

RNTPC Paper No. A/YL-KTS/818
For Consideration by
the Rural and New Town
Planning Committee
on 22.3.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/818

- Applicant** : Mr. TANG Luen Kwong
- Site** : Lot 452RP (Part) in D.D. 109, Kam Tin, Yuen Long, New Territories
- Site Area** : About 720 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
- Zoning** : “Residential (Group C)” (“R(C)”)
[Maximum plot ratio of 0.8, maximum site coverage of 40% and maximum building height of 4 storeys (12m)]
- Application** : Temporary Car Park (Private Cars and Light Goods Vehicles) 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 car park (private cars and light goods vehicles) for a period of 3 years. The Site is currently used for the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of 2 previous applications (No. A/YL-KTS/622 and 689) for the same use as the current application submitted by the same applicant which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 13.12.2013 and 8.1.2016 for a period of 3 years. All the approval conditions of the last approved application (No. A/YL-KTS/689) have been complied with and the planning permission lapsed on 9.1.2019.

- 1.3 According to the applicant, a total of 25 parking spaces for private cars and light goods vehicles are provided within the Site. The operation hours are between 6:00 a.m. and 10:30 p.m. daily for the use of Tso Tong members free of charge. The Site is accessible from Kam Tin Road. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 Compared with the last approved application (No. A/YL-KTS/689), the current application is the same in terms of applied use, site area and number of parking spaces.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information received on 4.2.2019 (**Appendix I**)
 - (b) Further Information (FI) received on 13.3.2019 in response to departmental comments (**Appendix Ia**)
 - (c) FI received on 18.3.2019 in response to departmental comments (**Appendix Ib**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary information in **Appendices I to Ib**. They can be summarized as follows:

- (a) The Site is subject to previous approved temporary Tso Tong car park (private cars and light goods vehicles). The applicant stated that he did not renew the permission on time and thus had to re-apply.
- (b) The Site is near the Tang's "Tsz Tong". Without sufficient parking space, Tso Tong members would need to park on pavements, thus affecting traffic and pedestrian safety.
- (c) Temporary approval of the application would not frustrate the long-term planning intention of the "R(C)" zone.
- (d) There were no complaints from the neighbor and the development did not generate any nuisances to the surroundings in the past 3 years. Maintenance of the Site is carried out daily to improve hygiene condition.

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

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

4. Background

The Site is currently not subject to any outstanding enforcement case. The use for place for parking of vehicles on the Site may be subject to planning enforcement action.

5. Previous Applications

5.1 The Site is the subject of two previous applications (No. A/YL-KTS/622 and 689) for the same use (i.e. temporary car park for Tso Tong) as the current application submitted by the same applicant which were approved with conditions by the Committee on 13.12.2013 and 8.1.2019 for a period of 3 years. Details of the previous applications are summarized in **Appendix II** and the locations of the application sites are shown on **Plan A-1**.

5.2 These applications were approved for the reasons that temporary approval would not frustrate the long-term planning intention of the “R(C)” zone; not incompatible with the surrounding land uses; no adverse departmental comment; and the technical concern could be addressed by approval conditions. However, the planning permission of Application No. A/YL-KTS/622 was revoked on 13.6.2014 due to non-compliance with approval conditions on drainage, landscape and fire safety aspects. All the approval conditions for Application No. A/YL-KTS/689 have been complied with and the planning permission lapsed on 9.1.2019.

6. Similar Application

There is one similar application (No. A/YL-KTS/223) for proposed temporary public car park use within the same “R(C)” zone. The application was rejected by the Committee on 8.9.2000 on the ground that the site access would be in conflict with the proposed pedestrian crossing and bus bay under the “Kam Tin Bypass” project and undesirable from safety point of view; and there was no information in the submission to demonstrate that the technical issues could be satisfactorily resolved. Details of this application are summarized in **Appendix III** and the location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) paved and currently used for the applied use without valid planning permission; and
- (b) accessible from Kam Tin Road.

7.2 The surrounding areas are rural in character mixed with residential dwellings/structures, some of which with shops on the ground floor, a restaurant, parking of vehicles, open storage/storage yards, workshops, vacant/unused land and fallow agriculture land. The open storage/storage yards and workshops are suspected unauthorized development subject to enforcement action taken by the Planning Authority;

- (a) to the immediate west and east are residential dwellings/structures, some of which with shops on the ground floor, parking of vehicles, a restaurant and car repair workshop;
- (b) to the immediate south and southeast are car beauty workshop and parking of vehicles, and further south are open storage yard and fallow agriculture land; and
- (c) to the north across Kam Tin Road are residential dwellings/structures (some with ground floor shops), open storage/storage yards and workshops.

8. **Planning Intention**

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Town Planning Board (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. The information provided in the application indicates that no structure is proposed within the Site.
- (b) The Site is accessible from Kam Tin 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 the Shek Kong Airfield Height Restriction Area (SKAHRA).
- (d) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office if any structure is to be erected on Site. Such application(s) will be considered by LandsD acting in the capacity of the landlord 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 LandsD.

Traffic

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

- (a) He has no comment on the application from the traffic engineering point of view.
- (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 the Transport Department (TD). The land status of the local access road

should be checked with 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, Highways Department (CHE/NTW, HyD):

- (a) His department does not and will not maintain any access connecting the Site and Kam Tin Road. The applicant should be responsible for his own access arrangement.
- (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 at the Site in the past three years. Should the application be approved, 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 the DEP to minimize any potential environmental nuisance.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Based on the submission in the application, the applicant would maintain the same drainage facilities as those implemented under the previous application No. A/YL-KTS/689.
- (c) Should the application be approved, the approval conditions on the maintenance of the drainage facilities implemented under Application No. A/YL-KTS/689 and submission of records of the existing drainage facilities on Site should be included in the planning permission.

Fire Safety

9.1.6 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 FSIs to be installed should be clearly marked on the layout plans.

Building Matters

9.1.7 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 Site, prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (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 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.
- (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) Regulations (B(P)R) respectively.
- (d) 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.

Water Supply

9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) Existing water mains will be affected as shown on **Plan A-2**. The cost of any necessary diversion shall be borne by the developer.
- (b) In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5 metres from the centerline of the water mains shall be provided to WSD. No structure shall be built or materials stored within this waterworks reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (c) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water mains shown on **Plan A-2**.
- (d) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

District Officer's Comments

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

He has not received any comments from locals upon close of consultation and he has no particular comments on the application.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD));
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 21.2.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.3.2019, a public comment from an individual was received (**Appendix IV**). The commenter objects to the application mainly on the grounds that the applied use is inefficient land use, there is shortage of housing land and the land use stipulated on OZP should be implemented.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary car park (private cars and light goods vehicles) for a period of 3 years within the “R(C)” zone. The planning intention of the “R(C)” is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The applied use is not in line with the planning intention of the “R(C)” zone. Nevertheless, according to the applicant, the applied use is to serve the members of Tso Tong and meet the local parking demand. Also, there is no known program for long-term development at the Site. It is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(C)” zone.
- 11.2 The temporary car park is considered not incompatible with the surrounding areas mixed with residential dwellings/structures, some of which with shops on the ground floor, parking of vehicles, open storage/storage yards, fallow agriculture land and vacant/unused land.
- 11.3 Relevant departments consulted including DEP, C for T, CHE/NTW of HyD, D of FS and CE/MN of DSD have no objection to or adverse comment on the application. To minimize any possible nuisance generated by the applied use, approval conditions restricting the operation hours and vehicle type 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. In addition, the applicant will be advised to adopt the environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by appropriate approval conditions (e) to (i) in paragraph 12.2 below.
- 11.4 The Site is the subject of two previous applications (No. A/YL/KTS/622 and 689) for the same use submitted by the same applicant as the current application which were approved with conditions by the Committee on 13.12.2013 and 8.1.2019 for a period of 3 years for similar reasons as stated in paragraph 5 above.

All the approval conditions for application No. A/YL-KTS/689 have been complied with and the planning permission lapsed on 9.1.2019. Since there is no major change in planning circumstance, sympathetic consideration could be given to the current application.

- 11.5 There is a similar application (No. A/YL-KTS/223) for proposed temporary public car park within the same “R(C)” zone, which was rejected by the Committee in 2000 for the reasons that the site access would be in conflict with the proposed pedestrian crossing and bus bay under the “Kam Tin Bypass” project. The application is different in circumstance of the current application as C for T raised no objection to the vehicular access at the Site.
- 11.6 One objecting comment was received during the statutory publication period as mentioned in paragraph 10 above. In this regard, temporary approval would not jeopardize the long term planning intention. The planning considerations and assessments 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 as mentioned in paragraph 10 above, the Planning Department considers that the temporary car park (private cars and light goods vehicles) 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 22.3.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 10:30 p.m. and 6:00 a.m., as proposed by the applicant, is allowed on the Site 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) 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) 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of records of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.6.2019;
- (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 22.9.2019;
- (i) in relation to (h) 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 22.12.2019;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) 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 (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 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 "R(C)" zone which is intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with supplementary information received on 4.2.2019
Appendix Ia	FI received on 13.3.2019 in response to departmental comments
Appendix Ib	FI received on 18.3.2019 in response to departmental comments
Appendix II	Previous applications covering the Site
Appendix III	Similar application within the same “R(C)” zone on the Kam Tin South OZP
Appendix IV	Public comment received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Similar Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2019**