

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/562

<u>Applicant</u>	: Mr. MAN Hok Yin represented by Mr. MAN Kam Hing
<u>Site</u>	: Lot 217 RP (Part) in D.D. 105, San Tin, Yuen Long
<u>Site Area</u>	: About 1,235m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Open Storage of 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 proposed temporary open storage of private cars for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, open storage of private cars is neither a Column 1 nor Column 2 use within the “V” zone. Temporary use not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently vacant.
- 1.2 The Site is the subject of a previous Application No. A/YL-ST/557 by the same applicant for proposed temporary public vehicle park for private car for a period of 3 years which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 20.9.2019 (**Plan A-1**).
- 1.3 As shown on **Plans A-2** and **A-3**, the Site is accessible from Castle Peak Road – San Tin via San Tin Tsuen Road and a local track. The plan showing existing vehicular access and queuing space for entry to the Site is at **Drawing A-3**. A summary of the major development parameters are as follows:

Development/use	Proposed temporary open storage of private cars for a period of 3 years
Site area	About 1,235 m ²
Total floor area	About 15 m ²
No. of container converted structure	1 (Office)
Height of structure	1 storey (3m)
Operation hours	8 a.m. to 6 p.m. daily

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

- (a) Application form including a landscape proposal received (**Appendix I**) on 18.11.2019
- (b) Further Information (FI) dated 9.1.2020 in response to (**Appendix Ia**) departmental comments (*exempted from publication*)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) The proposed use is for open storage of private cars with their vehicle registration licence already cancelled and pending for export to countries in Southeast Asia or Africa for reuse. It will help to phase out obsolete vehicles and protect the environment.
- (b) The proposed open storage of private cars is of a similar use as the previously approved Application No. A/YL-ST/557 for proposed temporary public vehicle park for private car.
- (c) There will be less than 10 vehicle trips per day made by private cars transported by trailers or with trade licenses. In order to minimize the visual impact on the surrounding areas, trees are proposed to be planted along the boundary of the Site. As such, significant visual and traffic impact on the surrounding areas is not envisaged.

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

The applicant is one of the “current land owners” of the private lots within the Site and 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 notice to San Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E)

4.1 According to the TPB PG-No. 13E, the Site falls within Category 4 areas. The following criteria are relevant:

applications for open storage and port back-up uses would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. Since the planning intention of Category 4 areas is to phase out the open storage and port back-up uses, a maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merits.

Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C)

4.2 According to TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarised as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds;
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA; and
- (c) applications for new open storage or container back-up uses including workshops within the WBA, whether temporary or permanent, would normally not be allowed in view of the adverse disturbances of such

activities on birds, in particular for such uses involving filling of contiguous ponds. However, open storage or container back-up uses located close to the Lok Ma Chau crossing and without involving pond filling might be sympathetically considered by the Board in view of the genuine need to facilitate cross-boundary movements of goods in the area.

5. **Background**

Part of the Site was subject to previous planning enforcement action against unauthorized development (UD) involving storage use. Enforcement Notice (EN) was issued on 7.3.2019 requiring discontinuation of the UD. As the UD had already been discontinued upon expiry of the EN, Compliance Notice was issued on 20.8.2019 (**Plan A-2**).

6. **Previous Application**

The Site is the subject of a previous application No. A/YL-ST/557 for proposed temporary public vehicle park for private car for a period of 3 years which was approved by the Committee on 20.9.2019 mainly on the considerations that the public vehicle park was serving the needs of the local villagers, approval of the application on a temporary basis would not frustrate the long term planning intention of the “V” zone, the proposed use was not incompatible with the surrounding areas and concerned departments have no objection to or adverse comment on the application. Details of the application are summarised at **Appendix II**. Its location is shown on **Plan A-1**.

