

RNTPC Paper No. A/YL-KTN/633C
For Consideration by
the Rural and New Town
Planning Committee
on 1.11.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/633

<u>Applicant</u>	: Mr. TANG Wai-Ip
<u>Site</u>	: Lots 1243 S.B RP (Part) and 1296 RP in D.D. 109, Kong Tai Road, Kam Tin, Yuen Long
<u>Site Area</u>	: 1,756 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 permission to use the application site (the Site) for proposed temporary public vehicle park (excluding container vehicle) for a period of 5 years. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is partly paved and currently vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was involved in two previous applications (No. A/YL-KTN/113 and 584). Part of the Site was the subject of application No. A/YL-KTN/113 for temporary open storage of engineering materials which was rejected by the Rural and New Town Planning Committee (the Committee) on 16.6.2000. Application No. A/YL-KTN/584 covered largely the same area of the Site for proposed temporary public car park (excluding container vehicle) for a period of 5 years was approved with conditions by the Committee on 9.2.2018. However, the application was revoked on 19.7.2018 due to non-compliance with approval condition on prohibiting the parking and storing vehicles without valid licences

issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations on the site.

- 1.3 According to the applicant, the proposed use involves a total of 28 private car parking spaces, 2 lorry parking spaces (under 5.5 tonnes), a one-storey (2.72m high) container-converted structure for office use (under an open shed of 3.5m high), a one-storey (2.72m high) electric meter room, and an open shed (3.5m high) with total floor area of 64.05m². The Site is accessible from Kong Tai Road. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out within the Site. No vehicle exceeding 5.5 tonnes will be allowed to enter the Site. The proposed development will be operated 24 hours daily. The site layout plan and vehicular access plan submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.4 A comparison of the major development parameters of the current application and the last approved application (No. A/YL-KTN/584) is given in the following table:

Major Development Parameters	Last Approved Application No. A/YL-KTN/584	Current Application	Difference (b)-(a)
Site Area (m ²)(about)	1,640	1,756	+ 116 (+7%)
Proposed Use	Proposed Temporary Public Car Park (Excluding Container Vehicle) for a Period of 5 Years	Same	no change
No. of Parking Spaces: Private Car Lorry Parking	37 2	28 2	-9 (-24%) No change
No. of Structures	1	3	+2 (+200%)
Total floor area (m ²)	14.64	64.05	+49.41 (+338%)
Building Height (m)	2.74	3.5	+0.76 (+28%)
No. of Storey(s)	1	1	no change

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 19.8.2018 **(Appendix I)**
- (b) Further Information (FI) received on 15.1.2019 **(Appendix Ia)** providing responses to departmental comments
[exempted from publication]

- (c) FI received on 21.2.2019 providing responses to **(Appendix Ib)** departmental comments
[exempted from publication]
- (d) FI received on 28.2.2019 providing responses to **(Appendix Ic)** departmental comments
[exempted from publication]
- (e) FI received on 6.5.2019 providing responses to **(Appendix Id)** departmental comments
[exempted from publication]
- (f) FI received on 24.6.2019 providing responses to **(Appendix Ie)** departmental comments
[exempted from publication]
- (g) FI received on 27.6.2019 providing responses to **(Appendix If)** departmental comments
[exempted from publication]
- (h) FI received on 3.9.2019 providing responses to **(Appendix Ig)** departmental comments
[exempted from publication]
- (i) FI received on 22.10.2019 providing responses to **(Appendix Ih)** departmental comments
[exempted from publication]
- (j) FI received on 23.10.2019 providing responses to **(Appendix Ii)** departmental comments
[exempted from publication]

1.6 At the request of the applicant, the Committee agreed to defer consideration of the application on 16.11.2018, 8.3.2019 and 5.7.2019 to allow time for the applicant to prepare FI to address the departmental comments. After the respective deferral request, the applicant had submitted FI in response to departments' comments. The application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form in **Appendix I** and FIs in **Appendices Ia to Ii**. They can be summarized as follows:

