

RNTPC Paper No. A/YL-KTN/613A
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/613

- Applicant** : 鄧柏翹先生
- Site** : Lots 1781 and 1782 RP in D.D. 107, Shui Tau Tsuen, Kam Tin, Yuen Long
- Site Area** : 2,745 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Comprehensive Development Area (1)” (about 60%)
[restricted to a maximum plot ratio of 1.2 and a maximum building height of 16-storeys]

“Comprehensive Development Area” (about 40%)
[restricted to a maximum domestic gross floor area of 345,400m², a maximum non-domestic gross floor area of 10,000m² and a maximum building height of 14 storeys]
- Application** : Proposed Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission 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 “CDA” zone which requires planning permission from the Town Planning Board (the Board). Part of the Site is the subject of a previous Application no. A/YL-KTN/60 which covered a larger site area for a comprehensive residential development approved by the Rural and New Town Planning Committee (the Committee) on 11.9.1998. The Site is currently fenced and covered by grass (**Plans A-2 to A-4**).

- 1.2 According to the applicant, a total of 49 car parking spaces will be provided on site. Besides, two one-storey structures of 2.62m high and floor area of 29.77m² for office, rest room and an electric meter room will be provided at the Site. No vehicle exceed 5.5 tonnes is allowed to enter/exit the Site. No dismantling, maintenance, repairing, cleaning 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 to Castle Peak Road-Tam Mei via a local track. 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 14.6.2018 **(Appendix I)**
 - (b) Further Information (FI) received on 3.10.2018 **(Appendix Ia)** clarifying the traffic arrangement to the Site
(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 departmental comments. After the deferral request, the applicant submitted further information in response to departmental 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 FI in **Appendices I and Ia**. They can be summarized as follows:

The proposed use is to serve the demand of villagers, as there is lack of parking space and vehicles need to park on the sidewalk blocking the emergency access. Adverse traffic impact is not anticipated.

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 Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement case.

5. Previous Application

Part of the Site is the subject of an Application No. A/YL-KTN/60 which covered a larger site area submitted by a different applicant for a comprehensive residential development with commercial, GIC and open space facilities. The application was approved by the Committee with conditions on 11.9.1998. The validity of planning permission was extended until 11.9.2007. Details of the application are summarized in **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Application

There is no similar application with the same “CDA” and “CDA(1)” zones on the OZP.

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

7.1 The Site is:

- (a) fenced and covered by grass; and
- (b) accessible via a local track leading from Castle Peak Road- Tam Mi.

7.2 The surrounding areas are mainly rural in character predominated by open storage/ storage yards and vacant/unused land. Most of the open storage/ storage yards are suspected unauthorized developments subject to enforcement action by the Planning Authority :

- (a) to its north and west is unused/vacant land and open storage yards;
- (b) to its east and southeast are mainly unused land, plan nursery and a work site with planning permission for hobby farm and caravan holiday camp use under application no. A/YL-KTN/536 within the “Agricultural” zone; and
- (c) to its south are vacant land and pond covered by an approved planning application no. A/YL-KTN/118-2 for residential development.

8. Planning Intention

The “CDA” zone is intended primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

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 San Tam Road via Government Land (GL) and private land. 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.

Traffic

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

- (a) There is insufficient information in the submission for Transport Department (TD) to support on the application. He has the following outstanding comment on the application from traffic engineering perspective not yet addressed by the applicant:
 - (i) Width of 12m is unnecessary for private car ingress/egress, and it is not satisfactory for the locals to walk across a wide ingress/egress. The applicant should review accordingly.
 - (ii) The applicant should demonstrate that the 12m x 18m area is sufficient for queuing for the proposed carpark.

- (iii) The applicant should provide the trip generation of the 49 private car parking spaces and assess the traffic impact to the public road and local access road accordingly.
- (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 and traffic assessment and implementation of traffic management measures as proposed in the traffic assessment to the satisfaction of the C for T or of the Board should be included in the planning approval.
- (c) The applicant is reminded that sufficient space within the Site should be provided for manoeuvring of vehicles.
- (d) The Site is connected to the public road network via a local access road which is not managed by TD. The land status of that local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of that 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 Castle Peak Road – Tam Mi/ Chi Ho 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):

- (a) It is noted that the Site has been disturbed. However, there is no proper access road leading to the Site, and the Site is located at a distance to existing villagers and residential areas. Whereas, there are some wetland areas including wetland parcels provisioned under the West Rail project (zoned “Conservation Area (1)”) (**Plan A-1**) located near Chi Ho Road and existing fishponds in the vicinity of the Site, in addition to an agricultural land known as the Buffalo Field where wetland-dependent birds were recorded.