7. **Similar Applications**

- 7.1 Within the same “V” zone on the OZP, there are 4 applications for similar temporary open storage uses, amongst which one (Application No. A/YL-ST/320) was approved by the Board on review for a period of 12 months, and 3 (Applications No. A/YL-ST/106, 141 and 274) were rejected by the Committee.
- 7.2 Application No. A/YL-ST/320 for temporary sale office for second-hand private vehicles was approved by the Board on review in 2007 for a period of 12 months. The site was with previous approvals for temporary container vehicle park with vehicle repair workshop. Considering the application would not affect the Small House developments already approved at the site and that there were no adverse impacts associated with the proposed use, the Board gave favourable consideration to the interim use of the land for temporary sale office for 12 months. The application was subsequently revoked due to non-compliance with approval conditions.
- 7.3 Applications No. A/YL-ST/106, 141 and 274 for temporary open storage of pre-cast façade units and building materials or temporary container tractor/trailer parks were rejected by the Committee in 1999, 2000 and 2004 respectively mainly

on grounds that the developments were not in line with the planning intention of the “V” zone, not compatible with the surrounding residential development including nearby village settlements, there was insufficient information to demonstrate that the developments would not have adverse impacts, approval of the applications would set undesirable precedent for other similar applications within the “V” zones, and/or the development did not comply with the then TPB PG-No.13C.

- 7.4 Details of these similar applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible from the north via San Tin Tsuen Road and a local track off Castle Peak Road – San Tin;
- (b) currently vacant; and
- (c) located within WBA of the Deep Bay Area.

8.2 The surrounding areas are predominantly Small Houses in Tsing Lung Tsuen (some under construction), vehicle parks, open storage yards and vacant land. Some vehicle parks and open storage yards are suspected UD subject to enforcement action by the Planning Authority:

- (a) to its north and northwest are vacated storage yard, pond, and vacant and unused land;
- (b) to its northeast, east and southeast are Small Houses (some under construction) of Tsing Lung Tsuen, vehicle parks and vacant land; and
- (c) to its south and further southwest across San Tin Tsuen Road are pond (San Tin Constructed Wetland), nullah, open storage yard, and cargo handling and forwarding facilities approved under Application No. A/YL-ST/525.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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. Other commercial, community and recreational uses may

be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible from San Tin Tsuen Road through both Government land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (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 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 of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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 LandsD.
- (e) The Site partially falls within the Village Environs of San Tin Heung. There is no Small House application being processed at the Site.

Traffic

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

- (a) The Site is connected to the public road network via a section of private lot(s) which is not managed by Transport Department (TD). The applicant should arrange by themselves if necessary, and should seek the relevant land authority on the right of using the vehicular access.
- (b) The applicant should provide updated details of trip generation for the Site.
- (c) No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD is not/shall not be responsible for the maintenance for any access connecting the Site and San Tin Tsuen Road. The relevant departments will provide their comments, if any.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

He has no comment on the application from railway development point of view as the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any railway systems.

Environment

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

In accordance with the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he has no objection to the application.

Nature Conservation

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

He notes that the Site is paved and disturbed. The applicant has proposed to plant trees along the boundary of the Site in order to minimize impacts on the San Tin Constructed Wetland, which is opposite to the Site. As such, he has no adverse comment on the application from nature conservation point of view.

Landscape

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

According to the aerial photo of 2018, he observes that some vegetation along the boundary outside the Site will act as landscape buffer to the adjacent road. As such, he does not recommend any landscape condition, should the application be approved by the Board.

Fire Safety

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

- (a) He has no objection in principle 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 applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and
 - (iii) good practice guidelines for open storage should be adhered to (**Appendix IV**).
- (c) In consideration of the nature of the open storage, the following approval condition shall be added:

The provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of D of FS.
- (d) To address this additional approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to his Department for approval.
- (e) 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

10.1.9 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, 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 (UBW) under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulation respectively.
- (d) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

Drainage

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

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) The application is the subject of one previous Application No. A/YL-ST/557 with different applied use and should be processed as a new case. In this respect, the applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations and charts should be included.
- (c) After completion of the required drainage works, the applicant shall provide DSD a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan for reference.

- (d) His detailed comments are at **Appendix VI**.

District Officer's Comment

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

His office has no comment on the application and the local comments shall be submitted to the Board directly, if any.

