

RNTPC Paper No. A/YL-KTN/664A
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/664

- Applicant** : Mr. TANG Sai Yu
- Site** : Lots 1845 RP and 1846 RP in D.D. 107, Ko Po Tsuen, Kam Tin, Yuen Long
- Site Area** : About 1,325m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Residential (Group B)”
[restricted to a maximum domestic Gross Floor Area (GFA) of 79,497m², non-domestic GFA of 2,215m² and a maximum building height of 3 storeys (excluding basement floors)]
- Application** : Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 3 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 3 years. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use under the “R(B)” zone which requires planning permission from the Town Planning Board (the Board). The Site is paved, partly fenced and currently vacant (**Plans A-2 to A-4**).
- 1.2 The Site was involved in two previous applications both for open storage of vehicles and vehicle parts which were approved with conditions by the Rural and New Town Planning Committee (the Committee) in 1997 and 1999 for a period of 2 years and 3 years respectively.
- 1.3 According to the applicant, a total of 30 car parking spaces for private cars will be provided on-site to serve the nearby locals and visitors. No structure is proposed on-site. The development is operated 24 hours daily including public holidays.

The Site is accessible via Ying Ho Road. The layout plan and vehicular access plan as submitted by the applicant are in **Drawings A-1 and A-2**.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans received on 6.5.2019 **(Appendix I)**
 - (b) Further Information (FI) received on 4.9.2019 in response to departmental comments **(Appendix Ia)**
[exempted from publication]
 - (c) FI received on 24.9.2019 in response to departmental comments **(Appendix Ib)**
[exempted from publication]
 - (d) FI received on 18.10.2019 in response to departmental comments **(Appendix Ic)**
[exempted from publication]
 - (e) FI received on 21.10.2019 in response to public comments **(Appendix Id)**
[exempted from publication]
- 1.5 At the request of the applicant, the Committee agreed to defer consideration of the application on 5.7.2019 to allow time for the applicant to prepare FI to address the departmental comments. After the deferral request, the applicant had submitted FI in response to departmental 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 paragraph 9 of the Application Form in **Appendix I** and FIs in **Appendices Ia to Id**. They can be summarized as follows:

- (a) A large amount of illegal on-street parking is observed in the area and there is genuine demand of car parking spaces.
- (b) Sufficient manoeuvring and queuing space is provided within the Site. Also, staff will be stationed at and near the Site to monitor the traffic condition and enhance pedestrian safety. Engine will be switched off immediately after vehicles are parked at the parking space and all lighting within the Site will be switched off at 10pm to minimize nuisance to the surroundings.

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

4. Background

The Site is subject to on-going planning enforcement action (No. E/YL-KTN/484) against an unauthorized development involving parking of vehicles. Enforcement Notice (EN) was issued on 21.8.2019 to the concerned parties requiring discontinuation of the UD. If the notice is not complied with, prosecution action may be considered.

5. Previous Applications

The Site was involved in two previous applications (No. A/YL-KTN/31 and 90)¹ both for open storage of vehicles and vehicle parts submitted by a different applicant. Both applications were approved with conditions by the Committee on 6.6.1997 and 2.7.1999 for a period of 2 years and 3 years respectively mainly for the reasons that the proposed development was not incompatible with the surrounding land use; there were no adverse comments from relevant government departments; there was an acute shortage of open storage site and the location was generally acceptable for such use; and temporary approval would not pre-empt the long-term land use of the site. Details of the previous applications are summarized in **Appendix II** and the location of the site is shown on **Plan A-1**.

6. Similar Application

There is no similar application for ‘public vehicle park (excluding container vehicle)’ use within the same “R(B)” zone on the OZP.

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

7.1 The Site is:

- (a) paved, partly fenced and currently vacant²; and

¹ The site was zoned “Undetermined” on the draft Kam Tin North OZP No. S/YL-KTN/1 when these applications were considered.

² The Site was used as a carpark without valid planning permission at the time of submission of the application.

- (b) accessible via Ying Ho Road which is branching off from Kam Tin Road and also serves a residential development namely Riva.
- 7.2 The surrounding areas are mainly dominated by a residential development (i.e. Riva), residential dwellings/ structures, Kam Tin River and unused land:
- (a) to its north is Ko Po Road and Kam Tin River;
 - (b) to its east across Ying Ho Road is a piece of unused land. Further east are some residential dwellings/structures (**Plan A-3**); and
 - (c) to its south and west is a residential development (i.e. Riva).

8. Planning Intention

The “R(B)” zone is intended primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood 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 Schedule 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. The information provided in the application indicates that no structure is proposed within the Site.
 - (b) The Site is accessible from Ying Ho 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(s) owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularity 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.

