

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/339

- Applicant** : Ms. Tong Wing Wah represented by Metro Planning and Development Company Limited
- Site** : Lots No. 2858 S.A ss.1 (Part) and 2858 S.A RP in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long
- Site Area** : About 2,400 m² (including about 164 m² of Government Land (GL))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- 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 carpark]
- Application** : Proposed Temporary Public Vehicle Park for 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 proposed temporary public vehicle park for private cars and light goods vehicles for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “R(C)”. According to the Notes of the OZP for “R(C)” zone, ‘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 currently vacant and hard-paved.
- 1.2. The Site involves 11 previous planning applications (Applications No. A/YL-LFS/3, 17, 23, 53, 73, 84, 94, 139, 145, 170 and 199). The last application (No. A/YL-LFS/199) for temporary public car parking for private car and light goods vehicle for a period of 3 years was rejected by the Rural and New Town Planning Committee (the Committee) on 15.1.2010 (**Plan A-1**). Compared with the last application, the current application is submitted by a different applicant for the same use on the same site with similar development parameters. Details of the previous applications are at paragraph 5 and **Appendix II**.

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

Major Development Parameters	Last Application (No. A/YL-LFS/199) (a)	Current Application (No. A/YL-LFS/339) (b)	Difference (b)-(a)
Applied Use	Temporary Public Car Parking for Private Car and Light Goods Vehicles for a Period of 3 Years	Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles for a Period of 3 Years	-
Site Area	About 2,360 m ² (including about 220 m ² of GL)	About 2,400m ² (including about 164m ² of GL)	+40m ² (+1.7%)
Total floor Area	About 20m ² (Non-domestic)	About 20 m ² (Non-domestic)	-
No. and Height of Structures	1 converted container for site office and guard room (1 storey)	1 structure for site office and toilet (1 storey)	Similar uses
Parking Spaces	34 for private cars and light goods vehicles	42 for private cars, 4 for light goods vehicles	+12 parking spaces (+35.3%)
Operation Hours	7:00a.m. to 9:30p.m. daily (including public holidays)	7:00a.m. to 11:00p.m. daily (including public holidays)	Different operation hours

1.4 The Site is accessible from Tin Wah Road via a local track (**Plan A-2**). The ingress/egress point is located at the southern boundary of the Site (**Drawing A-3 and Plan A-2**). As shown on **Drawing A-3**, 1 one-storey temporary structure not exceeding 3.5m in height with a total floor area of 20m² for site office and toilet, 42 parking spaces for private car and 4 parking spaces for light goods vehicle are proposed on the Site. According to the applicant, no vehicle exceeding 5.5 tonnes including medium goods vehicle, heavy goods vehicle, container trailer/tractor will be allowed to enter/park at the Site. Vehicles without valid licences under the Road Traffic Ordinance will not be permitted to park at the Site. No vehicle repairing, dismantling, car beauty, car washing and workshop use will be carried out at the Site. The operation hours of the Site are from 7:00a.m. to 11:00p.m. daily.

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

- (a) Application Form received on 22.3.2019 **(Appendix I)**
- (b) Supplementary Planning Statement including a site plan, vehicular access plan, proposed layout plan, proposed tree preservation plan and as-built drainage plan **(Appendix Ia)**
- (c) Letter dated 9.5.2019 clarifying the pedestrian access [accepted and exempted from publication and recounting requirements] **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at

Appendices I to Ib. They are summarized as follows:

- (a) The applied use is in line with the planning intention of “R(C)” zone to serve the daily need of the residents. The Site is situated adjoining Sha Kong Wai and is intended for parking of private cars and light goods vehicles to address the acute parking demand of the residents and their visitors.
- (b) The Site is currently hard-paved and fenced off. To its northeast, there is a similar public vehicle park with planning permission. To its south are open storage yards and port back-up activities. So the applied use is compatible with the surrounding land uses.
- (c) The applied use would not generate significant amount of traffic flow since the scale is limited.
- (d) The applied use would not generate significant environmental or noise disturbance to the surrounding environment and residents in the area. Any potential impacts could be addressed by mitigation measures.
- (e) The applicant will maintain the existing drainage facilities at the Site. The drainage channel surrounding the Site for collecting the surface runoff generated by the proposed development will be cleaned on regular basis.

