

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/232

<u>Applicant</u>	: Fleerdee Motor Ltd.
<u>Site</u>	: Lot 1415 in D.D. 114, Kam Sheung Road, Shek Kong, Yuen Long, New Territories
<u>Site Area</u>	: About 2,528 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Public Vehicle Park (excluding container vehicle) 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 public vehicle park (excluding container vehicle) for a period of 3 years. The Site is paved, fenced and mostly vacant, with two empty single-storey temporary structures under a canopy and a container (**Plans A-2 to A-4b**).
- 1.2 The Site was the subject of three previous applications (No. A/YL-SK/80, 91 and 115) for temporary public car/lorry park for a period of 12 months (A/YL-SK/80) and 3 years (A/YL-SK/91) and private car/lorry/truck park for a period of 3 years (A/YL-KTS/115). They were approved with conditions by the Rural and New Town Planning Committee (the Committee) in 1999, 2000 and 2003 respectively.
- 1.3 According to the applicant, a total of 40 parking spaces, including 21 parking spaces for private car/ van and 19 parking spaces for medium/ heavy goods vehicle will be provided at the Site. A kitchen and a toilet (2.5m in height) under the existing canopy and an office and staff restrooms in a converted container (2.6m in height) will be provided on Site (**Drawing A-1**). The total floor area is about 90m². No cleansing, repairing or maintenance activities will be carried out on the Site. The proposed public vehicle park will operate 24 hours daily. The Site

is accessible via a local track connecting to Kam Sheung Road. The layout plan submitted by the applicant is in **Drawing A-1**. The applicant states that the original access road connecting the Site and Kam Sheung Road was closed and replaced by the current road due to the construction of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL). The applicant notes that the access will not be open for public use until the XRL is completed. He will start the proposed development after the access road is open to the public.

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

- (a) Application Form with plans received on 13.11.2017 **(Appendix I)**
- (b) Further Information (FI) received on 19.12.2017 in response to departmental comments **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
- (c) FI received on 9.3.2018 in response to departmental comments **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
- (d) FI received on 26.3.2018 in response to departmental comments **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)
- (e) FI received on 28.3.2018 providing minor clarification **(Appendix Id)**
(accepted and exempted from publication and recounting requirements)
- (f) FI received on 11.4.2018 providing minor clarification **(Appendix Ie)**
(accepted and exempted from publication and recounting requirements)

1.5 As requested by the applicant, the Committee agreed to defer consideration of the application on 12.1.2018 to allow more time for the applicant to prepare FI to address the departmental comments. The applicant submitted FIs providing responses to departmental comments to support the application.

2. Justifications from the Applicant

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

- (a) The applicant has previously obtained planning approvals for vehicle park use. The business was closed in 2002 due to declining rental rate after the economic tsunami and SARS.
- (b) There are insufficient parking spaces in Sheung Tsuen at Kam Sheung Road. With the support and demand from the local residents, the applicant decided to resume the vehicle parking business to serve the residents in nearby areas.
- (c) The application is solely for parking of vehicle use. Only vehicles with valid licences will be allowed to park at the Site.
- (d) The parking spaces will be rented on a monthly basis. It is estimated that the traffic impact of the proposed car park on Kam Sheung Road is minimal.
- (e) During the past operation period, no environmental complaint was received from the residents. The applicant will endeavour to minimize any environment impact and nuisance to nearby residents by restricting unnecessary noise by vehicles between 10pm and early morning.

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

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

4. Background

The Site is not the subject of active enforcement case and there is currently no enforcement action against it. The use of the Site for vehicle park use without a planning permission constitutes an unauthorized development under the Town Planning Ordinance (TPO). Should there be sufficient evidence to prove that the use of Site is an unauthorized development under the TPO, appropriate enforcement action will be taken.

5. Previous Applications

- 5.1 The Site is the subject of 3 previous applications (No. A/YL-KTS/80, 91 and 115) submitted by different applicant as the current application for temporary public car/lorry park for a period of 12 months (A/YL-SK/80) and 3 years (A/YL-SK/91) and private car/lorry/truck park for a period of 3 years (A/YL-KTS/115). They were approved with conditions by the Committee on 16.7.1999, 14.7.2000 and 11.7.2003 respectively. Details are summarized in **Appendix II** and the location is shown on **Plan A-1**.

