

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/1222**

- Applicant** : Mr. CHEUNG Chi Fung represented by Goldrich Planners and Surveyors Ltd.
- Site** : Lots 287, 296 and 301 in D.D. 119, Yuen Long, New Territories
- Site Area** : 8,300 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Village Type Development” (“V”)  
*[Restricted to a maximum building height (BH) of 3 storeys (8.23m)]*
- Application** : Proposed Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles) and Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary public vehicle park (private cars and light goods vehicles (LGVs)) and shop and services for a period of three years at the application site (the Site) (**Plan A-1a**). According to the Notes of the OZP for “V” zone, ‘Public Vehicle Park’ and ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is currently paved, partly fenced off and vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Shan Ha Road via a local track (**Plans A-2 and A-3**). According to the applicant, the northern part of the Site would be used for public vehicle park (private cars and LGVs) and the southern part of the Site would be used for motor-vehicle showroom for the display of about 100 first-hand and second-hand private cars and LGVs (**Drawing A-2**). A designated test drive area will be provided within the Site and no test driving will be allowed on street. No car beauty, washing, repairing, dismantling or other workshop activities will be carried out at the Site. No medium or heavy goods vehicles exceed 5.5 tonnes, including container tractors/trailers, will be allowed to enter and park at the Site.

The location plan with vehicular access and the proposed layout plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

1.3 The major development parameters of the application are summarised as follows:

<b>Site Area</b>	About 8,300 m <sup>2</sup>
<b>Total Floor Area (Non-domestic)</b>	About 229.5 m <sup>2</sup>
<b>No. and Height of Structure</b>	1 for ancillary office (8m, 1 storey)
<b>No. of Parking Spaces</b>	Total: 171  Public Vehicle Park: 56 (for private cars) (5m x 2.5m each) 11 (for LGVs) (7m x 3.5m each)  Shop and Services (Motor-Vehicle Showroom) Use: 78 (for private cars) (5m x 2.5m each) 26 (for LGVs) (7m x 3.5m each)
<b>No. of Loading/ Unloading Space</b>	Nil
<b>Operation Hours</b>	Public Vehicle Park: 24 Hours daily, including Sunday and Public Holidays  Shop and Services (Motor-Vehicle Showroom) Use: 9:00 a.m. to 6:00 p.m. daily, including Sunday and Public Holidays

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

- (a) Application Form with attachments received on 30.5.2023 (**Appendix I**)
- (b) Further Information (FI) received on 21.7.2023\* (**Appendix Ia**)  
*\* accepted and exempted from publication requirements*

## **2. Justifications from the Applicant**

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

- (a) the proposed public vehicle park would meet the parking demand of villagers and reduce roadside illegal parking; while the proposed motor vehicle showroom use can create employment opportunities for the local residents and fulfil the local demand for private cars and light goods vehicles;

- (b) similar applications for public vehicle park and motor vehicle showroom have been approved by the Board in the vicinity of the Site in the past few years. Approval of the proposed uses is in line with the previous decisions of the Board; and
- (c) there will be no adverse visual, drainage and traffic impacts arising from the proposed uses.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending the notice to the Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The Site was the subject of planning enforcement cases (No. E/YL-TYST/886, 887 and 889) against unauthorised developments (UDs) involving storage use (including deposit of containers) (**Plan A-2**). Enforcement notices were issued on 6.5.2022. Subsequent site inspections revealed that the UD has been discontinued. Compliance notices were issued on 22.9.2022 and 26.9.2022.

### **5. Previous Applications**

The Site involves seven previously rejected applications (No. A/YL-TYST/199, 211, 241, 249, 331, 467 and 468) for various temporary open storage or recycling materials transfer station uses and the considerations of which were not relevant to the current application. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

### **6. Similar Applications**

There are nine similar planning applications (No. A/YL-TYST/912, 974, 998, 1043, 1113, 1115, 1134, 1188 and 1219) for temporary shop and services use and two similar planning applications (No. A/YL-TYST/1018 and 1161) for public vehicle park use within/straddling the subject “V” zone in the past five years. All 11 applications were approved by the Rural and New Town Planning Committee (the Committee) of the Board mainly on the considerations that approval of the development on a temporary basis would not frustrate the long-term planning intention of the “V” zone; the proposed development was not incompatible with the surrounding uses; and the concerned government departments had no adverse comments on the application. However, the planning permissions for three of them (No. A/YL-TYST/974, 1113 and 1115) were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1a**.