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

4. Background

The Site is not subject to any active enforcement action. Yet, the Site involved two expired enforcement actions for alleged unauthorized development (UD) for parking of vehicles in 2009 and 2018. Enforcement Notices were issued on 20.8.2009 and 8.2.2018, Compliance Notices were issued on 7.10.2010 and 5.12.2018 respectively.

5. Previous Applications

5.1 The Site is the subject of 11 previous applications (No. A/YL-LFS/3, 17, 23, 53, 73, 84, 94, 139, 145, 170 and 199) submitted by different applicants for various temporary public vehicle park uses. Details of these applications and the Committee’s decision are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

Approved Applications

- 5.2 6 of these applications (No. A/YL-LFS/53, 84, 94, 139, 145 and 170) covering the Site and the land at its southwest in a larger site context 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 mainly on the considerations that the approval of the application would not frustrate the planning intention of the “R(C)” and “Village Type Development” (“V”) zones, the applied use was not incompatible with the 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, 5 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.

Rejected Applications

- 5.3 5 of these applications (No. A/YL-LFS/3, 17, 23, 73 and 199) were rejected by the Committee/the Board on review. Application No. A/YL-LFS/73 covering the same site for the same use as the 6 applications mentioned in paragraph 5.2 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.
- 5.4 Applications No. A/YL-LFS/3, 17 and 23 covering different site contexts for temporary public vehicle park for lorries/container trailer and tractor were rejected by the Committee/the Board on review between 1995 and 1998 mainly on the grounds of not being in line with the planning intention of “R(C)” zone, not compatible with the surrounding development, insufficient information to demonstrate that the development would not have adverse environmental/noise, drainage, traffic impacts on the surrounding areas as well as setting undesirable precedent for similar applications in the area.
- 5.5 The last application No. A/YL-LFS/199 covering the same site for temporary public car parking for private car and light goods vehicle was rejected by the Committee on 15.1.2010 mainly on the grounds that the applied use would have adverse environmental impacts and the applicant had not demonstrated any intention to comply with the approval conditions as the Site involved five previously revoked planning permissions due to non-compliance with the approval conditions and parking of medium goods vehicles and coaches was observed at the Site. Comparing with the last application No. A/YL-LFS/199, the current application is submitted by the different applicant for the same use on the same site

with similar development parameters (i.e. increase in 12 parking spaces).

6. Similar Applications

- 6.1. Within the same “R(C)” zone, there are 7 similar applications (Applications No. A/YL-LFS/93, 113, 151, 195, 245, 284 and 333) for public vehicle park use. Details of the applications and the Committee’s decision are summarized at **Appendix III** while the locations are shown on **Plan A-1**.
- 6.2. All of these similar applications for temporary public vehicle park for private cars, light goods vehicles and/or medium goods vehicles were approved by the Committee/the Board on review from 2002 to 2019 mainly on the considerations that the applied use was not incompatible with the surrounding uses, approval of the applications on a temporary basis would not frustrate the planning intention of the “R(C)” zone and there were no adverse comments from the concerned Government departments. Amongst these approved applications, 2 of which (Applications No. A/YL-LFS/93 and 284) were subsequently revoked due to non-compliance with approval conditions regarding the parking of heavy goods vehicles at the concerned site and the implementation of landscape and tree preservation proposal.

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

- 7.1. The Site is:
 - (a) currently hard-paved and vacant; and
 - (b) accessible from Tin Wah Road via a local track.
- 7.2. The surrounding areas have the following characteristics (**Plans A-2 and A-3**):
 - (a) to its immediate northeast within the same “R(C)” zone is a public vehicle park under valid planning permission (Application No. A/YL-LFS/333) and parking of vehicles and trailers;
 - (b) to its immediate northwest within the “V” zone are residential dwellings (the closest residential dwelling is about 38m away) in Sha Kong Wai Tsai and vacant land; and
 - (c) to its immediate south, southwest and east within the same “R(C)” zone are vacant land.