- (a) There is an increase in population and number of vehicles in the area. However, there is a lack of car parking spaces which results in vehicles parking on the sidewalk causing adverse impact on traffic and the local residents. The proposed use is to serve the villagers and the farmers in the area.
- (b) Although there is an approved application (No. A/YL-KTN/612) for car parking use nearby, there are still some illegal parking in the area. As such, there is a need for additional car park to cater for the parking demand. No adverse traffic impact is anticipated.
- (c) The development is temporary in nature and no permanent structure will be erected on Site. The open sheds are for heat insulation and rain sheltering. The Site can be easily reinstated and will not jeopardize the long-term planning intention. Several applications for car parking use, including application no. A/YL-KTN/584, at and in the vicinity of the Site have been approved by the Committee. Upon approval of the application, proper landscaping and drainage works and fire services installations will be provided to enhance the surroundings and reduce the possibility of flooding.
- (d) Should the application be approved, the applicant promises to prohibit vehicles without valid licence from parking on the Site.

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 notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any active enforcement action. The Site was the subject of a planning enforcement case (No. E/YL-KTN/465) against an unauthorized development (UD) involving storage use and parking of vehicles. Enforcement Notice was issued on 16.8.2018 to the concerned parties. Subsequent site inspections revealed that the UD had been discontinued and Compliance Notice was issued on 27.2.2019.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications for temporary open storage and temporary public car park. Details of the previous applications are summarized in **Appendix II** and the location of the sites are shown on **Plan A-1**.
- 5.2 Part of the Site (about 1,050m²) was the subject of a previous application (No. A/YL-KTN/113) for temporary open storage of engineering materials submitted by a different applicant for a period of 3 years. The application was rejected by the Committee on 16.6.2000 on the grounds that the proposed development was not in line with the planning intention of the “V” zone; was not compatible with the village settlements of Cheung Kong Tsuen and Tai Kong Po Tsuen to its east; and approval of the application would set an undesirable precedent.
- 5.3 Application No. A/YL-KTN/584 covering largely the same area of the Site and submitted by the same applicant as the current application for temporary public car park (excluding container vehicle) for a period of 5 years was approved with conditions by the Committee on 9.2.2018 mainly for the reasons that that approval on temporary basis would not jeopardize the long-term planning intention of the “V” zone; relevant departments in general had no adverse comment on the application or the departmental concern could be addressed by approval conditions. Approval conditions on submission on landscape, drainage and fire services installations proposals have been complied with. However, the application was revoked on 19.7.2018 due to non-compliance with approval condition on prohibiting parking/storing of vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations on the site.

6. Similar Application

There is a similar application No. A/YL-KTN/612 for temporary public vehicle park (excluding container vehicle) for a period of 5 years within the same “V” zone which was approved with conditions by the Committee on 2.11.2018 mainly for the reasons that approval on temporary basis would not jeopardize the long-term planning intention of the “V” zone; relevant departments in general had no adverse comment on the application or the departmental concern could be addressed by approval conditions. Details of the similar application are summarized in **Appendix III** and the location of the site is shown on **Plan A-1**.

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

- 7.1 The Site is :
 - (a) partly paved and currently vacant;

- (b) located to the west of Cheung Kong Tsuen and Tai Kong Po Tsuen; and
- (c) accessible via Kong Tai Road to the north.

7.2 The surrounding areas are rural in character and predominated by residential dwellings/structures, open storage/storage yards, plant nurseries, and vacant/unused land. The open storage/storage yards are suspected unauthorized development subject to enforcement action by the Planning Authority (**Plan A-2**):

- (a) to it north across Kong Tai Road are open storage yards and vacant/unused land. Cheung Kong Tsuen is to its northeast;
- (b) to its east are residential dwellings/structures and vacant/unused land;
- (c) to its south are unused land, residential dwellings/structures and plant nurseries; and
- (d) to its west are storage yards, residential dwellings/structures and vacant/unused land. A stream is located at its further west. Across the stream are some residential dwellings/structures and storage yards.

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 re-provisioning 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 the 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 from 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 the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on-site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 the traffic engineering point of view.
- (b) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the Lands Department. 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) His department does not and will not maintain any access connecting the Site and Chi Ho Road. Kong Tai Road is not maintained by his department. The applicant should be responsible for his own access arrangement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint received at the Site in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Nature Conservation

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

As the Site is located within “V” zone and a similar application at the same site has been approved by the Committee previously, he has no comment on the application from nature conservation point of view.

