

RNTPC Paper No. A/YL-KTS/801  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 2.11.2018

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTS/801**

- Applicant** : Mr. Yiu Yuk Kwan represented by Mr. Yeung Yau Sing
- Site** : Lot 393 (Part) in D.D. 109, Po Tei Road, Kam Tin, Yuen Long
- Site Area** : 1,915 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14
- Zoning** : “Village Type Development” (“V”)  
[Maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Public Vehicle Park (excluding Container Vehicles) 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 vehicles) for a period of 5 years. According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ use is a Column 2 use in the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently paved, fenced and used for parking of vehicles without valid permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The southeastern portion of the Site is subject to 4 previous planning applications (No. A/YL-KTS/166, 366, 481 and 549). Application No. A/YL-KTS/366 for temporary warehouse, workshop and office for a period of 2 years was rejected by the Town Planning Board (the Board) on review on 11.8.2007. Applications No. A/YL-KTS/166, 481 and 549 for temporary public car/vehicle park (excluding container vehicle) submitted by different applicants as the current application were approved with conditions by the Rural and New Town Planning

Committee (the Committee) on 28.5.1999, 18.12.2009 and 4.11.2011 respectively. All the approval conditions of the last application No. A/YL-KTS/549 were complied with and the permission lapsed on 4.11.2014.

- 1.3 According to the applicant, the development involves 30 private car parking spaces at the Site and a one-storey structure (3m high) with floor area of 10m<sup>2</sup> for guard room use. The Site is accessible from Po Tei Road via Kam Sheung Road. The operation hours are 24 hours daily, including public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with plans received on 6.9.2018 **(Appendix I)**
  - (b) Further information (FI) received on 9.10.2018 **(Appendix Ia)**  
in response to departmental comments  
*(accepted and exempted from publication and  
recounting requirements)*
  - (c) FI received on 16.10.2018 in response to **(Appendix Ib)**  
departmental comments  
*(accepted and exempted from publication and  
recounting requirements)*
  - (d) FI received on 24.10.2018 in response to **(Appendix Ic)**  
departmental comments  
*(accepted and exempted from publication and  
recounting requirements)*

## **2. Justifications from the Applicant**

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

- (a) The public vehicle park serves the villagers and local residents in the surrounding area. The applied use can address the lack of parking space in the area and reduce road side parking.
- (b) The traffic flow of the car park is low and there will be no adverse traffic impact. The applicant will reserve a buffer area between the vehicles within the Site and the wall of the adjoining Ancestral Hall.

### 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 notice at the Site and notification to Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

The Site is not subject to planning enforcement action. Should there be sufficient evidence, enforcement action would be taken in due course.

### 5. **Previous Applications**

- 5.1 The southeastern part of the Site is the subject of 4 previous planning applications No. A/YL-KTS/166, 366, 481 and 549 submitted by different applicants as the current application. Details of the applications are in **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-KTS/166 for proposed public car park was approved with conditions by the Committee on 28.5.1999 for a period of 3 years, instead of permanent permission sought, for the reasons that the proposed development would help satisfy some of the parking demand from local villagers in the area; the proposed development was compatible with and functional in supporting the village type development; and the application would not frustrate the permanent village development if approved on a temporary basis.
- 5.3 Application No. A/YL-KTS/366 for temporary warehouse, workshop and office for a period of 2 years was rejected by the Board on review on 11.8.2006 on the grounds that the development was not in line with the planning intention of “V” zone; the development was not compatible with the residential dwellings adjacent to the site which would be susceptible to adverse environmental nuisance generated by the development; and there was insufficient information to demonstrate that the development would not cause adverse environmental and drainage impacts.
- 5.4 The applications No. A/YL-KTS/481 and 549 for the same applied use as the current application submitted by a different applicant were approved with conditions by the Committee on 18.12.2009 and 4.11.2011 for a period of 3 years, instead of 5 years sought, for the reasons that the temporary development would not frustrate the long-term planning intention of the “V” zone; the development was not incompatible with the surrounding land uses; relevant departments had

no adverse comment on the application; and local objections/concerns on nuisance of noise, lighting and air quality impact could be addressed by shorter approval period to monitor the situation on the Site and imposing appropriate approval conditions. All the approval conditions of the last application No. A/YL-KTS/549 were complied with and the planning permission lapsed on 4.11.2014.