10.2 The following Government departments have no comment on or objection to the application:

- (a) Commissioner of Police (C of P);
- (b) Director of Food and Environmental Hygiene (DFEH);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (d) Project Manager (West) (PM(W)), CEDD;
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comment Received During Statutory Publication Period

On 26.11.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 4 public comments were received from Designing Hong Kong and 3 members of the public objecting to the application. They were concerned that the proposed development was not in line with the planning intention of the "V" zone and the WBA in TPB PG-No. 12C, the proposed use would worsen the existing traffic, environmental and sewage problems, affect the land available for Small House applications, and consents of all the land owners for applying for planning permission had not been sought (**Appendix V**).

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary open storage of private cars for a period of 3 years. The Site falls within the "V" zone which is intended to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The proposed open storage use is not in line with the planning intention of the "V" zone, and is incompatible with the

surrounding areas which are predominantly village and pond/wetland areas and rural in nature. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

- 12.2 The Site falls within Category 4 areas under the TPB PG-No. 13E and the following considerations in the Guidelines are relevant:

Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merit.

- 12.3 Within Category 4 areas, application for open storage uses would normally be rejected except under exceptional circumstances, as the intention is to encourage the phasing out of such non-conforming uses as early as possible. The application is not in line with TPB PG-No. 13E in that no previous approval for open storage use has been granted for the Site (the previously approved Application No. A/YL-ST/557 was for car park use serving the needs of the local villagers) and there are public objections. The applicant has failed to justify the need for open storage use at the Site. Approval of the application would set an undesirable precedent and encourage other applications for similar developments in the area. The cumulative effect of approving the application would result in a general degradation of the environment of the area.

- 12.4 The Site falls within the WBA of the TPB PG-No. 12C and the guidelines specify that applications for new open storage uses within the WBA would normally not be allowed in view of the adverse disturbances of such activities on birds, in particular for such uses involving filling of contiguous ponds. Noting the Site is paved and disturbed, and the applicant has proposed to plant trees along the boundary of the Site to minimize impacts on the San Tin Constructed Wetland opposite to the Site, DAFC has no adverse comment on the application from nature conservation point of view.

- 12.5 Other government departments including DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or adverse comment on environment, fire safety, drainage and landscape aspects respectively. C for T considers that the applicant should provide updated details of trip generation for consideration.

- 12.6 There is no previous planning approval for open storage use at the Site. In the same "V" zone, there were 4 applications for similar open storage uses of which

3 were rejected by the Committee between 1999 and 2004. The only application approved in the zone (No. A/YL-ST/320) was approved by the Board on review in 2007 for 12 months on consideration that the temporary use was an interim use for the Site before it would be developed for the approved Small House development. The approval was subsequently revoked due to non-compliance with approval conditions. Rejection of the application is generally in line with the previous decisions of the Committee on similar applications in the area.

- 12.7 There are 4 objecting public comments received raising concerns that the proposed development was not in line with the planning intention of the “V” zone and the WBA in TPB PG-No. 12C. The planning assessments and departmental comments above are of relevance.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “V” zone which is intended to designate both existing recognized villages and areas of land considered suitable for village expansion. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the proposed development is not in line with the Town Planning Board Guidelines for Application for Temporary Open Storage and Port Back-up Uses (TPB PG-No. 13E) in that no previous approval for open storage use has been granted for the Site and there are adverse comments from the public; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such application would result in general degradation of the environment of the area.

- 13.2 Alternatively, 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 17.1.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from the Site at any

time during the planning approval period;

- (c) 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 TPB by 17.7.2020;
- (d) 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 TPB by 17.7.2020;
- (e) in relation to (d) 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 TPB by 17.10.2020;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of Director of Fire Services or of the TPB by 28.2.2020;
- (h) the submission of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 17.7.2020;
- (i) in relation to (h) above, the implementation 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 TPB by 17.10.2020;
- (j) if any of the above planning conditions (a), (b), or (f) 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 conditions (c), (d), (e), (g), (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 VI**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form received on 18.11.2019
Appendix Ia	Further Information dated 9.1.2020
Appendix II	Previous Application
Appendix III	Similar Applications
Appendix IV	Good Practice Guidelines for Open Storage Issued by the D of FS
Appendix V	Public Comments Received during Statutory Publication Period
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Proposal
Drawing A-3	Existing Vehicular Access and Queuing Space for Entry to the Site
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos