

RNTPC Paper No. A/YL-KTN/612A
For Consideration by
the Rural and New Town
Planning Committee
on 2.11.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/612

<u>Applicant</u>	: Mr. TANG Wai-Ip
<u>Site</u>	: Lots 1305 RP, 1357 (Part), 1358 RP and 1361 in D.D. 109, Kong Tai Road, Kam Tin, Yuen Long
<u>Site Area</u>	: 3,878 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning approval to use the application site (the Site) for temporary public vehicle park (excluding container vehicle) for a period of five years. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ use is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is not the subject of any previous application. The Site is partly fenced, partly covered by vegetation and partly used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site comprises two portions. According to the applicant, a total of 112 parking spaces will be provided on site with 109 parking spaces for private car and 3 parking spaces for lorry. A one-storey structure of 2.62m high for site office with total floor area of 14.88m² will also be provided on site. No vehicle exceeding 5.5 tonnes will be allowed to enter/exit the Site. No dismantling, maintenance, repairing, cleaning, painting-spraying or workshop-related activity will be carried out within the Site. The operation hour is 24 hours daily, including public holidays. The Site is accessible via Kong Tai Road. The layout plan and

vehicular access plan as submitted by the applicant are in **Drawings A-1 and A-2**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans received on 7.6.2018 **(Appendix I)**
 - (b) Further Information (FI) received on 27.7.2018 **(Appendix Ia)** clarifying the traffic arrangement and provide further justification on the application in response to departmental comments
(accepted and exempted from publication and recounting requirements)
 - (c) FI received on 2.10.2018 clarifying the traffic arrangement in response to departmental comments **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
 - (d) FI received on 4.10.2018 clarifying the traffic arrangement in response to departmental comments **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)
 - (e) FI received on 23.10.2018 clarifying the operational details **(Appendix Id)**
(accepted and exempted from publication and recounting requirements)
- 1.4 The application was originally scheduled for consideration by the Rural and New Town Planning Committee (the Committee) on 3.8.2018. Upon the request of the applicant, the Committee agreed to defer making a decision on the application on 3.8.2018 to allow time for the applicant to address the departmental comments. After the respective deferral requests, the applicant had submitted further information in response to departments' comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the paragraph 9 of the Application Form and FIs in **Appendices I to Id**. They can be summarized as follows:

- (a) The proposed use is to serve the demand of villagers, as there are vehicles parking on the sidewalk causing inconvenience of the villagers. No vehicles exceeding 5.5 tonnes will enter the Site in order to maintain the quality of the environment.

- (b) The proposed development is compatible with the surrounding environment. Similar application for car park in the vicinity has been approved by the Committee.
- (c) The existing road located at the north east will not be blocked. There are some residential units located to the east of the Site. Suitable planting will be provided upon approval of the application.

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. 31) by posting site notice and sending registered mail to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

It is noted that some vehicles were found on site. Subject to the collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken in due course.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is a similar application No. A/YL-KTN/584 with an area of about 1,640m² for temporary public car park (excluding container vehicle) (39 parking spaces) within the same “V” zone for a period of 5 years approved with conditions by the Committee on 9.2.2018 mainly for the reasons that that the approval on temporary basis would not jeopardize the planning intention of the “V” zone; the development was not incompatible with the surrounding land uses and relevant departments in general had no adverse comment on the application or the departmental concern could be addressed by imposing approval conditions. However, the application was revoked on 19.7.2018 due to non-compliance of approval condition on 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. Details of the application are summarized in **Appendix II** and the location is shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) partly fenced, partly covered by vegetation and partly used for the applied use without valid planning permission; and

(b) accessible via Kong Tai Road.

7.2 The surrounding areas are mainly rural in character predominated by residential dwellings/structures, active/fallow agricultural land and vacant/unused land (**Plan A-2**):

- (a) to its north across Kong Tai Road are residential dwellings/structures, including Cheung Kong Tsuen, cultivated agricultural land and vacant/unused land;
- (b) to its east and west are mainly residential dwellings/structures and vacant/unused land; and
- (c) to its south within the “Agriculture” (“AGR”) zone are some residential dwellings/structure, parking of vehicles, unused land and a plant nursery.