## 6. Similar Applications

- 6.1 There are four similar applications (No. A/YL-KTS/508, 524, 551 and 574) within the same “V” zone. Details of the applications are in **Appendix III** and their locations are shown on **Plan A-1a**.
- 6.2 Application No. A/YL-KTS/508 for temporary open public car park (including private car, light goods vehicle and medium goods vehicle) for a period of 3 years was approved with conditions by the Board on review on 11.3.2011 for the reasons that the proposed development was not incompatible with the surrounding and similar application in the vicinity had been approved; there was no Small House application at the application site; and Transport Department’s concern on insufficient manoeuvring space could be addressed by approval condition to exclude medium or heavy goods vehicles within the site. However, the application was revoked on 16.8.2011 due to non-compliance with approval condition in relation to prohibition of workshop-related activities.
- 6.3 Applications No. A/YL-KTS/524, 551 and 574 for proposed temporary private car park (private vehicles and light goods vehicles) for a period of 3 years were approved with conditions by the Committee on 18.2.2011, 6.12.2011 and 24.8.2012 respectively for the reasons that the proposed development was not incompatible with the surroundings and would not frustrate the long-term planning intention of the “V” zone and the relevant departments had no adverse comment on the application. However, applications No. A/YL-KTS/551 and 574 were revoked on 6.6.2012 and 23.11.2012 respectively due to non-compliance with approval conditions.

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

- 7.1 The Site is:
  - (a) currently paved, fenced and used for parking of vehicles without valid permission; and
  - (b) accessible from Po Tei Road via Kam Sheung Road.

- 7.2 The surrounding areas are predominately rural in character mainly for residential dwellings/structures and scattered with parking of vehicles, workshops, shops and an ancestral hall. Some of the uses are unauthorized development subject to enforcement actions by the Planning Authority (**Plan A-2**):
- (a) to its immediate north is parking of vehicle and ancestral hall. To its further north are residential dwellings/structures, shops, a workshop and storage yard;
  - (b) to its immediate southeast is parking of vehicles. To its further south and west are residential dwellings/structures;
  - (c) to its east across Po Tei Road are residential structures/dwellings, workshops, shops, car beauty, a school and unused land.

## **8. Planning Intention**

The planning intention of the “V” is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House. 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 an Old Scheduled Agricultural Lot held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.

- (b) Lot No. 393 (Portion) in D.D.109 partially within the Site is covered by Short Term Waiver (STW) No. 3747 to permit structures erected thereon for the purpose of “temporary public vehicle park (excluding container vehicle)”.
- (c) The Site is accessible from Po Tei 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.
- (d) 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.
- (e) Should planning approval be given to the application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. 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 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 premium or fee, as may be imposed by the LandsD.
- (f) 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, the approval condition on no vehicle is allowed to queue back to or reverse onto/from public road and no vehicles exiting the car park can make right turn to Po Tei Road at any times during the planning approval should be included.
- (c) The Site is connected to the public road network via a local access road which is not managed by Transport Department

(TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) The proposed access arrangement of the Site via Po Tei Road is not maintained by his department.
- (b) His department does not and will not maintain any access connecting the Site and Kam Sheung Road. The applicant should be responsible for his own access arrangement.
- (c) 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):

The Site is not the subject of any environmental complaint in the past 3 years. The applicant is advised to follow the relevant measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance.

**Landscape**

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

- (a) He has no objection to the application from landscape planning perspective.
- (b) The southeast part of the Site is involved in four previous applications. For the last approved application No. A/YL-KTS/549 (i.e. temporary public vehicle park), he had no objection from the landscape planning perspective.
- (c) Compared the aerial photo of 2011 to latest photo of 2017, there is no significant change in the landscape character where the Site

is located. It comprises of village houses, temporary structures, car parks and scattered tree group. The applied use is not incompatible with the surrounding environment. As the Site falls within an area zoned “V” and no significant tree was found within the Site during site visit on 19.9.2018, significant adverse landscape impact arising from the temporary use is not expected.

- (d) To alleviate potential adverse impact on the surrounding village setting caused by the use, peripheral tree planting along the site boundary is recommended. Should the application be approved, the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Board should be included.

### **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 development from public drainage point of view.
- (b) Should the application be approved, conditions requiring the submission of a drainage proposal and implementation and maintenance of the drainage proposal for the development to his satisfaction should be included.

### **Fire Safety**

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

- (a) He has no objection in principle 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 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 Buildings Ordinance (BO)

(Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (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 works or UBW on the Site under the BO.
- (c) Before any new building works (including container/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (d) 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 respectively.
- (e) 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 Building (Planning) Regulations at the building plan submission stage.

