

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

APPLICATION NO. A/YL-SK/300

<u>Applicant</u>	: Fleerdee Motor Limited
<u>Site</u>	: Lot 1415 in D.D. 114, Kam Sheung Road, Shek Kong, Yuen Long
<u>Site Area</u>	: About 2,528 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Renewal of Planning Approval for Temporary Public Vehicle Park (excluding container vehicle) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary public vehicle park (excluding container vehicle) at the application site (the Site) for a period of 3 years. The Site falls within an area zoned “AGR” on the approved Shek Kong OZP (**Plan A-1**). According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is neither a Column 1 nor a Column 2 use within the “AGR” zone. Nevertheless, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Town Planning Board (the Board). The Site is currently fenced off, paved, partly vacant and partly occupied by some vehicles and some structures under an existing canopy.
- 1.2 The Site was the subject of four previous applications. The last application (No. A/YL-SK/232) for the same use was submitted by the same applicant and approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) on 20.4.2018 with validity until 20.4.2020. All approval conditions have been complied with and the planning permission will lapse on 21.4.2021.
- 1.3 According to the applicant, a total of 21 private car/light goods vehicle parking spaces and 19 medium/heavy goods vehicle parking spaces are provided on-site

(Drawing A-1). There are also two single-storey structures used for kitchen, toilet, office and staff restroom uses under an existing canopy of about 3m high and an area of about 90m². The operation hours are 24 hours daily. The Site is accessible from Kam Sheung Road via Shek Sheung Road (**Plan A-2**). The site layout, number of parking spaces and operational details are the same as the approved scheme of previously approved application No. A/YL-SK/232. The layout plan, landscape plan, fire service installations (FSIs) plan, as well as drainage plan submitted by the applicant are at **Drawings A-1 to A-4**.

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

- (a) Application Form with Attachments received on **(Appendix I)** 2.2.2021
- (b) Further information (FI) received on 22.3.2021 **(Appendix Ia)** *(exempted from publication)*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia**, and are briefly summarised as follows:

- (a) the applied public vehicle park development is intended to serve the local residents. The vehicle park approved under the last application (A/YL-SK/232) has alleviated the illegal parking situation in Sheung Tsuen along Kam Sheung Road;
- (b) all approval conditions under the last application have been complied with. No adverse impact was brought to the surrounding by the public vehicle park, and the customers are willing to continue renting the parking spaces; and
- (c) the Site has been damaged during the period when it was tenanted out and used as an open storage site for construction machineries to support the construction of the High Speed Rail between 2015 and 2018. The applicant would restore the Site according to the layout plan (**Drawing A-1**). No filling of land would be involved for the restoration. All vehicles detained and container on-site would also be removed. In addition, there will be no workshop use within the Site.

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

The applicant is not the “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 (the Ordinance) (TPB PG-No. 31A) by obtaining consent of the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement case. However, recent site inspection revealed that the Site was being used for storage of abandoned vehicles. Warning poster was mounted on the Site by the Planning Department. Should there be sufficient evidence to prove that the activities constitute unauthorised development, planning enforcement would be followed.

5. 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 (TPG PG-No. 34C) are relevant to the application. The major assessment criteria are as follows:

- (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.

6. Previous Applications

- 6.1 The Site is the subject of four previous applications (Nos. A/YL-SK/80, 91, 115 and 232) submitted for various temporary car parking uses. They were approved with conditions by the Committee between 1999 and 2018. Details of the applications are summarised in **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.
- 6.2 Application No. A/YL-SK/80 for temporary public car/lorry park for a period of 12 months was approved on 16.7.1999 mainly on the considerations that the provision of parking spaces would help satisfy some of the parking demand from local residents in the area noting that there was no public car park in the area to serve the surrounding villages and residential developments; the proposed car park was not incompatible with the surrounding land uses; no local objection was received; and other concerned departments had no adverse comments on the application, except the Director of Agriculture, Fisheries and Conservation (DAFC) who was not in favour of the proposed development on the ground that the Site was a good quality agricultural land and fell within an area with active

agricultural activities, but in fact the Site was a piece of formed land and there were no agricultural activities on-site for years.