8. Planning Intention

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 (NTEH). 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 summarized as follows:

Land Administration

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

- (a) The Site comprises Old Scheduled 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) The Site is accessible to Kong Tai Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.

- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) 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 will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.
- (e) There is no Small House application approved or under processing within the Site.

Traffic

9.1.2 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 local access road which is not managed by Transport Department (TD). 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.

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

- (a) HyD does not and will not maintain any access connecting the Site and Chi Ho Road/Kong Tai Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Nature Conservation

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

As the Site is located in “V” zone, he has no comment on the application from nature conservation point of view.

Environment

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

- (a) There were two substantiated complaint cases on waste aspect in 2015 and 2017.
- (b) Should the application be approved, 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.

Landscape

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

- (a) She has reservations to the application from the landscape planning perspective.
- (b) The Site, located at the south of Kong Tai Road and north of Kam Tin Road, falls within an area zoned “V”. The surrounding area is of rural landscape character comprised of village houses, temporary structures, tree groups and vacant land. Although previous application for similar land use approved by Board (Application no. A/YL-KTN/584) was found in proximity of the Site, given the proposed public car park is of a size 3,878m², it was considered not entirely compatible with the existing landscape setting.
- (c) According to site inspection in June 2018, the Site is a vacant land covered by wild vegetation. Existing trees of common species in good to fair condition are found within the Site. According to the layout plan, the existing trees are in direct conflict with the proposed layout. However, according to the submission, the applicant mentioned that no tree felling will be involved in the proposed development. Moreover, no landscape proposal is provided to alleviate the potential adverse impact to surrounding environment, in particular the village settlements next to the proposed temporary development.

- (d) Should the application be approved, approval conditions on submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Board should be included.

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 proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of a drainage proposal for the development to the satisfaction of the Director of Drainage Service or of the Board should be included in the planning permission.

Water Supply

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

- (a) He has no objection to the application.
- (b) Existing water mains will be affected as shown on **Plan A-2**. A Waterworks Reserve within 1.5m from the centreline of the water mains shall be provided to WSD.
- (c) No structure shall be built or materials stored within the Waterworks Reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (d) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main 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 an in close vicinity of the Site.

Fire Safety

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

- (a) He has no in-principle objection to the proposal subject to fire service installations (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 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Electricity

9.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

There are overhead lines running above the Site, which is within the preferred working corridor of the concerned overhead lines as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG). He has no strong view on the application subject to the following conditions pertaining to electricity supply safety and reliability, being strictly complied by the applicant and its contractors:

- (i) According to the applicant, the typical height of a lorry is 2.2m to 3m. For the sake of electrical safety, only vehicle fulfilling such height requirement could enter the Site. The applicant should refer to the requirements of minimum safety clearance, minimum vertical clearance and preferred working corridor of the concerned overhead lines as stipulated in Clause 2.3.5, 2.3.6 and 2.3.14 under Chapter 7 - Utility Services of the HKPSG and ensure they shall be maintained at any time during and after construction.
- (ii) Warning notices indicating the presence of electricity overhead lines and height restriction of vehicle erected in the ingress/egress of the Site should be posted at conspicuous locations to remind operators and workers of the site boundary. CLP Power shall be consulted on the safety precautions required for carrying out any works near the concerned overhead lines.

- (iii) In any time during and after construction, CLP Power shall be allowed to get access to the working corridor area of the concerned overhead lines for carrying out any operation, maintenance and repair work including tree trimming.
- (iv) The Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation shall be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines.
- (v) As regards the electric and magnetic fields arising from the transmission overhead lines, the applicant should be warned of possible undue interface to some electronic equipment in the vicinity, if any.

Building Matters

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

- (a) If the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any use under the application.
- (b) Before any new building works (including containers / open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of BD should be obtained. Otherwise, they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (e) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD’s 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 BO.

District Officer's Comments

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

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

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

- (a) Project Manager(West), Civil Engineering and Development Department (PM(W), CEDD); and
- (b) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

10.1 On 15.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.7.2018, three comments from Tai Kong Po Tsuen Village Committee and members of general public were received (**Appendices III-1 to III-3**).