- 5.2 Application No. A/YL-SK/80 was approved on the considerations that the provision of parking spaces would help satisfy some of the parking demand from local residents in the area noting that there was no public car park in the area to serve the surrounding villages and residential developments; the proposed car park was not incompatible with the surrounding land uses; other concerned departments had no adverse comments on the application and no local objection was received except the Director of Agriculture, Fisheries and Conservation (DAFC) was not in favour of the proposed development on the ground that the site was a good quality agricultural land and fell within an area with active agricultural activities, but in fact the site was a piece of formed land and there were no agricultural activities on site for years.
- 5.3 Application No. A/YL-SK/91 was approved on the grounds that planning approval for the same use had previously been granted and there was no change in the planning circumstances pertaining to the site since then. The applicant had also submitted landscaping and drainage proposals to departments' satisfaction and other concerned departments had no adverse comment on the application.
- 5.4 The last application No. A/YL-SK/115 for private car/lorry/truck with 73 private car parking and 8 lorry parking spaces was approved on similar grounds to the previous two applications that the vehicle park would serve the needs of the local villagers in the area; two previous planning approvals had been granted; condition on drainage had been complied with; other concerned developments had no adverse comment except DAFC and landscape unit of PlanD and no local objection was received; and landscape concerns could be addressed by approval conditions. Sympathetic consideration was given to the application. All approval conditions had been complied with.

6. Similar Application

There is no similar application in the same "AGR" zone.

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

- 7.1 The Site is:
- (a) Paved, fenced and vacant with two empty single-storey temporary structures under a canopy and a container; and
 - (b) accessible via a local track connecting to Kam Sheung Road.
- 7.2 The surrounding areas are rural in character intermixed with open storage yards, a vehicle repair workshop, residential dwellings/structures, a plant nursery, unused/vacant land and the XRL Pat Heung Ventilation Building:
- (a) to its north are open storage yards, residential dwelling/structure and unused land. Kam Sheung Road is located to the further north;

- (b) To its east and northeast are vacant land, residential dwellings/structures, vehicle repair workshop and open storage yard;
- (c) to its west and southwest are some residential dwellings/structure (with the nearest one about 30m away), unused land and a plant nursery; and
- (d) to its south and further south are vacant land and the XRL Pat Heung Ventilation Building (**Plan A-3**).

8. Planning Intention

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) The Site comprises an Old Scheduled Agricultural Lot held under 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 to Kam Sheung Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures 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 the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and

conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

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.
- (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 responsibility of the local access road should be clarified with the relevant lands and maintenance authorized accordingly.

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

- (a) According to his record, there is no run-in connecting Lot No. 1415 in D.D. 114 to the 6.3m wide access road connecting Kam Sheung Road, and the Government land between the subject lot and the above-mentioned access road will be handed back to DLO/YL (or other department) after the completion of the XRL and may need to be fenced off.
- (b) The access road is currently under XRL's jurisdiction (not open to public yet) and would be handed over to LandsD (or other departments). From XRL point of view, the proposed car park should be in operation after handing over of the access.

Environment

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

- (a) There was no environmental complaint received in the past 3 years.
- (b) According to the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage

Sites” (COP), he does not support the application as there are sensitive receivers in the vicinity of the Site (the closest residential dwelling being about 30m to its west) and heavy vehicle is involved, hence environmental nuisance is expected.

- (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest COP issued by the DEP.

Landscape

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The Site is the subject of three previous applications for vehicle parking use (Applications No. A/YL-SK/80, 91 and 115). All previous applications were approved with conditions by the Committee in between 1999 and 2003. Small houses are concentrated at the north within the “Village Type Development” (“V”) zone across Kam Sheung Road, while open storages and active farmlands are found surrounding the Site. The Site is connected to Kam Sheung Road by a driveway at the western site boundary.
- (c) Based on the aerial photos taken on 16.4.2017, the Site is situated in an area of rural landscape character comprising of scattered tree groups, small houses, car parks, open storages and farmlands. Although the proposed use is not in line with the planning intention of “AGR” zone, it is not incompatible to the surrounding environment.
- (d) Referring to the site visit conducted on 1.12.2017, the Site is now vacant land and paved with asphalt. 9 nos of mature trees are found along the southeast and southern boundary within the Site, including 4 nos of *Eucalyptus robusta* (大葉桉), 3 nos of *Paulownia fortune* (泡桐), 1 nos of *Magnifera indica* (杧果) and 1 nos of *Bridelia tomentosa* (土蜜樹). Adverse impact on landscape resources from the proposed development is not anticipated.
- (e) Should the Board approve the application, approval condition on submission and implementation of tree preservation and landscape proposal should be included.

- (f) His detailed comment is at **Appendix III**.