Drainage

9.1.6 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 drainage proposal for the development should be included in the planning permission.

Building Matters

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

- (a) Before any new building works (including containers/ open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the 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.
- (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) Regulation (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 the Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

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

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

Water Supply

9.1.9 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 (**Plan A-2**). A waterworks reserve within 1.5 metres from the centerline 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 and in close vicinity of the Site.

District Officer's Comments

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

His office has not received any comments from locals and he has no particular comment on the application.

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

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

10. Public Comments Received During Statutory Publication Period

10.1 On 28.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 6 public comments from Tai Kong Po Village Committee, local villagers and individuals (**Appendices IV-1 to IV-6**) were received.

10.2 All the comments object to the application mainly on the grounds that the proposed car park will induce heavy traffic and overload the road capacity; generate adverse environmental (including air, dust and noise) and fire safety impacts and flooding problem; cause nuisance to the nearby residents and affect public safety; there is a breach of land use and the application intends to legitimize illegal use; the previously approved application was revoked; the intention of the applicant is to accommodate more vehicles than applied for; and approval of the application would represent an unacceptable abuse of scarce resources.

11. Planning Considerations and Assessments

11.1 The application is for a proposed temporary public vehicle park (excluding container vehicle) for a period of 5 years in “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. The proposed temporary public vehicle park is not entirely in line with the planning intention of the “V” zone. However, according to the applicant, the development can satisfy some of the local parking demand. Besides, DLO/YL, LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that temporary approval for 5 years would not jeopardise the long-term planning intention of the “V” zone.

11.2 The proposed use with a total of 30 parking spaces for private cars (28) and light goods vehicles (2) is considered not incompatible with the surrounding areas which are characterized by residential dwellings/structures, open storage/storage yards, plant nurseries and vacant/unused land.

- 11.3 Relevant departments consulted including DEP, CTP/UD&L of PlanD, CE/MN of DSD, D of FS and C for T have no adverse comment on the application. To minimise any potential nuisance, approval condition restricting vehicle type is recommended in paragraph 12.2 (a) 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”. 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(d) to (i) below.
- 11.4 A previous application (No. A/YL-KTN/584) submitted by the same applicant of the current application for the same use at the Site was approved with conditions on 9.2.2018. Approval conditions on submission on landscape, drainage and fire services installations proposals have been complied with within the specified time limit. However, the planning permission was revoked due to non-compliance with the approval condition “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”. The applicant stated that should the current application be approved, vehicles without valid licences will be prohibited from entering/parking within the Site. A similar application for the same use (No. A/YL-KTN/612) within the “V” zone was approved with conditions on 2.11.2018. Approval of the application is in line with the previous decision of the Committee.
- 11.5 Six public comments objecting the application were received during the statutory publication period as stated in paragraph 10.2 above. In this regard, the departmental comments as well as planning assessments and considerations above are relevant.

12. Planning Department’s Views

- 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 proposed 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 1.11.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) 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;
- (b) 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;
- (c) 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;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) 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 1.5.2020;
- (f) in relation to (e) 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 1.8.2020;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) 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 1.5.2020;
- (i) in relation to (h) above, the implementation of 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 1.8.2020;
- (j) if any of the above planning condition (a), (b), (c), (d) 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; and

- (k) if any of the above planning condition (e), (f), (h) or (i) 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 V**.

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

the 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 to justify 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 19.9.2018
Appendix Ia	FI received on 15.1.2019
Appendix Ib	FI received on 21.2.2019
Appendix Ic	FI received on 28.2.2019

Appendix Id	FI received on 6.5.2019
Appendix Ie	FI received on 24.6.2019
Appendix If	FI received on 27.6.2019
Appendix Ig	FI received on 3.9.2019
Appendix Ih	FI received on 22.10.2019
Appendix Ii	FI received on 23.10.2019
Appendix II	Previous s.16 applications covering the Site
Appendix III	Similar application within the same “V” zone on the Kam Tin North OZP
Appendices IV-1 to IV-6	Public comments received during the statutory publication period
Appendix V	Advisory clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan with previous and similar applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**