

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/719

- Applicant** : Able Earn Limited represented by R-riches Property Consultants Limited
- Site** : Lots 554 S.A, 555 S.A ss.1, 1435 S.A and 1451 (Part) in D.D. 109, Kam Tin, Yuen Long
- Site Area** : About 2,412 m²
- Lease** : Block Government Lease (demised for agricultural use)
(Lots 554 S.A and 555 S.A ss.1 in D.D. 109)
- Tai Po New Grant No. 4417 for agricultural purpose
(Lot 1435 in D.D. 109)
- Tai Po New Grant No. 5654 for garden purpose
(Lot 1451 in D.D. 109)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Village Type Development” (“V”)
[Maximum building height of 3 storeys (8.23m)]
- Application** : 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 5 years. According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is mostly vacant and partly used for parking of vehicles and open storage of construction materials without valid planning permission (**Plans A-2, A-4a and 4b**).
- 1.2 According to the applicant, a total of 42 parking spaces for private cars will be provided on-site. There will be one single-storey structure with a total floor area of about 12m² and building height of about 3m for caretaker’s office and meter

room. The operation hours will be 24 hours daily. The Site is accessible to Kam Tin Road via Kam Kong Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with supplementary statement and plans received on 24.6.2020 **(Appendix I)**
- (b) Further Information (FI) dated 7.9.2020 in response to departmental comments **(Appendix Ia)**
(Not exempted from publication requirement)
- (c) FI dated 25.11.2020 in response to departmental comments **(Appendix Ib)**
(Exempted from publication requirement)
- (d) FI dated 14.1.2021 in response to departmental comments **(Appendix Ic)**
(Exempted from publication requirement)

1.4 At the request of the applicant, the Committee agreed to defer a decision on the application on 21.8.2020 and 6.11.2020 for two months respectively in order to allow time for the applicant to address departmental comments. Subsequently, the applicant has submitted FIs 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 **Appendix I**, and are briefly summarized as follows:

- (a) There are insufficient parking spaces in Kam Tin to meet the pressing demand of the locals, leading to illegal on-street parking, causing congestion and increase burden to the surrounding road network. The Site is located within walking distance from major residential settlements and the applied use is intended to serve the locals living in these areas.
- (b) The development will not create significant adverse traffic, environmental, landscape and drainage impacts on the surrounding areas. As car owners are likely to commute to work by public transport, the vehicular trip generated from the applied use would be minimal during peak hours of weekdays and mainly concentrate on weekends and public holidays.
- (c) Approval of this application would not jeopardize the long-term planning intention of the “V” zone. In addition, similar applications for the same use was approved by the Board in 2018, approval of the current application would not set undesirable precedent within the “V” zone.

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

The applicant is not the “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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Kam Tin 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 planning enforcement action.

5. Previous Application

The Site is not the subject of any previous application.

6. Similar Applications

There are eight similar applications at 3 sites for temporary public vehicle park within the same “V” zone for a period of 3 or 5 years. All of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1999 and 2018 mainly on the grounds that temporary approval would not jeopardize the long-term planning intention of the “V” zone; the applied use was not incompatible with the surrounding land uses; and relevant departments consulted had no adverse comments. However, planning permission for applications No. A/YL-KTN/293 and 439 were revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) paved, mostly vacant and partly used for parking of vehicles and open storage of construction materials without planning permission; and
- (b) accessible to Kam Tin Road via Kam Kong Road.

7.2 The surrounding area is rural in character predominated by residential dwellings/structures, a school and unused land:

- (a) to its immediate east and north are residential dwellings/ structures. Two village settlements, namely Kam Tin Shing Mun San Tsuen and Tai Hong Wai, are located to the south of the Site;
- (b) to its immediate south across Kam Kong Road is a primary school (Tung Tak School); and

- (c) to its immediate west is unused land and to its further north is Kam Tin Bypass.

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 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 of LandsD):

- (a) The Site comprises Lot No. 1435 held under Tai Po New Grant No. 4417 for agricultural purpose; Lot No. 1451 held under Tai Po New Grant No. 5654 for garden purpose; and Lot No. 554 S.A. and Lot No. 555 S.A ss.1 which are 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.
- (b) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to waive the user restriction(s) as stipulated in the lease conditions to permit the structure(s) to be erected and/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. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

- (c) 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 section of a local access road 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 of HyD):

- (a) Kam Kong Road is not and shall not be maintained by HyD. 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 to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) 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.
- (b) There is no environmental complaint concerning the Site received by DEP in the past three years.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD):

- (a) He has no objection in principle to the development form the public drainage point of view.

- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Building Matters

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

- (a) Before any new building works (including containers / open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works under the Buildings Ordinance (BO). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (b) His detailed comments on unauthorized building works and provision of access are at **Appendix IV**.

Fire Safety

9.1.7 Comment of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations 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 FSI 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.

District Officer's Comments

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

He has not received any comments from the locals and has no comments on the application from departmental point of view.

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

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

10. Public Comments Received During the Statutory Publication Period

On 3.7.2020, the application was published for public inspection for three weeks. The FI submitted on 7.9.2020 were also published for three weeks for public inspection. A total of four public comments from individuals (**Appendices III-1 to III-4**) were received and objecting to the application mainly on the grounds that the applied use would increase traffic flow and cause adverse pedestrian safety, environmental (including noise and air pollution) impact on the local residents and students of Tung Tak School, and affect living environment.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary public vehicle park (excluding container vehicle) for a period of 5 years within 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 reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The applied use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL of LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The applied use is considered not incompatible with the surrounding area which is rural in character predominated by residential swellings/structures, a school and vacant land. According to the applicant, the applied use is intended to serve the local residents.
- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, approval conditions restricting the vehicle types are recommended in paragraphs 12.2 (a) to (c) below. The applicant will also be advised to adopt 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 approval conditions (d) to (i) recommended in paragraph 12.2 below.
- 11.4 The Site is not subject to any previous application. There are eight similar applications on three sites for temporary public vehicle park within the same “V” zone approved with conditions by the Committee between 1999 and 2018.

Approval of the current application is in line with the Committee's previous decision on similar applications.

- 11.5 Four public comments were received during the statutory publication periods, objecting to the application as stated in paragraph 10 above. In this regard, relevant Government departments' comments as well as planning assessments and considerations as stated 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 mentioned in paragraph 10, 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 22.1.2026. 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 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;
- (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 a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.7.2021;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.10.2021;

- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.7.2021;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.10.2021;
- (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 IV**.

- 12.3 Alternatively, should the Committee decided 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 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 supplementary statement and plans received on 24.6.2020
Appendix Ia	FI dated 7.9.2020
Appendix Ib	FI dated 25.11.2020
Appendix Ic	FI dated 14.1.2021
Appendix II	Similar applications within the same “V” zone
Appendix III	Public comments received during the statutory publication period
Appendix IV	Advisory clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**