

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

**APPLICATION NO. A/TM-LTY Y/379**

- Applicant** : Able Creation Management Limited represented by New Creation Consultant Engineering Company Limited
- Site** : Lots 1156 RP (Part), 1157 (Part) and 1158 (Part) in D.D.130 and Adjoining Government Land, Wong Kong Wai Road, Lam Tei, Tuen Mun, New Territories
- Site Area** : About 763 m<sup>2</sup> (including Government Land of about 41 m<sup>2</sup> (about 5.37%))
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTY Y/10
- Zoning** : “Residential (Group C)” (“R(C)”)  
[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m) including car park]
- Application** : Temporary Public Vehicle Park (Private Cars Only) with Ancillary Office 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 cars only) with ancillary office for a period of 3 years (**Plan A-1**). The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the Notes for the “R(C)” zone on the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for a period of 3 years. The Site is not related to any previous application.
- 1.3 The major development parameters of the current application are as follows:

Site area	About 763 m <sup>2</sup>
Non-domestic gross floor area (GFA)	About 30 m <sup>2</sup>

No. of structures	2 (1 ancillary office and 1 portable toilet)
Maximum height of structures	1 storey (4.5m)
No. of Parking Spaces	19 (5m x 2.5m, for private cars)
Operation hours	7:00 a.m. to 11:00 p.m. daily (including Sundays and public holidays)

- 1.4 According to the Applicant, the Site is accessible from Wong Kong Wai Road. Only private cars would be allowed to enter/be parked in the temporary public vehicle park under application. No vehicle repair, dismantling, car beauty, car washing and workshop use will be carried out at the Site. Application No. A/TM-LTY Y/380 (**Plans A-1 and A-2**) for proposed temporary shop and services (pet supplies and food shop) for a period of 3 years to be considered at the same meeting submitted by the same applicant will share the same access of this application.
- 1.5 The site plan, the proposed layout plan, the proposed stormwater drainage plan and the landscape proposal are at **Drawings A-1 to A-4** respectively.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on **(Appendix I)** 30.7.2019
  - (b) Further information (FI) providing clarification on the trip generation rates and trip attractions from/to the Site received on 18.10.2019  
*(accepted and exempted from publication and recounting requirements)*
  - (c) FI providing clarification on the operation received on **(Appendix Ib)** 27.11.2019  
*(accepted and exempted from publication and recounting requirements)*
- 1.7 The application was originally scheduled for the consideration by the Rural and New Town Planning Committee (the Committee) of the Board on 20.9.2019. On 20.9.2019, the Committee agreed to defer a decision on the application for two month as requested by the applicant. On 18.10.2019, further information was received. Therefore, the application is scheduled for consideration by the Committee at this meeting.

## 2. **Justifications from the Applicant**

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

- (a) The Site is at the opposite of a pet garden. A great number of vehicles parked on the roadside and footpaths along Wong Kong Wai Road during evenings and public holidays, which in turn created inconvenience to the road users and pedestrians.

- (b) There is no planned use for the Site. According to the Notes for the “R(C)” zone on the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use. The proposed use is in line with the planning intention.

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

For the private land portion of the Site, 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 sending a registered mail to the Tuen Mun Rural Committee and by posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

### 4. **Background**

The Site was the subject of a planning enforcement case against unauthorised development (UDs) involving use for place for parking of vehicles and use for shop and services (i.e. car washing). An Enforcement Notice was issued on 28.1.2019. On 30.8.2019, the Planning Authority issued a Compliance Notice to the owner of the subject lots after discontinuance of the UD. Nevertheless, site inspection on 27.11.2019 reveals that the Site is used once again for parking of vehicles which would be subject to planning enforcement action.

### 5. **Previous Application**

There is no previous application covering the Site.

### 6. **Similar Application**

There is no similar application within the same “R(C)” zone on the OZP.

### 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 Wong Kong Wai Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to the east and southeast are warehouses and godowns which are suspected unauthorised developments (UDs);
- (b) to the south and southwest are Wong Kong Wai Road, Kong Sham Western Highway, beneath is Lam Tei Pet Garden and an open storage yard which is a suspected UD (**Plan A-2**); and
- (c) to the west, northwest and north are amenity areas, residential dwellings, vacant land and storage/open storage yards which are suspected UD.

## **8. Planning Intention**

The “R(C)” zone 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.

## **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/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site falls within Lots Nos 1156 RP (Part), 1157 (Part) and 1158 all in D.D. 130 (“the Lots”) and adjoining GL. The Lots are 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) Site inspection revealed that unauthorised structures for ancillary office and portable toilet were erected on the subject site including the Lots and the adjoining GL on the south-western side. No permission has been given for the erection of the structures nor has any permission been given for the occupation of the GL concerned. The layout of existing structures does not entirely tally with the proposal.
- (c) The Site is accessible via a strip of GL leading from the Wong Kong Wai Road. His office does not carry out maintenance works for the said road nor guarantee that right-of-way will be given to the Site.
- (d) The applicant should be reminded that if there is any GL involved in the proposed drainage works, he is required to seek prior approval from his office before commencement of any drainage works on the GL if the drainage proposal is acceptable to Drainage Services Department (DSD). His office will not provide maintenance works to the concrete pipe and manhole.
- (e) If planning permission is given by the Board, the lot owner is required to submit a formal application to his office for a Short Term Waiver to permit erection of the proposed structures on the Lots. However, there is no guarantee that the application will be approved and he reserves his right to take any action as may be appropriate. The application will be considered by Lands Department acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, deposit and administration fee etc.

- (f) Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations of the structures affected irrespective of whether planning permission will be given or not. Enforcement action will also be taken should any structures are found erected without any prior approval given by his office or any unauthorized occupation of GL.

### **Traffic**

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

He has no comment on the application from the traffic engineering viewpoints.

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

- (a) The proposed access arrangement of the Site from Wong Kong Wai Road should be commented and approved by the Transport Department (TD);
- (b) If the access arrangement is agreed by TD, the applicant should construct a run in/out at the access point at Wong Kong Wai Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement;
- (c) The proposed access from the Site to Wong Kong Wei Road is not and will not be maintained by HyD;
- (d) 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) Should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimise potential environmental impacts on the surrounding environment.
- (b) Sewage arising from the subject site should be directed to nearby public sewer. If septic tank and soakaway system is used in case of unavailability of public sewer, its design and construction should follow the requirements of the ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person (AP).
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

## **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 application from public drainage point of view.
- (b) Should the application be approved, a condition should be included to request the applicant to submit, implement and maintain a drainage proposal for the site to ensure that it will not cause adverse drainage impact to the adjacent area .
- (c) In regards to the proposed drainage proposal, the applicant should note his below comments:
  - (i) The applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website ([https://www.dsd.gov.hk/EN/Technical\\_Documents/DSD\\_Guidelines/index.html](https://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html)).
  - (ii) Based on his observation during an inspection on 19 August 2019, the existing 225 mm u-channel as specified in the applicant’s submitted drainage proposal could not be found. Please clarify.
  - (iii) Presumably it is the intent of applicant to make drainage connection to existing drainage channel adjacent to the proposed site. According to his record, the existing channel is not maintained by DSD. In this regard the applicant should be reminded to consult the relevant authorities/lot owners as appropriate.
  - (iv) Details of the proposed u-channel and catchpits and how it would be connected to the existing drainage system should be clarified and clearly shown on the drawing.
  - (v) Peripheral drainage channels should be provided to intercept the surface runoff from the uphill catchment so as to avoid the Site from overland flow influence. Please review.
  - (vi) The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works.
  - (vii) The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system.

- (viii) The proposed works should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas
- (d) There is currently no existing public sewerage facilities available for connection at the Site. In this regard, Environmental Protection Department, the planning authority of sewerage infrastructure, should be consulted on the sewage treatment/disposal arrangement.

### **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. In addition, the applicant should also be advised on the following points:
  - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) However the applicant is reminded that 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.

### **Landscape**

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

With reference to the site photographs, the Site is completely hard paved and with some portions blanketed with artificial turf. The Site is in an area of rural fringe landscape character composed of open storage yards, temporary structures and village houses. Significant change to the landscape character arising from the application is not envisaged.

### **Nature Conservation**

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

The Site falls within “R(C)” zone. According to his site visit in January 2019, the Site is largely paved with several individuals of trees at the boundary of the Site. Noting that the proposed development would not involve felling or damage of trees (Section 8 of the application form), he has no strong views on the application from nature conservation perspective.