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 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/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/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.

- (c) Although the Site falls within the 1000m radius Consultation Zone of Au Tau Water Treatment Works which is a Potentially Hazardous Installation, he has no adverse comment on the proposal from chlorine risk perspective.

Drainage

- 9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
 - (a) He has no in-principle objection to the 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.

Fire Safety

- 9.1.6 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.

Nature Conservation

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

Noting that the Site is paved and disturbed, he has no comment on the application from nature conservation point of view.

District Officer's Comments

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

His office has not received any comments from locals upon close of consultation and he has no particular comments on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Building Surveyor/New Territories West;
- (c) Director of Electrical and Mechanical Services;
- (d) Project Manager(West), Civil Engineering and Development Department;
and
- (e) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

- 10.1 On 17.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 72 comments from the Owners' Committee of Riva, residents and owners of Riva and individuals were received (**Appendices III-1 to III-72**).
- 10.2 13 comments from individuals (**Appendices III-1 to III-13**) support the application mainly for the reasons that the proposed development could meet the demand of car parking spaces in the area and reduce illegal parking. Some comments also suggest that there should be more public transport, no lighting should be provided and the applicant should share maintenance cost of Ying Ho Road.
- 10.3 58 comments submitted by Owners' Committee of Riva (with 515 signatures), residents and owners of Riva and individuals (**Appendices III-14 to III-71**) object to the application mainly on the grounds that the car park will induce heavy traffic and accident at Ying Ho Road as the road is congested; the proposed development will cause adverse security, environmental, landscape and ecological impact and nuisance to the residents (including dust, noise and lighting); affect the living environment of Riva; Riva is responsible for the maintenance of Ying Ho Road; the Site involved in illegal operation prior to application and 'destroy-to-build' application should be rejected; the site area is inefficient for parking use and should be reserved for open space and pet garden; and there is no shortage of parking spaces in the area.
- 10.4 One comment does not provide any views on the application (**Appendix III-72**).

11. Planning Considerations and Assessments

- 11.1 The application is for a temporary public vehicle park (excluding container vehicles) for a period of 3 years at the "R(B)" zone. The planning intention of the "R(B)" zone is for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board. According to the applicant, the proposed use could satisfy the demand of car parking spaces in the area. Although the proposed vehicle park is not entirely in line with the planning intention of the

“R(B)” zone, approval of the application on a temporary basis of 3 years would not frustrate the long-term planning intention as there is no known programme for permanent development of the Site.

- 11.2 The development which is for parking of private cars only is considered not incompatible with the surrounding areas which are mainly residential development (i.e. Riva), residential dwellings/structures, Kam Tin River and unused land.
- 11.3 Relevant departments consulted including DEP, CE/MN of DSD, D of FS and C for T have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the types of vehicles and provision of fencing are recommended in paragraph 12.2 (a) to (c) and (e) 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. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in paragraph 12.2 (d) and (f) to (j) below.
- 11.4 72 public comments were received during the statutory publication period as detailed in paragraph 10 above. 13 comments support the application and 1 comment has not provided any view on the application. The remaining 58 comments object to the application. In this regard, the departmental comments as well as planning considerations and assessments above are relevant.

12. Planning Department’s View

- 12.1 Based on the assessments made in paragraph 11 and having taken into account public comments as mentioned in paragraph 10 above, the Planning Department has no objection to the temporary public vehicle park (excluding container vehicle) for a period of 3 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 3 years until 1.11.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle other than private car is allowed to access the Site at any time during the planning approval period;
- (b) a notice should be posted at a prominent location of the Site to indicate that only private cars as defined in the Road Traffic Ordinance are

- allowed to be parked on the Site at all 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
 - (e) the provision of boundary fencing within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.5.2020;
 - (f) 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;
 - (g) in relation to (f) above, the implementation of drainage facilities 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;
 - (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
 - (i) 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;
 - (j) in relation to (i) 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;
 - (k) if any of the above planning conditions (a), (b), (c), (d) or (h) 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
 - (l) if any of the above planning conditions (e), (f), (g), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

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 development is not in line with the planning intention of the "R(B)" zone which is intended primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board. 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 6.5.2019
Appendix Ia	FI received on 4.9.2019
Appendix Ib	FI received on 24.9.2019
Appendix Ic	FI received on 18.10.2019
Appendix Id	FI received on 21.10.2019
Appendix II	Previous applications covering the Site
Appendices III-1 to III-72	Public comments received during the statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Vehicular Access Plan

Plan A-1	Location Plan with previous applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**