- (b) From nature conservation perspective, he has concerns about the possible disturbance caused to nearby habitats from increased traffic flow in the area and potential impacts caused by off-track traffic.

Environment

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

- (a) There is no environmental complaint in the last 3 years.
- (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 no objection to the application from the landscape planning point of view.
- (b) The surrounding area is in rural landscape character occupied by open storages, vacant land, ponds and tree groups. The proposed use is considered not incompatible with existing landscape setting.
- (c) According to the site inspection in June 2018, the Site is currently vacant covered with wild vegetation and invasive tree weeds (*Leucaena leucocephala*) along the site boundary. Given *Leucaena leucocephala* is an invasive, exotic small tree which grows vigorously to prevent natural succession of native species, she has no objection to the site clearance from landscape planning perspective. Further significant adverse impact on surrounding landscape character and existing landscape resources due to the proposed use is not expected,.
- (d) Should the application be approved, approval conditions on submission and implementation of 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 and implementation of the drainage proposal for the development 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) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard.

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.

Building Matters

9.1.10 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

9.1.11 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.

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

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

10. Public Comments Received During Statutory Publication Period

On 22.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 13.7.2018, three comments from member of Yuen Long District Council and general public were received (**Appendices III-1 and III-3**). One objects the application without providing grounds and the others object the application mainly on the grounds that there is no need for car park as no residential dwellings and residents nearby; the road capacity cannot support the proposed use and there is no traffic impact assessment; no proper access road and lighting for pedestrian; no drainage facility at the Site; the applicant is to legitimize unapproved use; the Site will not be used for public vehicle park; parking should be provided in stacked facilities, accommodate underground, or in high-rise facilities to free up land for other uses; and the application should be rejected to discourage proliferation of brownfield sites and to encourage the development of new towns.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary public vehicle park (excluding container vehicle) with a total of 49 car parking spaces in the “CDA(1)” (60%) and “CDA” (40%) zone for a period of 5 years. The planning intention of the “CDA” zone is intended for comprehensive development/ redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. Although the proposed public vehicle park is not in line with the planning intention of the “CDA” zone, there is no known development programme for this part of the “CDA” zone. It is considered that approval of the application on a temporary basis of 5 years would not jeopardize the long-term planning intention of the “CDA” zone.
- 11.2 The proposed development is considered not incompatible with the surrounding areas which are mainly open storage yards, a pond and vacant land. According to the applicant, the proposed public vehicle park is to serve the need of the villagers. However, no information is provided in the submission on which village is to be served. The nearest existing village settlements are about 200m to the east and west (**Plan A-1**) and separated from the Site by vacant land and open storage yards.
- 11.3 While departments consulted including CE/MN of DSD, CTP/UD&L of PlanD, DEP and D of FS have no adverse comment on the application, C for T does not support the application as he has outstanding comment from traffic engineering perspective (including trip generation and traffic impact on public road and local access, width of ingress/egress and queuing space) which have not been addressed by the applicant. The applicant failed to demonstrate that the proposed use would not cause adverse traffic impact on the surrounding area. Also, DAFC has concerns about the possible disturbance cause to nearby habitats (including wetland, fish ponds and agricultural land) from increase traffic flow in the area and potential impacts caused by off-track traffic from nature conservation point of view.

- 11.4 Three public comments were received during the statutory publication period objecting to the application mainly on the grounds as mentioned in paragraph 10 above. In this regard, the above planning assessments and considerations are relevant.

12. Planning Department's View

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reason:

the applicant fails to demonstrate that the proposed development would not cause adverse traffic impact on the surrounding area.

- 12.2 Alternatively, 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 are allowed on the Site at any time during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, 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 any time 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 traffic assessment within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 2.5.2019;

- (g) in relation to (f) above, the implementation of traffic management measures as proposed in the traffic assessment, if any, within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 2.8.2019;
- (h) the submission of 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;
- (i) in relation to (h) above, the implementation of 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;
- (j) 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;
- (k) in relation to (j) 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;
- (l) 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;
- (m) in relation to (l) 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;
- (n) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (o) if any of the above planning conditions (f), (g), (h), (i), (j), (k), (l) or (m) 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**.

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 14.6.2018
Appendix Ia	FI received on 3.10.2018
Appendix II	Previous application covering the application site on the 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-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2018**