## **7. Planning Intention**

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 (SH) by indigenous villagers. It is also intended to concentrate village type development within the 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

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

8.1 The Site is:

- (a) accessible from Shan Ha Road to its northwest via a local track (**Plans A-2 and A-3**); and
- (b) paved, partly fenced off and vacant (**Plans A-2 to A-4b**).

8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) comprise predominantly village houses and residential structures intermixed with open storage yards, car parks, parking of vehicles, a pond, unused land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate southeast; and
- (c) except for an open storage yard with valid planning permission (No. A/YL-TYST/1039), the remaining open storage/storage yard, warehouse, and car parks in the vicinity are suspected UDs subject to planning enforcement action.

## **9. Comments from Relevant Government Departments**

All government 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 III and IV** respectively.

## **10. Public Comments Received During the Statutory Publication Period**

10.1 On 6.6.2023, the application was published for public inspection. During the statutory public inspection period, a total of 135 public comments were received. Among the public comments, 134 raise objections and one provides comments on the application. A full set of public comments will be deposited at the meeting for Members’ inspection.

***Objecting Comments (134 comments)***

- 10.2 133 comments were received from local villagers/individuals made on a standard format (extract example at **Appendix V-1**) objecting to the application on the grounds that the proposed use will result in adverse traffic, road safety, noise and environmental impacts and no consent of the nearby Tso/Tong members had been obtained for the proposed vehicular access to the Site. One other comment from villagers of Shan Ha Tsuen (in the form of petition letter with eight signatures, **Appendix V-2**) objects to the application on grounds that the proposed use will generate road safety and environmental concerns and the proposed use is not in line with the planning intention of the subject “V” zone for development of SH.

***Other Comment (1 comment)***

- 10.3 One individual questions whether enforcement action has been taken for the UD at the Site and opines that the Site should be used for public housing development given there is a surplus of land to the demand for village houses (**Appendix V-3**).

**11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary public vehicle park (private cars and LGVs) and shop and services (motor-vehicle showroom) for a period of three years at the Site zoned “V” on the OZP, which is primarily for development of Small Houses by indigenous villagers. Whilst the proposed use is not entirely in line with the planning intention of the “V” zone, it could provide private cars and LGVs parking spaces to nearby residents and serve any such need for shop and services in the area. According to District Lands Officer/Yuen Long, there is currently no SH application approved/under processing at the Site. As such, approval of the application on a temporary basis for a period of three years would not jeopardise the long-term development of the area.
- 11.2 The surrounding area comprises predominantly village houses and residential structures intermixed with open storage yards, car parks and parking of vehicles (**Plan A-2**). Although there are residential structures nearby, the proposed use is generally not incompatible with the surrounding area.
- 11.3 Concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department have no objection to/no adverse comment on the application. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. There was no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental impact on the surrounding areas.
- 11.4 There is no previous application relevant to the current application covering the Site. Given that 11 similar applications within/straddling the subject “V” zone have been

approved in the past five years, approval of the current application is generally in line with the Committee's previous decisions.

- 11.5 There are 134 public comments objecting/raising concerns on the application received during the statutory public inspection period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant. Regarding the villagers' concerns, should the application be approved, the applicant is also advised to obtain consent of the owners/managing departments of the local track and footpath for using it as the access to the Site.

## **12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, 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 three years until 28.7.2026. 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 9:00 a.m., as proposed by the applicant, is allowed at the shop and services portion on the site during the planning approval period;
- (b) no vehicle without valid licences issued under the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored at the public vehicle park portion on the site at any time during the planning approval period;
- (c) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (d) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.1.2024;
- (e) in relation to (d) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.4.2024;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.1.2024;

- (h) in relation to (g) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.4.2024;
- (i) if any of the above planning condition (a), (b), (c) or (f) 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 (d), (e), (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 at **Appendix IV**.

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

the proposed 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. No strong planning justification has been given in the submission for a departure from the 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**

<b>Appendix I</b>	Application Form with attachments received on 30.5.2023
<b>Appendix Ia</b>	FI received on 21.7.2023
<b>Appendix II</b>	Previous and Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendices V-1 to V-3</b>	Public Comments
<b>Drawing A-1</b>	Location Plan with Vehicular Access
<b>Drawing A-2</b>	Site Layout Plan

<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2023**