Agriculture

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

- (a) The Site is located within “AGR” zone and possesses high potential for agricultural rehabilitation. The application is not favoured from agriculture point of view.
- (b) There are some trees adjoining the boundary of the Site. Should the application be approved, the applicant is advised to avoid damaging the trees during operation.

Drainage

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

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

Fire Safety

9.1.9 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 the relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plan 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

9.1.10 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 BO.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved 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

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

- (a) He has not received any comment from locals upon close of consultation and he also has no particular comment on the application.

- (b) His office will not take up the ad-hoc maintenance agent of the access road due to the benefit to individual / group of individual.

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 Comment Received During Statutory Publication Period

On 17.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.12.2017, a public comment objecting the application were received from a general public (**Appendix IV**) mainly for the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; no strong planning justification has been given in the submission for a departure from the planning intention; vehicle parking should be accommodated underground or in purpose built high rise facilities and ground floor of village houses; the application is to legitimate an existing brownfield use; and approval would set an undesirable precedent of inappropriate land use.

11. Planning Considerations and Assessments

- 11.1 The proposed temporary public vehicle park (excluding container vehicle) falls within the “AGR” zone which is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed development is not in line with the planning intention and DAFC does not support the application as the Site has high potential for agricultural rehabilitation. However, it is considered that the proposed use is temporary in nature and would not jeopardize and the long-term planning intention of the “AGR” zone.
- 11.2 According to the applicant, the proposed public vehicle is to serve the residents of nearby areas. The proposed development is considered not incompatible with the surrounding land uses which are characterized by open storage yards, vehicle workshop, residential dwellings/structures and unused/vacant land. The Site is the subject of three previous planning applications (No. A/YL-SK/80, 91 and 115) for similar car park uses which were all approved by the Committee in 1999, 2000 and 2003 respectively. Approval of the application is in line with the Committee’s previous decisions.
- 11.3 Relevant departments consulted have no adverse comment or objection to the application except DAFC and DEP. DEP does not support the application as

there are residential dwellings/structures located in the vicinity of the Site (with the nearest about 30m away) (**Plan A-2**) and environmental nuisance is expected. CHE/NTW of HyD commented that the access road connecting the Site and Kam Sheung Road is currently under XRL's jurisdiction (not open to public yet), and the proposed car park should be in operation after handing over of the access to the DLO/YL (or other departments). DLO/YL has no objection to the application but does not guarantee any right-of-way. In this regards, the applicant stated that the proposed car park will be operated after the access road is open to the public.

- 11.4 To address the concern of the DEP on the possible nuisance generated by the proposed temporary use, approval condition prohibiting workshop-related activities are recommended in paragraph 12.2(c). Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. Besides, 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 Temporary Uses and Open Storage Sites" in order to alleviate any potential impact. The technical requests of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (e) to (l).
- 11.5 A public comment objecting the application was received from a general public mainly as stated in paragraph 10 above. In this regard, temporary approval would not frustrate the long-term planning intention. The assessments and considerations above are also relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment in paragraph 10, the Planning Department considers that the temporary public vehicle park (excluding container vehicle) 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 20.4.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) a notice should be posted at a prominent location of the Site to indicate that no container trailers/tractors, 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;

- (c) 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;
- (d) the existing boundary fencing shall be maintained 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 submission of tree preservation and 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 20.10.2018;
- (g) in relation to (f) above, the implementation of tree preservation and 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 20.1.2019;
- (h) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.10.2018;
- (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 20.1.2019;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) the submission of 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 20.10.2018;
- (l) in relation to (k) above, the implementation of fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.1.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e) or (j) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;

- (n) if any of the above planning conditions (f), (g), (h), (i), (k) or (l) 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
- (o) 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:
- (a) the development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good agricultural land for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
 - (b) The applicant fails to demonstrate that the proposed development would not generate environmental nuisance on the surrounding areas.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the renewal application.
- 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 plans received on 13.11.2017
- Appendix Ia** FI received on 19.12.2017 in response to departmental comments

Appendix Ib	FI received on 9.3.2018 in response to departmental comments
Appendix Ic	FI received on 26.3.2018 in response to departmental comments
Appendix Id	FI received on 28.3.2018 providing minor clarification
Appendix Ie	FI received on 11.4.2018 providing minor clarification
Appendix II	Previous s.16 applications covering the application site
Appendix III	Detailed comment of CTP/UD&L of PlanD
Appendix IV	Public comment received during the statutory publication period
Appendix V	Advisory clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2018**