**Heritage Aspect**

9.1.9 Comments of the Antiques and Monuments Office of Development Bureau (AMO, DEVB):

- (a) The Site is located immediately next to Tang Lung Yau Wan Tsuen Um Ancestral Hall (the Ancestral Hall), a Grade 3 historic building endorsed by the Antiquities Advisory Board (AAB) on 31.8.2010.
- (b) The applicant should ensure that (i) any works in relation to the vehicle park and (ii) the daily operation of the vehicle park shall not cause any adverse impacts to the Ancestral Hall. The walls of the Ancestral Hall should not bear any loading or be used to any forms for structural or temporary support.

**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 local's comment and he has no comment on the application.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager(West), Civil Engineering and Development Department (PM(W), CEDD); and
- (d) Commissioner of Police (C of P).

**10. Public Comment Received During Statutory Publication Period**

On 14.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.10.2018, one public comment was received from the a member of the public (**Appendix IV**) objecting to the application mainly on the grounds that the applied use has not been suspended despite the previous application lapsed in 2014; the Site could be used for temporary recreation or community use; long term use as parking will have a cumulative and negative impact on the quality of land and environs; vehicle parking is inefficient land use; vehicles should be parked underground, at stacked facilities, high rise towers, or ground floor of houses or villa development.

## **11. Planning Considerations and Assessments**

- 11.1 The temporary public vehicle park (excluding container vehicle) is located at “V” zone which is intended 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 applied use is not entirely in line with the planning intention of “V” zone. Nevertheless, DLO/YL of LandsD advised that there is no Small House application approved or under processing at the Site. The applicant also stated that the public vehicle park (excluding container vehicles) is to serve the villages and local residents nearby. It is considered that temporary approval for 5 years of the application would not jeopardize the long-term planning intention of the “V” zone.
- 11.2 The applied use is not incompatible with the surrounding areas which are characterized by residential dwellings/structures, parking of vehicles, workshops, a school and an ancestral hall.
- 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 minimize any potential nuisance to the nearby residents, approval conditions restricting the type of vehicles and prohibiting dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are recommended in paragraph 12.2 (a) to (d) 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. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (f) to (n) below.
- 11.4 The south-eastern part of the Site is subject to 3 previous applications for temporary public vehicle park which were approved with conditions by the Committee between 1999 and 2011 as stated in paragraph 5 above. There are also 4 similar applications within the same “V” zone for temporary public/private vehicle park approved with conditions by the Committee between 2011 and 2012. Approval of the current application is in line with the Committee’s previous decision.
- 11.5 One public comment objecting to the application was received during the statutory publication period as stated in paragraph 10 above. In this regard, temporary approval would not jeopardize the long-term planning intention. The planning assessments and considerations above are also relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment in paragraph 10, the Planning Department has no objection to the temporary public vehicle park (excluding container vehicles) for a period of 5 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 2.11.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no 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;
- (b) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (c) 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;
- (d) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (e) the existing boundary fencing of the Site shall be maintained at all times during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/ from public road at any time during the planning approval period;
- (g) no vehicle exiting the car park is allowed to make right turn to Po Tei Road at any time during the approval period;
- (h) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 2.5.2019;

- (i) in relation to (h) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 2.8.2019;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) the submission of 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;
- (l) in relation to (k) 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;
- (m) 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;
- (n) in relation to (m) above, the implementation of fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 2.8.2019;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (j) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (p) if any of the above planning conditions (h), (i), (k), (l), (m) or (n) 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. There is no strong

planning justification in the submission for a departure from such 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 applicants.

### **14. Attachments**

<b>Appendix I</b>	Application form with plans received on 6.9.2018
<b>Appendix Ia</b>	FI received on 9.10.2018 in response to departmental comment
<b>Appendix Ib</b>	FI received on 16.10.2018 in response to departmental comment
<b>Appendix Ic</b>	FI received on 24.10.2018 in response to departmental comments
<b>Appendix II</b>	Previous s.16 applications covering the Site
<b>Appendix III</b>	Similar applications within the same “V” zone on the OZP
<b>Appendix IV</b>	Public comment received during the statutory public period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Location Plan with Previous Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo

**Plans A-4a and Site Photos  
4b**

**PLANNING DEPARTMENT  
NOVEMBER 2018**