

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/640

<u>Applicant</u>	:	Mr. YAU Kan-fat represented by R-Riches Property Consultants Limited
<u>Site</u>	:	Lot 1198 S.B (Part) in D.D. 109, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 1,130 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	:	“Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	:	Proposed 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 proposed 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)’ use is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is subject to two previous applications (No. A/DPA/YL-KTN/41 and A/YL-KTN/168) for residential uses, which were dismissed by the Appeal Board and rejected by the Board on review in 1995 and 2004 respectively. The Site is currently occupied by open storage of vehicles without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, a total of 26 parking spaces for private cars will be provided within the Site. Other types of vehicles will not be allowed to access the Site. The operation hours are 24 hours daily. The Site is accessible from Kam Tin Bypass via Kong Tai Road. The proposed layout plan and vehicular access plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and **(Appendix I)** plan received on 24.12.2018
 - (b) Supplementary Information (SI) submitted on **(Appendix Ia)** 31.12.2018 clarifying the operation hours with a revised layout plan
 - (c) Further information (FI) received on 15.2.2019 **(Appendix Ib)** clarifying the type of vehicles involved and in response to departmental comments

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement attached to the Application Form, SI and FI in **Appendices I to Ib**. They can be summarized as follows:

- (a) Temporary planning approval for the proposed development would not frustrate the long-term planning intention of the “V” zone.
- (b) The proposed development intends to provide car parking spaces for nearby residents and tackle the problem of illegal parking. The parking spaces will be rented on a monthly basis.
- (c) Sufficient maneuvering space will be provided on-site and no vehicle will queue back to or reverse onto/from areas outside the Site. The proposed development will unlikely cause adverse traffic impact on Kong Tai Road and Kam Tin Road.
- (d) Upon approval of the planning application, the applicant will make effort in complying with approval conditions/ relevant government regulations related to environmental, landscape, fire safety and drainage aspects.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending the notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is subject to on-going planning enforcement action (No. E/YL-KTN/483) against an unauthorised development (UD) involving storage use and use for place for parking of vehicles. Enforcement Notice (EN) was issued on 18.12.2018 to the concerned parties requiring discontinuation of the UD. If the requirement of the EN is not complied with upon expiry of the compliance period of the notice, the concerned parties will be subject to further enforcement action.

5. **Previous Applications**

5.1 The Site was involved in two previous applications (No. A/DPA/YL-KTN/41 and A/YL-KTN/168) for residential uses which were both rejected. Details of the applications are summarized in **Appendix II** and the location of the sites are shown on **Plan A-1**.

5.2 Application No. A/DPA/YL-KTN/41, which covers a much larger area (67,344 m²)¹, for residential development was rejected by the Board on review on 25.11.1994 mainly on the grounds that the proposed development was premature in view of the transportation network and drainage works being planned in the area; it was not in line with the planning intention of the area; and there was insufficient information to demonstrate that it would not cause constraints to the proposed Main Drainage Channels and nearby roads. The applicant lodged an appeal against the Board's decision. The appeal was dismissed by the Appeal Board on 27.10.1995.

5.3 Application No. A/YL-KTN/168, which covers a larger area (21,000 m²), for 74 houses (other than New Territories Exempted House (NTEH)) and minor relaxation of building height restriction from 8.23m to 9m was rejected by the Board on review on 19.3.2004 mainly on the grounds that the proposed development was not in line with the planning intention of the "V" zone; there was no information to demonstrate that it would not cause adverse traffic and drainage impacts on the surrounding area; and approval of the application would set an undesirable precedent.

6. **Similar Application**

There is no similar application within the same "V" zone on the OZP.

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

7.1 The Site is :

- (a) currently occupied by open storage of vehicles without valid planning permission; and

¹ The site was zoned "Unspecified Use" on the previous Development Permission Area (DPA) plan at the time of submission of the application. The site was subsequently rezoned to "V" and "AGR" on the draft Kam Tin OZP No. S/YL-KTN/1 gazetted on 17.6.1994.

- (b) accessible from Kam Tin Bypass via Kong Tai Road.

