

RNTPC Paper No. A/YL-PH/877
For Consideration by
the Rural and New Town
Planning Committee
on 16.4.2021

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-PH/877

<u>Applicant</u>	: 黃何武
<u>Site</u>	: Lot 1863 RP (Part) in D.D. 111 and Adjoining Government Land, Pat Heung, Yuen Long
<u>Site Area</u>	: About 243 m ² (Including about 213 m ² of Government Land (88%))
<u>Lease</u>	: Block Government Lease (demised agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	: “Open Storage” (“OS”) (78%) “Village Type Development” (“V”) (22%) [Maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Renewal of Planning Approval for Temporary Covered Vehicle Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary covered vehicle park (private cars and light goods vehicles) for a period of 3 years. Majority of the Site falls within “OS” zone and the remaining part is within “V” zone on the Pat Heung OZP, and the applied use is neither a Column 1 nor Column 2 use in these zones. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for parking of vehicles (**Plans A-2 to A-4**). All the approval conditions of the last approved application No. A/YL-PH/777 have been complied with and the planning permission is valid until 4.5.2021.

- 1.2 According to the applicant, the development involves 5 private car parking spaces and 1 light goods vehicle parking space and a shelter of 4m high with floor area of 135m². According to the applicant, the carpark will be for private use. The operation hours are between 8:00 a.m. to 6:00p.m. Mondays to Saturdays, and no operation on Sundays and public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 Compared with the previously approved application No. A/YL-PH/777, the current application is submitted by the same applicant for the same use, site area and number of parking spaces with a reduction in the floor area of the structure (-23m² / -15%).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with plans received on 18.2.2021 (**Appendix I**)
 - (b) Further information (FI) received on 31.3.2021 (**Appendix Ia**) providing response to departmental comments*
 - (c) FI received on 12.4.2021 providing response to departmental comments* (**Appendix Ib**)

**exempted from publication requirement*

2. **Justifications from the Applicant**

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

- (a) The proposed use is intended for the use of workers in the area and thus avoiding on-street parking.
- (b) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out at the Site and no vehicles exceeding 5.5 tonnes will be parked at the Site. No adverse traffic impacts are anticipated.
- (c) There had been no adverse comments from departments and the public during the previous application No. A/YL-PH/777, and the applicant has complied with all the planning approval conditions of the last application. Since the Short Term Tenancy and Short Term Waiver for the structure at the Site is still being processed, the structure has not yet been constructed.

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

The applicant is not the “current land owner” of the private land portion of the Site 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 Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the “Owner’s Consent / Notification” Requirements are not applicable.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are extracted below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

5. **Background**

The Site is not the subject of active planning enforcement action.

6. **Previous Application**

The Site was involved in one previous application (No. A/YL-PH/777) for the same applied use and submitted by the same applicant as the current application. The application was approved with conditions by the Committee for a period of 3 years on

4.5.2018 mainly for the reasons that the proposed use did not contravene the planning intention of the “OS” and temporary approval would not jeopardize the long-term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding area; there were similar applications for temporary car / lorry park within the same “V” zone approved; and relevant Government departments had no adverse comment. All the approval conditions have been complied with and the planning permission is valid until 4.5.2021. Details of the application are summarized in **Appendix II** and the location of the site is shown on **Plan A-1**.

7. **Similar Applications**

7.1 There are nine similar applications for temporary public / private vehicle park on seven sites in the same “V” zone. All the applications were approved for a period of 1 year, 3 years or 5 years between 1996 and 2020 mainly on similar considerations that the development would not frustrate the long-term planning intention; the applied use could meet some of the parking demand and support village type development; and the relevant departments had no adverse comment on the applications. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

7.2 There are no similar applications in the same “OS” zone.

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

8.1 The Site is:

- (a) paved and used for parking of vehicles; and
- (b) accessible to Kam Tin Road via a local track.

8.2 The surrounding areas are rural in character intermixed with open storage / storage yards, warehouses, parking of vehicles, residential structures/dwellings and vacant/unused land:

- (a) to its south and southeast within the “OS” zone are open storage / storage yards and warehouses;
- (b) to its north within the “V” zone are residential dwellings/structures, parking of vehicles, open storage yards and vacant / unused land; and
- (c) to its west and southwest within the “Agriculture” (“AGR”) zone are parking of vehicles, open storage yards and unused land.

9. Planning Intentions

- 9.1 The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.
- 9.2 The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) The Site comprises Government Land (GL) and an Old Scheduled Agricultural Lot 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) No permission is given for occupation of GL (about 213m² subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
 - (c) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary

structure(s) will be considered. Furthermore, the applicant has to either exclude the GL from the Site or obtain a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

- (d) There is no Small House application approved or under processing within the Site.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

10.1.3 Comments of the Chief Highway Engineer/NT West, Highway Department (CE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment**10.1.4 Comments of the Director of Environmental Protection (DEP):**

There was no environmental complaint concerning the Site received in the past 3 years. The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites” issued by DEP.

Nature Conservation**10.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):**

Noting the previous application for the same use has been approved by the Board, he has no comment on the renewal application from nature conservation perspective.

Drainage**10.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):**

- (a) He has no in-principle objection to the development.
- (b) Based on the submitted application, apparently the applicant would maintain the same drainage facilities as those implemented under the previous application No. A/YL-PH/777.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under application No. A/YL-PH/777 and submission of record of the existing drainage facilities on-site should be included in the planning permission.

Fire Safety**10.1.7 Comments of the Director of Fire Services (D of FS):**

He has no in-principle objection to the renewal application subject to the existing fire service installations (FSIs) implemented on the Site being maintained in efficient working order at all times.

Water Supplies

10.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) He has no objection to the vehicle parking space staying within the Waterworks Reserve (WWR) providing that the vehicle can be moved upon his request.
- (c) The Water Authority and his officers and contractors, his or their authorized personnel, shall have free access at all times to the WWR area with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or encroaching onto the WWR are required to seek authorization from the Water Authority.
- (d) No new trees or shrubs with penetrating roots may be planted within the WWR or in the vicinity of the watermain shown on **Plan A-2**.
- (e) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) Before any new building works (including containers / open sheds as temporary buildings, demolition and land filling etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise, they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).

- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix V**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

10.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comments from locals on the application upon close of consultation and has no particular comments on the application.

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

- (a) Project Manager/West, Civil Engineering and Development Department;
- (b) Commissioner of Police; and
- (c) Director of Electrical and Mechanical Services.

11. Public Comments Received During Statutory Publication Period

On 26.2.2021, the application was published for public inspection. During the three-week statutory publication period, two comments from individual were received (**Appendices IV-1 and IV-2**). The comments object to the application mainly on the grounds that a better use for the Site should be sought if the Site and surrounding area are GL; the use would increase vehicular traffic in the area and result in adverse traffic, environmental, and fire safety impacts; the safety and living quality of the villagers would be affected; and the applicant has not complied with the conditions of the previous application.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning approval for temporary covered vehicle park (private cars and light goods vehicles) for a period of 3 years in “OS” (78%) and “V” (22%) zones. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. The proposed vehicle park for private use is akin to ‘public vehicle park (excluding container vehicle)’ which is always permitted within “OS” zone. The applied use does not contravene the planning intention of the “OS” zone.

- 12.2 The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The applied use is not in line with the planning intention of the “V” zone. Nevertheless, DLO/YL of LandsD advises that there is no Small House application approved or under processing at the Site. It is considered that temporary approval for 3 years of the application would not frustrate the long-term planning intention of the “V” zone.
- 12.3 The applied carpark use is not incompatible with surrounding area which are rural in character intermixed with open storage / storage yards, warehouses, parking of vehicles, residential structures/dwellings and vacant/unused land. According to the applicant, the vehicle park intends to serve workers in the area.
- 12.4 The application is in line with TPB PG-No.34C in that previous approval for the same applied use (No. A/YL-PH/777) was granted in 2018 and all the approval conditions have been complied with. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of use, site area and number of parking spaces but with reduction of the floor area of the structure. Besides, there is no major change in planning circumstances since the last approval.
- 12.5 Relevant departments consulted including C for T, CE/MN of DSD and D of FS have no adverse comment on the application. To minimise any potential nuisance, approval conditions restricting the operation hours and vehicle type are recommended in paragraphs 13.2 (a) to (f) below. Besides, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 13.2 (f) to (i) below.
- 12.6 Apart from the previous approval for the same applied use granted for the Site in 2018, there are nine similar applications for temporary vehicle park use within the same “V” zone approved with conditions by the Committee from 1996 to 2020 as stated in paragraph 7 above. Approval of the current application is in line with the Committee’s previous decision.
- 12.7 Two public comments were received during the statutory publication period objecting to the application as stated in paragraph 11 above. In this regard, relevant departments’ comments as well as planning assessments and assessments as stated above are relevant.

13. **Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11, the Planning Department considers that the temporary covered vehicle park (private cars and light goods vehicles) could be tolerated for a period of 3 years.
- 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 3 years, and be renewed from 5.5.2021 to 4.5.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (e) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a record of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 5.8.2021;

- (i) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) 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
- (k) if the above planning condition (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.

[The above planning conditions are largely the same as those under the planning permission of previous Application No. A/YL-PH/777, except change/deletion of those on drainage and FSI aspects based on the comments of CE/MN of DSD and D of FS.]

Advisory Clauses

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

13.3 There is no strong reason to reject the renewal application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 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 the 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 plans received on 18.2.2021
Appendix Ia	FI received on 31.3.2021
Appendix Ib	FI received on 12.4.2021
Appendix II	Previous application covering the Site

Appendix III	Similar Applications within the same “V” zone on the Pat Heung OZP
Appendices IV-1 and IV-2	Public comments received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
APRIL 2021