

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-LFS/345

- Applicant** : Mr. MOK Fook Keung represented by Metro Planning and Development Company Limited
- Site** : Lots 2888 RP (Part) & 2889 RP (Part) in D.D. 129, Sha Kong Wai, Yuen Long
- Site Area** : About 2,646 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan & Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Village Type Development” (“V”)
- Application** : Temporary Public Vehicle Park (Private Car and Light Goods 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 (private car and light goods vehicle) for a period of 3 years. The Site falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was involved in one previous application (No. A/YL-LFS/281) for temporary public vehicle park (private car and light goods vehicle) (**Plan A-1**), which was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 22.1.2016. All the approval conditions under the last application had been complied with and the planning permission lapsed on 23.1.2019. Details of the previous application are at paragraph 5 below and **Appendix II**.

1.3 A comparison of the major development parameters of the last approved application and current application is as follows:

Major Development Parameters	Approved Application (A/YL-LFS/281) (a)	Current Application (A/YL-LFS/345) (b)	Difference (b) – (a)
Site area	About 2,646 m ²	About 2,646 m ²	No change
Applied Use	Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles	Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles	No change
No. of parking spaces	42 for private cars and light goods vehicles (5m x 2.5m each)	<ul style="list-style-type: none"> • 45 for private cars (5m x 2.5m each) • 2 for light goods vehicles (7m x 3.5m each) 	+ 5 (+11.9%)
Operation hours	7:00 a.m. to 11:00 p.m. daily (including public holidays)	7:00 a.m. to 11:00 p.m. daily (including public holidays)	No change

1.4 Compared with the last approved application No. A/YL-LFS/281, the current application is submitted by the same applicant for the same use on the same site with more parking spaces (+5 (+11.9%)).

1.5 According to the applicant, the Site is accessible from Man Tak Road via a local track and the ingress/egress point is located at the western boundary of the Site (**Plan A-2** and **Drawing A-3**). The temporary public vehicle park will provide 45 private car parking spaces and 2 light goods vehicle parking spaces (**Drawing A-3**). No vehicles other than private cars and light goods vehicles exceeding 5.5 tonnes will be allowed to enter the Site. The operation hours of the Site are from 7:00 a.m. to 11:00 p.m. daily, including Sundays and public holidays.

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

- (a) Application Form received on 18.6.2019 **(Appendix I)**
- (b) Supplementary Planning Statement including a site plan, location plan with vehicular access, proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement in **Appendix Ia**. They can be summarized as follows:

- (a) The applied use is temporary in nature and would not jeopardize the planning intention of the “V” zone in the long run.

- (b) There is insufficient supply of parking space to meet existing parking demand in Sha Kong Wai.
- (c) The development is compatible with the surrounding environment.
- (d) The applicant has complied with all planning approval conditions imposed on the last approved Application (No. A/YL-LFS/281).
- (e) Similar applications in the “V” zones of the OZP have been approved by the Board.
- (f) The applied use would not generate significant adverse environmental, traffic or drainage impacts.

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 site notice and sending notice to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Application

- 5.1 The Site involves one previous planning application (No. A/YL-LFS/281) for temporary public vehicle park (private car and light goods vehicle), which was approved with conditions by the Committee on 22.1.2016 mainly on the considerations that the proposed development would not jeopardize the long-term planning intention of the “V” zone, the proposed development was not incompatible with the surrounding land uses and there was no adverse comment from relevant Government departments. All the approval conditions had been complied with and the planning permission lapsed on 23.1.2019. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 Compared with the last approved application No. A/YL-LFS/281, the current application is submitted by the same applicant for the same use on the same site with more parking spaces (+5 (+11.9%)).

6. Similar Applications

- 6.1 There are 11 similar applications within the subject “V” zone and straddling the adjoining “Residential (Group C)” (“R(C)”) zone on the OZP (No. A/YL-LFS/53, 73, 84, 94, 139, 145, 170, 309, 310, 319 and 327) for temporary public vehicle

park for various types of vehicles. Details of the applications and the Committee's decisions are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

Approved Applications

- 6.2 Applications No. A/YL-LFS/53, 84, 94, 139, 145 and 170 within the subject "V" zone and adjoining "R(C)" zone for temporary public vehicle park for private cars, light goods vehicles and coaches (not involving medium/heavy goods vehicles or container trailer/tractor) with or without a snack bar were approved by the Committee on 30.6.2000, 10.5.2002, 25.10.2002, 23.12.2005, 3.11.2006 and 4.1.2008 respectively for a period of 1 or 3 years mainly on the considerations that the approval of the application would not frustrate the planning intention of the "R(C)" and "V" zones, the applied use was not incompatible with surrounding uses, there was no adverse comments from the concerned government departments or the technical concerns could be addressed by approval conditions and approval of the application was in line with the Committee's previous decisions. However, amongst these approved applications, five applications (No. A/YL-LFS/53, 84, 139, 145 and 170) were revoked due to non-compliance with the approval conditions regarding the submission and implementation of tree preservation and/or landscaping proposal, the submission and implementation of drainage proposal, the provision of drainage facilities, the provision of fire extinguisher, the provision of fencing, the submission and/or implementation of noise mitigation proposals and sewage treatment and disposal proposal or parking/storage of medium goods vehicle/heavy goods vehicle/construction vehicle/container vehicle on the concerned site during the approval period.
- 6.3 Applications No. A/YL-LFS/309, 310, 319 and 327 within the subject "V" zone for temporary public vehicle park for private cars and light goods vehicles were approved with conditions by the Committee on 6.4.2018, 6.4.2018, 6.7.2018 and 5.10.2018 respectively for a period of 3 years mainly on the considerations that temporary approval would not jeopardize the long-term planning intention of the "V" zone, the development was not incompatible with the surrounding land uses and there was no adverse comment from relevant government departments.

Rejected Application

- 6.4 Application No. A/YL-LFS/73 covering the same site for the same use as the 6 applications mentioned in paragraph 6.2 was rejected by the Committee on 16.11.2001 mainly on the grounds that, inter alia, no information was submitted to demonstrate that the development would not have adverse drainage, sewerage and noise impacts on the surrounding area.

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

7.1 The Site is:

- (a) currently occupied by the applied use without valid planning permission and fenced off; and
- (b) accessible from Man Tak Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to the west are a vacant school and small houses, and to the northwest are small houses and vacant land;
- (b) to the northwest are carparks, small houses, an orchard, vacant land and a pond; and
- (c) to the east, south and southeast are small houses and vacant land.

8. 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.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots 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 Man Tak Road through Government Land (GL) and private lots. Her 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 the planning application be approved, the lot owners will need to apply to her 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 the 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 the LandsD.

- (e) There is no Small House application received or approved at the Site. In its vicinity (within 30m), 5 Small House applications have been approved, and 15 Small House applications are currently under processing.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under the Transport Department's (TD) purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Man Tak Road.

Environment

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

- (a) There is no substantiated environmental complaint concerning the Site received over the past 3 years for the applied use.
- (b) 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 Environmental Aspects of Open Storage and Temporary Uses" ("COP").

Landscape

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

- (a) With reference to the site records and aerial photo of 2018, the applied use is already in operation. In view that the landscape proposal was implemented and accepted in previous planning application No. A/YL-LFS/281, significant change to the landscape character arising from the continued use of the application is not envisaged.
- (b) The applicant is advised that approval of the section 16 application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority / government department(s) direct to obtain the necessary approval on tree works.
- (c) It is recommended to impose a planning approval condition to maintain all existing trees within the Site in good condition for the duration of the planning approval period should the application be approved by the Board.

Drainage

9.1.6 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 point of view.
- (b) According to the applicant's submission, the existing drainage facilities which were implemented under an approved application No. A/YL-LFS/281 will be maintained for the proposed development.
- (c) Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his department.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) It is noted from the survey plan of the application that there are some existing structures within the Site. However, there is no proposed building/structure in the layout plan for the application.

Though the current use(s) of the Site as revealed in the application is temporary public vehicle park for private car and light goods vehicle, it is unknown whether demolition works of existing building/ structures would be involved.

- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO).
- (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) Before any demolition works are to be carried out on the Site, prior approval and consent of the BD should be obtained. An Authorized Person (AP) should be appointed as the co-ordinator for any demolition works in accordance with the BO. Should the AP/Registered Structural Engineer (RSE) confirm the works fall into the Minor Works Control System (MWCS), then the applicant may proceed with the works under the MWCS. For details of the submission procedure under the MWCS, the applicant is advised to visit BD's website at www.bd.gov.hk.

Fire Safety

9.1.8 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 the satisfaction of D of FS.
- (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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans.
- (d) If the proposed structure(s) is required to comply with the Buildings Ordinance (cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Others

9.1.9 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) Proper license / permit issued by FEHD is required if there is any catering service / activities regulated by the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.
- (c) For any waste generated from such activity / operation, the applicant should arrange disposal properly at their own expenses.

District Officer's Comment

9.1.10 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD).
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Commissioner of Police (C of P); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comment Received During Statutory Publication Period

On 25.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 16.7.2019, no public comment was received.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary public vehicle park (private car and light goods vehicle) in the "V" zone of Sha Kong Wai. The applied use is not entirely in line with the planning intention of "V" zone which is primarily intended for development of Small Houses by indigenous villagers. Nonetheless, DLO/YL of LandsD advises that there is no Small House application approved or under processing within the Site at present. As such, temporary approval for 3

years of the application would not jeopardize the long-term planning intention of the “V” zone.

- 11.2 The Site is located at the southern part of the village clusters of Sha Kong Wai. The applied use is not incompatible with the surrounding land uses which mainly comprise rural residential dwellings and vacant land (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned Government departments, including DEP, C for T and CE/MN of DSD. The applied use will unlikely create significant adverse environmental, traffic and drainage impacts to the surrounding area. To minimize any possible environmental impacts and nuisance on the surrounding developments, and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 12.2 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. Should the planning application be approved, the applicant will be advised to follow the latest “COP” in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Committee has granted a planning approval to the Site (Application No. A/YL-LFS/281) for the same use in 2016 and also approved ten similar applications for public vehicle park use within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There is no public comment received on the application during the statutory publication period.

12. **Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department has no objection to the temporary public vehicle park (private cars and light goods vehicles) for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **16.8.2022**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation from 11:00 p.m. to 7:00 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 Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site during the planning approval period;
- (c) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;

- (d) a notice shall be posted at a prominent location of the Site to indicate that no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, is allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (e) no vehicle repairing, dismantling, car beauty, car washing and workshop use, as proposed by the applicant, is allowed on the Site at all times during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public roads at all times during the planning approval period;
- (g) the existing fencing of the Site shall be maintained at all times during the planning approval period;
- (h) the existing trees and landscape planting within the Site shall be maintained in good condition at all times during the planning approval period;
- (i) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (j) the submission of a condition record 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 **16.11.2019**;
- (k) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **16.2.2020**;
- (l) in relation to (k) above, the implementation of the 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 **16.5.2020**;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (i) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (n) if any of the above planning conditions (j), (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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

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

The applied use is not in line with the planning intention of the “V” zone, which is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 18.6.2019
Appendix Ia	Supplementary Planning Statement including a site plan, location plan with vehicular access, proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan
Appendix II	Previous Application Covering the Site
Appendix III	Similar Applications Within the Same “V” Zone on the Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/9
Appendix IV	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Location Plan with Vehicular Access
Drawing A-3	Proposed Layout Plan
Drawing A-4	Proposed Landscape and Tree Preservation Plan
Drawing A-5	As-built Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2019**