### **Building Matters**

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) His comments under the Buildings Ordinance on the application are as follows:
  - (i) If the existing structures are erected on leased land without approval of the BA (not being a New Territories Exempted House (NTEH)), they are unauthorised under the BO and should not be designated for any approved use under the application.
  - (ii) 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 BA should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
  - (iii) For UBW erected on lease land, enforcement action may be taken by the BA 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.
  - (iv) 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 Building (Planning) Regulation at the building plan submission stage.
  - (v) 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 respectively.

### **Others**

9.1.10 Comments of the Chief Town Planner/Housing and Office Land Supply, Planning Department (CTP/HOLS, PlanD) and the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

The Site falls within the Study Area of the on-going Preliminary Land Use Study for Lam Tei Quarry and the Adjoining Areas (the Study) jointly commissioned by CEDD and PlanD. They have no specific comment on the application as far as the Study is concerned.



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

If the proposal involves any commercial/trading activities, its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

**District Officer's Comments**

9.1.12 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

He has distributed consultation letters to the concerned locals and understand that they will provide their comments (if any) to the Board direct.

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

- (a) Director of Leisure and Cultural Services (DLCS);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO); and
- (e) Commissioner of Police (C of P).

**10. Public Comment Received During Statutory Publication Period**

On 6.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.8.2019, 5 public comments were received. A member of the Tuen Mun District Council supported the application without giving specific reason (**Appendix II-1**). 2 individuals supported the application on the ground that there is no metered parking space nearby (**Appendices II-2 to II-3**). A group of Lam Tei residents and an individual object to the application on the grounds adverse impacts on air quality and traffic safety and suggested that the Site should be used for community hall; and the application should be rejected in order to encourage site owner to amalgamate lots with others and commence development of residences in line with the zoning intention (**Appendices II-4 and II-5**).

**11. Planning Considerations and Assessments**

11.1 The subject application is for temporary public vehicle park (private cars only) with ancillary office for a period of 3 years at a site zoned "R(C)" on the OZP. The "R(C)" zone 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. Whilst the proposed development is not entirely in line with the planning intention of the "R(C)" zone, there is currently no development proposal to implement the zoned use of the Site. The proposed development could also provide car parking spaces to serve any such demand in the area. Approval of the application on a temporary basis would not jeopardise the long-term planning intention of the zone.

11.2 The Site, locating at the southern fringe of the "R(C)" zone and abutting Wong Kong Wai Road, is mainly surrounded by warehouses, and residential dwellings to its north and east and amenity area and pet garden to its west. The development is considered not incompatible with the surrounding land uses.

- 11.3 Relevant government departments, including C for T, CE/MN of DSD, CTP/UD&L of PlanD and DEP have no objection to or no adverse comments on the application. The proposed development will unlikely create significant adverse traffic, drainage, landscape and environmental impacts on the surrounding areas. There has been no environmental complaint concerning the Site received in the past 3 years. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate 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 Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 Regarding the public comments, the planning considerations and assessments in paragraphs 11.1 to 11.3 above are relevant.

## 12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 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 13.12.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars as defined in the Road Traffic Ordinance and its subsidiary regulations, as proposed by the applicant, are allowed to enter/be parked on the site at all times during the planning approval period;
- (c) a notice shall be posted at a prominent location of the Site at all times to indicate that only private cars as defined in the Road Traffic Ordinance and its subsidiary regulations are allowed to enter/be parked on the site during the planning approval period;
- (d) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;

- (e) the submission of a run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 13.6.2020;
- (f) in relation to (e) above, the implementation of run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 13.9.2020;
- (g) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.6.2020;
- (h) in relation to (g) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.9.2020;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.6.2020;
- (k) in relation to (j) above, the implementation of the 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 13.9.2020;
- (l) if any of the above planning conditions (a), (b), (c), (d), or (i) 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
- (m) if any of the above planning conditions (e), (f), (g), (h), (j) or (k) 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 at **Appendix III**.

- 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 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. 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 reason(s) for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 30.7.2019
<b>Appendix Ia</b>	Further information providing clarification on the trip generation rates and trip attractions from/to the Site received on 18.10.2019
<b>Appendix Ib</b>	Further Information providing clarification on the operation received on 27.11.2019
<b>Appendices II-1 to II-5</b>	Public Comments received during statutory publication period
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Stormwater Drainage Plan
<b>Drawing A-4</b>	Landscape Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2019**