10.2 All of them object the application mainly on the grounds that the car park will generate adverse traffic and environmental impact and will induce noise, flooding and lighting pollution affecting the residents; parking facilities should be accommodated in high rise building, underground or stacked facilities; the application is to legitimize an ongoing operation; the proposed use will have negative impact on land and the environments; and the proposed use is inefficient land use. One commenter (**Appendix III-2**) expressed that the owner of Lot 1306 RP in D.D. 109 did not agree to participate in the application but part of the lot has been fenced off by the application. The property right has already been infringed. The western entrance of the proposed car park will trespass the lot. Also, the parking demand is in doubt.

11. Planning Considerations and Assessments

11.1 The application is for a proposed temporary public car park (excluding container vehicle) with a total of 112 car parking spaces for private car and lorries in the "V" zone. 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 re-provisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Although the proposed car park is not entirely in line with the planning intention of the "V" zone, the applicant stated that the proposed

development could satisfy some of the demand of car parking spaces in the area. DLO/YL, LandsD advised that there is no Small House application approved or under processing within the Site. Approval of the application for 5 years would not jeopardise the long-term planning intention of the “V” zone.

- 11.2 The surrounding areas are mainly residential dwellings/structures, active/fallow agricultural land and vacant/unused land. Relevant departments consulted including DEP, CE/MN of DSD, D of FS and C for T except CTP/UD&L of PlanD have no adverse comment on the application. CTP/UD&L of PlanD has some reservations on the application as the proposed development is not entirely compatible with the existing landscape setting existing trees are in conflict with the proposed layout and, no landscape proposal is provided to alleviate the potential adverse impact to surrounding environment. In this regard, an approval condition on submission and implementation of tree preservation and landscape proposal as requested by CTP/UD&L of PlanD is recommended in paragraph 12.2 (f) and (g). Also, to minimize any potential nuisance, approval conditions restricting vehicle type and prohibiting workshop activities are recommended in paragraph 12.2 (a) to (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the site will be subject to enforcement action by the Planning Authority. 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” issued by DEP in order to alleviate any potential impact. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraph 12.2(c) to (e) and (h) to (l) below.
- 11.3 There is a similar application for temporary car parking use (Application No. A/YL-KTN/584) in the vicinity of the Site within the same “V” zone approved with conditions by the Committee in 2018 (paragraphs 6 and **Plan A-1**) mainly for the reasons that that the approval on temporary basis would not jeopardize the planning intention of the “V” zone; the developments were not incompatible with the surrounding land uses and the relevant departments in general had no adverse comment on the application or the departmental concern could be addressed by imposing approval conditions. Approval of the current application is in line with the Committee’s previous decision on similar application.
- 11.4 Three public comments were received during the statutory publication period as stated in paragraph 11. One comment is related to land matters and the concerned lot is not included in the Site. Nevertheless, an advisory clause has been recommended to advise the applicant to resolve any land issues with the concerned land owners of the Site and land in the vicinity. Also, temporary approval would not frustrate the long-term planning intention. C for T and DEP have no adverse comment on the application. The planning considerations and assessments above are also relevant.

12. Planning Department's View

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10 above, the Planning Department has no objection to the temporary public vehicle park (excluding container vehicle) for a period of 5 years.
- 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 5 years until 2.11.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, as proposed by the applicant, including container tractor/trailer, 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;
- (c) 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;
- (d) 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.5.2019;
- (g) in relation to (f) above, the implementation of tree preservation and landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.8.2019;
- (h) the submission of 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 2.5.2019;

- (i) in relation to (h) above, the implementation of 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 2.8.2019;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) the submission 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 2.5.2019;
- (l) in relation to (k) above, the provision of fire service installations 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 2.8.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e) or (j) 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
- (n) if any of the above planning conditions (f), (g), (h), (i), (k) or (l) 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 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 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. 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

Appendix I	Application form with plans received on 7.6.2018
Appendix Ia	FI received on 27.7.2018
Appendix Ib	FI received on 2.10.2018
Appendix Ic	FI received on 4.10.2018
Appendix Id	FI received on 23.10.2018
Appendix II	Similar application within the same V” zone on the approved Kam Tin North OZP
Appendices III-1 to III-3	Public comments received during the statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & 4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2018**