7.2 The surrounding areas are mainly rural in character mixed with residential dwellings/structures, cultivated agriculture land, open storage yards, parking of vehicles, a workshop, an amenity area and vacant/unused land. All the open storage yards and parking of vehicles are suspected unauthorised development subject to enforcement action by the Planning Authority:

- (a) to its north and northwest across Kong Tai Road are residential dwellings/structures, cultivated agriculture land, a workshop and vacant/unused land;
- (b) to its northeast and east are open storage yards, parking of vehicles, a residential dwelling/structure and vacant/unused land; and
- (c) to its south is a nullah and unused land zoned “Conversation Area (1)” (“CA(1)”). To its further south across Kam Tin Bypass are residential dwellings/structures, open storage yards and an amenity area within the adjacent “V” zone.

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 ground floor of a 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, 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 Kong Tai 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.
- (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) 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.

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

- (a) His department does not and will not maintain any access (including Kong Tai Road) connecting the Site and Kam Tin Bypass.
- (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) There was no environmental complaint received for the Site in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Nature Conservation

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

- (a) Noting that the Site is located in “V” zone and is disturbed, he has no strong view against the application from nature conservation point of view.
- (b) Nevertheless, there is a retained meander (**Plans A-2 and A-3**) abutting the southern boundary of the Site. Should the application be approved, the applicant shall be reminded to avoid causing disturbance and pollution to the meander. The applicant shall also be reminded to avoid causing damages to trees on GL adjacent to the Site.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission and implementation of drainage proposal should be included in the planning permission.

Fire Safety

9.1.7 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.

District Officer's Comments

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

His office has not received any comment from the locals on the application upon close of consultation and he has no comment 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) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
 - (c) Director of Electrical and Mechanical Services (DEMS);
 - (d) Project Manager/West, Civil Engineering and Development Department (PM(W), CEDD); and
 - (e) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

- 10.1 On 4.1.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 25.1.2019, 12 public comments were received from 11 residents of Seasons Monarch (**Plan A-1**) and an individual (**Appendices III-1 to III-12**).
- 10.2 The residents of Seasons Monarch object the application mainly for the reasons that the car park will affect living environment and generate adverse safety, traffic and environmental impacts including land contamination, air and noise pollution. The individual objects the application mainly for the reasons that the proposed use is an inefficient land use; parking should be accommodated underground, in high rise buildings, stacked facilities or ground floor of village houses; and the application is to legitimize a long-term brownfield operation.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary public vehicle park (excluding container vehicles) at the Site zoned “V”. The planning intention of the “V” zone is to reflect existing recognised 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 proposed use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL of LandsD advised that no Small House application has been approved or under processing at the Site. Also, according to the applicant, the public vehicle park is to serve the locals. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed temporary public vehicle park is considered not incompatible with the surrounding area which is mainly rural in character mixed with residential dwellings/structures, cultivated agriculture land, open storage yards, parking of vehicles, a workshop, an amenity area and vacant/unused land.

- 11.3 Relevant government departments consulted including DEP, C for T, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, approval conditions restricting vehicle type and prohibiting 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. 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 paragraph 12.2 (e) to (j) below.
- 11.4 The Site is subject to two previous planning applications (No. A/DPA/YL-KTN/41 and A/YL-KTN/168) dismissed by the Appeal Board and rejected by the Board on review in 1995 and 2004 respectively. These applications were for different uses from the current application. No similar application has been received in the subject “V” zone.
- 11.5 12 public comments (mostly from the residents of Seasons Monarch) objecting to the application were received during the statutory publication period mainly on the grounds of adverse traffic and environmental impact and inefficient land use. In this regard, the Site is not located in the immediate vicinity of Seasons Monarch (over 100m) (**Plan A-1**) and does not share the same access. DEP and C for T have no adverse comment on the application. Moreover, temporary approval would not jeopardize the long-term planning intention for the Site. 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 has no objection to the proposed 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 22.2.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicles other than private cars 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 only private cars 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 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 22.8.2019;
- (g) in relation to (f) 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 22.11.2019;
- (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 Town Planning Board by 22.8.2019;
- (i) in relation to (h) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.11.2019;
- (j) 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; and
- (k) if any of the above planning conditions (f), (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 IV**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed 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 to justify a departure from the planning intention, even on a temporary basis; and
- (b) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications to proliferate into the V" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

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 plan received on 24.12.2018
Appendix Ia	SI submitted on 31.12.2018 clarifying the operation hours with a revised layout plan
Appendix Ib	FI received on 15.2.2019 clarifying the type of vehicles involved and in response to departmental comments
Appendix II	Previous applications covering the application site
Appendices III-1 to III-12	Public comments received during the statutory publication period
Appendix IV	Advisory clauses

Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2019**