- 6.3 Application No. A/YL-SK/91 for the same use as the previous application for a period of 3 years was approved on 14.7.2000 mainly on the grounds that planning approval for the same use had previously been granted and there was no change in the planning circumstances pertaining to the Site since then. Concerned departments had no adverse comment on the application.
- 6.4 Application No. A/YL-SK/115 for temporary private car/lorry/truck park for a period of 3 years was approved on 11.7.2003 mainly on similar grounds that the vehicle park would serve the needs of the local villagers in the area; two previous planning approvals had been granted; approval condition on drainage condition had been complied with; and the relevant Government departments' concerns could be addressed by approval conditions.
- 6.5 The last application No. A/YL-SK/232 for the same use as the current application was submitted by the same applicant as the current application and approved on 20.4.2018 on similar grounds to the previous three applications that the vehicle park would not jeopardise the long-term planning intention of the "AGR" zone; it would serve the needs of the local villagers in the area; three previous planning approvals had been granted; all approval conditions had been complied with; and the relevant Government departments' concerns could be addressed by approval conditions.

7. Similar Application

There is no similar application within the same "AGR" zone on the OZP.

8. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plan A-4)

- 8.1 The Site is:
 - (a) fenced off, paved, partly vacant and partly occupied by some vehicles and some structures under an existing canopy; and
 - (b) accessible via Shek Sheung Road from Kam Sheung Road.
- 8.2 The surrounding areas are predominantly rural in character and intermixed with active farmland, domestic dwellings/structures, open storage yard and workshops, and vacant/unused land (**Plan A-2**):
 - (a) to its north are an open storage yard of goods, a few domestic dwellings/structures, and several pieces of vacant/unused land;
 - (b) to its east and south are a vehicle repair workshop, a piece of active farmland, and several pieces of vacant land; and

- (c) to its west is Shek Sheung Road, and to its further west are some domestic dwellings/structures, a vehicle repair workshop, a few pieces of active farmland and vacant/unused land.

9. Planning Intention

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

10. Comments from Relevant Government Departments

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

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) the Site comprises an Old Schedule 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) according to the applicant's proposal, it is noted that unauthorised structures are erected on-site and a portion of the structures is being used for domestic purposes (i.e. staff restroom uses). According to the established practice, application for regularisation by way of Short Term Waiver (STW) etc. of unauthorised structures for domestic use (including staff restroom) on private agricultural land will not be entertained. Hence, even if the Board approves the planning application, his office will not consider to regularise any structures for domestic use; and
 - (c) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected for non-domestic use, or regularise any irregularities on-site, if any. Besides, given the applied use is temporary in nature, only application for regularisation or erection of temporary structure(s) for non-domestic use will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the 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 LandsD.

Traffic

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

- (a) having regard to the FI (**Appendix Ia**), he has no comment on the application from traffic engineering perspective;
- (b) should the application be approved, approval condition that 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; and
- (c) the Site is connected to the public road network via a section of a local access road which is not managed by his 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/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Shek Sheung Road (**Plan A-2**) is not maintained by HyD;
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road; and
- (c) 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):

- (a) according to the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP), he does not support the application since there are sensitive receivers in the vicinity (residential dwellings about 30m away from the Site) and the applied development involves the use of heavy vehicles and environmental nuisance is expected (**Plan A-2**);
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised COP issued by his department to minimise any potential environmental nuisances; and
- (c) there is no environmental complaint in relation to the Site received in the past three years.

Agriculture

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

considering that its previous application for the same use as the current application was approved by the Board taken into consideration his comments on agricultural aspects, he has no strong view against the application for renewal of planning approval.

Landscape

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

- (a) he has no objection to the application from the landscape planning perspective;
- (b) based on the aerial photo taken in 2020, the Site is situated in an area of rural inland plains landscape character comprising temporary structures, vacant land and scattered tree groups. The applied development is considered not incompatible with the surrounding landscape setting;
- (c) according to his site record dated 22.2.2021, the Site is paved and in operation with temporary structures. New trees *Ficus microcarpa* (細葉榕) (**Drawing A-2**) planted under previous approved planning application (No. A/YL-SK/232) are found along the western boundary. Some existing trees of common and invasive species and one mature *Mangifera indica* (芒果) are found along the southern and eastern boundary of the Site respectively. With reference to the landscape plan (**Drawing A-2**), it is noted the location of the trees and the proposed layout are generally the same as the tree planting plan under previous approved planning application, and conflicts between the existing structures and the existing trees are not observed. Further significant adverse impact to the existing landscape resources for the continuous use within the Site is not anticipated; and
- (d) his detailed comments are at **Appendix IV**.

Drainage

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

- (a) he has no objection in-principle to the applied development;
- (b) based on the planning statement enclosed in the application, apparently the applicant would maintain the same drainage

facilities as those implemented under previous planning application No. A/YL-SK/232; and

- (c) should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter to the applicant of the development to maintain the drainage facilities implemented under application No. A/YL-SK/232 and to submit records of the existing drainage facilities on-site to the satisfaction of the Director of Drainage Services or of the Board.

Building Matters

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

for unauthorised building works (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 the Buildings Ordinance (BO).

Fire Safety

- 10.1.9 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection in-principle to the proposal 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 layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The locations where the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the applied structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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 upon close of consultation and he has no particular comment on the application.

10.2 The following Government departments have no objection to/adverse comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (c) Chief Engineer/Railway Development 2-1, Railway Development Office, Highways Department (CE/RD2-1, RDO, HyD);
- (d) Chief Estate Surveyor/Railway Development Section, Lands Department (CES/RD, LandsD);
- (e) Director of Electrical and Mechanical Services (DEMS); and
- (f) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 9.2.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual (**Appendix III**) was received. He objects to the application mainly on the grounds that the provision of car park within the rural area would lead to traffic congestion, environmental pollution, fire safety hazard and adversely affect the safety and quality of living of the villagers.

12. Planning Considerations and Assessment

12.1 The application is for renewal of planning approval at the Site zoned “AGR” for temporary public vehicle park (excluding container vehicle) for a period of 3 years (**Plan A-1**). All approval conditions of the last application No. A/YL-SK/232 have been complied with and the planning permission will lapse on 21.4.2021. The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Although the proposed ‘public vehicle park’ use is not in line with the planning intention of the “AGR” zone, DAFC has no strong view against the application from agricultural perspective considering that there is a previous planning approval for the same use. It is considered that approval of the application for 3 years on a temporary basis would not frustrate the long-term planning intention of “AGR” zone.

12.2 According to the applicant, the applied development is intended to serve the local residents in the nearby area. The public vehicle park is considered not incompatible with the surrounding areas which are predominantly rural in character and intermixed with active farmland, domestic dwellings/structures, open storage yard and workshops, and vacant/unused land (**Plan A-2**). Relevant Government departments consulted, including C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS have no adverse comment on/no objection to the application from traffic, drainage, landscape and fire safety perspectives. It is anticipated that the applied development would not have significant adverse traffic, drainage, landscape, and fire safety impacts on the surrounding areas. DEP’s concerns on the environmental impact/nuisance generated by the applied use can be addressed by approval conditions restricting types of vehicles entering the Site and workshop-related activities recommended in para. 13.2 (b) to (c). Any

non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on-site will be subject to enforcement action by the Planning Authority. Moreover, no environmental complaint in relation to the Site was received in the past three years. The applicant will also be advised to adopt the environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. Moreover, the technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in para. 13.2 (e) to (j) below.

- 12.3 The application generally complies with the TPG PG-No. 34C in that there are no adverse planning implications arising from the renewal of the planning approval as the temporary planning approval would not pre-empt the long-term development of the area. The last planning approval (Application No. A/YL-SK/232) for same applied use was granted in 2018 and all approval conditions have been complied with. The current application is the same as the previous application (No. A/YL-SK/232) in terms of the site layout, number of parking spaces and operational details. As there is no change in planning circumstances since the last approval and the applicant has complied with all approval conditions under the last approval, sympathetic consideration could be given for the current renewal application.
- 12.4 Regarding the public comment received during the statutory publication period, the departmental comments and planning considerations and assessment above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment in paragraph 11, the Planning Department considers that the temporary public vehicle park (excluding container vehicle) 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 21.4.2021 until 20.4.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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;
- (b) a notice should be posted at a prominent location of the Site to indicate that no container trailers/tractors, 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;

- (c) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (d) the existing boundary fencing shall be maintained at all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) all existing trees within the Site shall be maintained satisfactorily at all times during the approval period;
- (g) the existing drainage facilities on the Site shall be maintain at all time 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 renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **21.7.2021**;
- (i) the submission of fire service installations proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **21.10.2021**;
- (j) in relation to (i) above, the implementation of fire service installations proposal within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **21.1.2022**;
- (k) if any of the above planning condition (a), (b), (c), (d), (e), (f) or (g) 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;
- (l) if any of the above planning condition (h), (i) and (j) 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; and
- (m) upon 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.

[The above approval conditions are similar to those under the last approved application No. A/YL-SK/232, except for the replacement of the conditions requiring submission and implementation of tree preservation and landscape proposal and that of drainage proposal by approval conditions (f) and (h) respectively.]

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

13.3 There is no strong reason to recommend rejection of the 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 the renewal application.

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 Attachments received on 2.2.2021
Appendix Ia	Further information (FI) received on 22.3.2021
Appendix II	Previous Applications
Appendix III	Public Comment
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Plan
Drawing A-3	Fire Service Installations Plan
Drawing A-4	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**