

RNTPC Paper No. A/YL-PH/769
For Consideration by
the Rural and New Town
Planning Committee
on 16.3.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/769

- Applicant** : CHEUNG Fui (or Hoi) Un (or Yun) Tso 張魁元祖 represented by Mr. CHEUNG Choi Hing
- Site** : Lot 744 S.B RP (Part) in D.D. 111, Sheung Che Tsuen, Pat Heung, Yuen Long
- Site Area** : About 270 m²
- Lease** : Block Government Lease (demised for house and agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”)
[Maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Private Vehicle Park for Private Cars 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 private vehicle park for private cars for a period of 3 years. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ use is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is not subject to any previous application and is currently vacant (**Plans A-2 and A-4b**).
- 1.2 According to the applicant, a total of 8 private car parking spaces with dimension of 2.5m x 5m each will be provided within the Site for the use of Sheung Che Tsuen residents only. A single-storey structure with area of 7.2m² and 2.6m high will be provided for storage of vehicles parts and cleaning products. The operation hours will be 24 hours daily including public holiday. 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 plans received on 19.1.2018 (Appendix I)
 - (b) Supplementary Information received on 23.1.2018 and 25.1.2018 (Appendix Ia)
 - (c) Further information (FI) submitted on 19.2.2018 (Appendix Ib) clarifying the layout in response to departmental comments
(accepted and exempted from publication and recounting requirements)
 - (d) FI submitted on 28.2.2018 clarifying the building height of the storage room (Appendix Ic)
(accepted and exempted from publication and recounting requirements)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in in paragraph 9 of the application form and FI at **Appendices I** and **Ib**. They can be summarized as follows:

- (a) As the Site has been abandoned and discarded for over 30 years, the proposed private vehicle park for private cars severing the residents of Sheung Che Tsuen could effectively use the land.
- (b) Removing tall grass and bushes and covered the Site by concrete cement would help the Site become clean and tidy. Also, orderly parking of vehicles would be an asset to the residents of the village.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not a subject of any active enforcement case. Notwithstanding, if there are any suspected unauthorized development found at the Site, investigation will be conducted. Should there be sufficient evidence to prove that the said use is a authorized

development under the Town Planning Ordinance (the Ordinance), appropriate enforcement action will be instigated.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

- 6.1 There were a total of 6 similar applications for temporary car park in the same “V” zone (Nos. A/YL-PH/ 450, 473, 743, 747 and 762) and opposite to the Site across Fan Kam Road in the adjoining “V” zone (No. A/YL-PH/291). Details of the applications are summarized in **Appendix II** and the location of the sites are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-PH/291 for public car/lorry park and Nos. A/YL-PH/450, 473, 743, 747 and 762 for proposed temporary vehicle park for a period of 3 years were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 27.8.1999, 7.11.2003, 27.8.2004, 11.8.2017, 28.7.2017 and 22.12.2017 respectively mainly on similar considerations that the proposed car park would serve the parking need of the local villager in supporting the village type development; and the relevant departments had no major adverse comment on the applications. However, application Nos. A/YL-PH/450, 473 and 743 were revoked on 7.8.2004, 29.10.2004 and 11.2.2018 due to non-compliance of approval conditions.

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

7.1 The Site is:

- (a) covered by sands and vacant; and
- (b) accessible from Fan Kam Road via a local track (**PlanA-2**).

7.2 The surrounding areas are generally rural in character with village settlements, open storage yard, parking of vehicles and vacant/unused land (**Plan A-2**):

- (a) to its east is a nullah. Across the nullah and Fan Kam Road are residential dwellings/structures, construction site for small house development and vacant/unused land;
- (b) to its south is a vacant land and steam course. Further south and west are a private club under approved planning application no. A/YL-PH/767, residential dwellings/structures, parking of vehicles and vacant land; and

- (c) to its north and northwest are residential dwellings/structures, parking of vehicles, open storage yard and vacant 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 Lot (with house and agricultural status) held under the BGL which erection of building is allowed. However, should the development involve any rebuilding, application to his office for approval will be required.
- (b) The Site is accessible to Fan Kam Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way 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 application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the

capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

- (e) There is no small house application approved and under processing within the Site.

Traffic

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

- (a) He has no comment from traffic engineering perspective on the application.
- (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 which is not managed by Transport Department. 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) HyD is not and shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Fan Kam 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):

There was no environmental complaint received in the past 3 years. The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites” issued by DEP.

Landscape

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

- (a) She has some reservations to the application from the landscape planning perspective.
- (b) The Site is surrounded by small houses within “V” zone and is located adjacent to the west of Fan Kam Road. Based on the aerial photo taken in April 2017, the Site is situated in an area of rural landscape character comprising of small houses, open storage yards and scattered tree groups. Existing car parks are found in close proximity to the Site. The proposed use is considered not incompatible to the surrounding environment.
- (c) Referring to the site visit in February 2018, the Site is cleared and paved with gravels. An existing nullah is found adjacent to the east of the Site. No existing trees are found within the Site. Although adverse impact on significant landscape resources within the Site is not anticipated, potential adverse impact on the adjacent nullah arising from the proposed development cannot be ascertained. Comparing the current site condition and recent aerial photo taken in April 2017, it is apparent that vegetation has been cleared within and outside the Site prior to submission of the application. Approval of this application would set an undesirable precedent to encourage vegetation clearance prior to application.
- (d) Should the application be approved, the condition on submission and implementation of landscape proposal should be included in the permission.
- (e) Details comments are at **Appendix III**.

