental comments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, 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 on a temporary basis for a period of 3 years until 30.4.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during 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) only private cars and light goods vehicles not exceeding 5.5 tonnes as defined in the Road Traffic Ordinance are allowed to park on the Site at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the Site to indicate that only private cars and light goods vehicles as defined in the Road Traffic Ordinance are allowed to be parked on the Site at any time during the planning approval period;
- (e) no car washing, vehicles repair, dismantling, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (f) no vehicle is allowed to queue back to or reserve onto/from public road at any time during the planning approval period;
- (g) the submission of revised 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 30.7.2021;
- (h) in relation to (g) above, the implementation of the 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 30.10.2021;
- (i) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) 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 30.7.2021;

- (k) in relation to (j) 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 30.10.2021;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (i) 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
- (m) if any of the above planning conditions (g), (h), (j) or (k) 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**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' consideration:

the development is not in line with the planning intention of the "V" zone, which is to designate both existing recognised 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. There is no strong planning justification in the submission for a departure from such 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
Appendix Ia

Application form received on 2.3.2021
FI received on 19.4.2021

Appendix II	Previous Application
Appendix III	Similar Applications
Appendix IV	Public comment
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Proposed Landscape Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2021**