Nature Conservation

- 9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- (a) Noting that the Site is located in “V” zone and is close to Fan Kam Road, he has no adverse comment on the application from nature conservation point of view.
 - (b) Nonetheless, should the application be approved, the applicant is advised to adopt necessary measures to avoid polluting the watercourse to the east of the Site.

Drainage

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

Should the application be approved, approval conditions requiring the submission of drainage proposal and implementation of the drainage proposal for the development should be included in the planning permission.

Fire Safety

- 9.1.8 Comments of the Director of Fire Services (D of FS):
- (a) He has no in-principle objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
 - (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
 - (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

- 9.1.9 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, the prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
 - (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are UBW under the BO and should not be designated for any proposed use under the application.
 - (c) 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.
 - (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 (B(P)R) 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 B(P)R at the building plan submission stage.

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 upon close of consultation on the application and 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 (CE/C, WSD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

10.1 On 30.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.2.2018, two comments from general public (**Appendices IV-1 to IV-2**) were received.

10.2 One commenter objects to the application mainly on the grounds that the proposed development appears to be an ongoing unapproved brownfield use which is not in line with the planning intention of the “V” zone and no strong justification for a departure from the planning intention even on a temporary basis; parking should be accommodated underground, in high-rise/stacked facilities or on the ground floor of village house; and approval of the application would set an undesirable precedent. Another commenter raises objections mainly on the grounds that the Site is under Block Government Lease for agricultural use instead of building lot and the current application would breach the lease and should not be considered by the Board; the location of the Site is an emergency vehicle access and close to the nearby power supply lines, and drainage/water supplies/ public utilities pipelines; the proposed car park will block the access road for emergency use which affects public safety; the proposed structure on site for storage of vehicle parts and cleaning products and car washing within the Site will pollute the watercourse nearby; and the requirements under the lease should be adhered to by the Government.

11. Planning Considerations and Assessments

11.1 This application is for proposed temporary private car park for a period of 3 years in “V” zone. The proposed use is not entirely in line with the planning intention of “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. Nevertheless, DLO/YL of LandsD advises that there is no Small House application approved and under processing at the Site. Also, according to the applicant, the proposed private vehicle park is to serve the local residents of

Sheung Che Tsuen. Temporary approval for 3 years of the application would not jeopardise the long-term planning intention of the “V” zone.

- 11.2 The proposed use is considered not incompatible with surrounding area which are generally rural in character with village settlements, parking of vehicles, open storage yards and vacant/unused land. Also, there are 6 similar applications for temporary car parking use within the same “V” zone and the “V” zone in the vicinity approved with conditions by the Committee from 1999 to 2017 mainly on the grounds that the proposed carpark would serve the parking need of the local villagers in supporting the village type development; and the relevant departments had no major adverse comment on the applications. The approval of the application is in line with the previous approval of the Committee on similar applications.
- 11.3 Relevant departments consulted including DEP, DAFC, CE/MN of DSD, D of FS and C for T have no adverse comment on the application. CTP/UD&L of PlanD has some reservations on the application as it would set an undesirable precedent to encourage vegetation clearance prior to application. In this regard, the approval conditions as requested by CTP/UD&L of PlanD on submission and implementation of landscape proposal are recommended to be imposed in paragraph 12.2 (f) and (g) below. To minimise any potential nuisance, approval conditions prohibiting medium or heavy goods vehicles and workshop activities and provision of site notice are recommended in paragraphs 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. 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 in order to alleviate any potential impact. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2(e) and (h) to (k) below.
- 11.4 Two public objections against the application were received during the statutory publication period as stated in paragraph 10 above. In this regard, the proposed temporary use of 3 years would not frustrate the long-term planning intention of the “V” zone. Also, relevant departments have been consulted and no adverse comments were received from DLO/YL of LandsD, C for T, DEP, CE/MN of DSD, D of FS, CE/C of WSD and DEMS on land administration, traffic, environment, drainage, fire safety, water supplies and electricity safety aspects respectively. DFAC also advise the applicant to adopt necessary measures to avoid polluting the watercourse to the east of the Site which has been included in the advisory clause. 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 comments in paragraph 10, the Planning Department considers that the proposed temporary private vehicle park for private cars could be tolerated 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 16.3.2021. 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 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of 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 16.9.2018;
- (g) in relation to (f) 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 16.12.2018;

- (h) 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 16.9.2018;
- (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 16.12.2018;
- (j) 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 16.9.2018;
- (k) in relation to (j) above, the provision of fire service installations within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.12.2018;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (m) if any of the above planning conditions (f), (g), (h), (i), (j) or (k) 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; and
- (n) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

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

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| Appendix I | Application form received on 19.1.2018 |
| Appendix Ia | SI submitted on 23.1.2018 and 25.1.2018 |
| Appendix Ib | FI submitted on 19.2.2018 |
| Appendix Ic | FI submitted on 28.2.2018 |
| Appendix II | Similar Applications within the same “V” zone on the Pat Heung OZP |
| Appendix III | Detailed comments from CTP/UD&L of PlanD |
| Appendices IV-1 and IV-2 | Public comments received during the statutory publication period |
| Appendix V | 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 and A-4b | Site Photos |

**PLANNING DEPARTMENT
MARCH 2018**