8. Planning Intention

The planning intention of the “R(C)” zone is for low-rise, low-density residential development 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/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 from her office.
- (b) No permission is given for occupation of GL of about 164m² in area included at the Site. The act of occupation of GL without prior approval from her office is not allowed.
- (c) The Site is accessible from Tin Wah Road through GL. Her office provides no maintenance works for the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the lot owner(s) 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. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. 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(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 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 Transport Department (TD)'s 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 Tin Wah Road.

Environment

9.1.4. Comment of the Director of Environmental Protection (DEP):

- (a) No environmental complaint pertaining to the Site has been received in the past three years.
- (b) He has no adverse comment on the application. According to the submitted information, heavy vehicles and dusty operation are not expected on the Site.
- (c) 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" ("COP").

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 drainage point of view.
- (b) 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.

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 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 to be installed should be clearly marked on the layout plans.
- (d) 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.

Landscaping

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

- (a) In consideration of other approved applications for temporary public vehicle park use, significant change to the landscape character arising from the application is not envisaged.
- (b) It should be reminded that approval of the application by the Board does not imply the approval of tree works (such as felling/transplanting or pruning) and/or requirements under lease. Tree works applications should be submitted direct to DLO for approval.
- (c) In consideration that there are existing trees generally along the site boundary, the condition to maintain all existing trees in good condition for the duration of the approval period is considered adequate and appropriate should the application be approved by the Board.

Building Matters

9.1.8. 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 and land filling) are to be carried out on the Site, 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 Building Ordinance (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 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 Building (Planning) Regulations at the building plan submission stage.

Others

9.1.9. Comments of the Director of Food, Environment and 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) For any waste generated from such work/operation, the applicant should arrange disposal properly at her own expenses.
- (c) Proper licence/permit issued by FEHD is required if there is any catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

District Officer's Comments

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

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

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

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

10. Public Comment Received During Statutory Publication Period

On 29.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 19.4.2019, one public comment was received from an individual objecting to the application as the applied use will create inefficient use of land resources and the existing car parking facility nearby is sufficient to meet the local demand (**Appendix IV**).

11. Planning Considerations and Assessments

- 11.1. The application is for proposed temporary public vehicle park for private cars and light goods vehicles for a period of 3 years. The Site falls within “R(C)” zone, which is intended for low-rise, low-density residential development where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Whilst the development is not entirely in line with the planning intention of the “R(C)” zone, the public vehicle park could provide parking spaces to serve any such demand in the area. Therefore, approval of the application on a temporary basis for 3 years would not jeopardise the long term planning intention of the “R(C)” zone.
- 11.2. The proposed development is considered not incompatible with the surrounding land uses which mainly comprise rural residential dwellings, public vehicle park 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 proposed development 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 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 “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 11.4. Given that 6 previous approvals for public vehicle park use have been granted to the Site and 7 similar applications have been approved in the same “R(C)” zone, particularly the adjoining public vehicle park (Application No. A/YL-LFS/333) on the immediate northeast of the Site was approved on 1.2.2019, approval of the current application is considered in line with the Committee’s previous decisions. Although 5 out of 6 of the previous planning approvals were revoked due to non-compliance of approval conditions, these previous applications were submitted by other individuals different from the current applicant. Besides, it is observed that the Site is currently vacant (**Plan A-4**) and the public vehicle park use at the Site has ceased operation, comparing with parking of medium goods vehicles and coaches was observed at the time of the last application No. A/YL-LFS/199 in 2010. Moreover, the applicant has submitted proposals including tree preservation plan and as-built drainage plan that relevant departments such as CTP/UD&L, PlanD and CE/MN, DSD have no objection

to the applied use. In view of this, sympathetic consideration may be given to the application.

- 11.5. There is 1 public comment received from the public (**Appendix IV**) objecting to the application on the grounds as summarized in paragraph 10 above. The planning considerations and assessments in the above paragraphs are relevant.

12. Planning Department's Views

- 12.1. Based on the assessment made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10, 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 **17.5.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 11:00pm to 7:00am, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle repairing, dismantling, car beauty, car washing and other workshop uses, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (c) no vehicle exceeding 5.5 tonnes, including medium goods vehicles, heavy goods vehicles, container trailer/tractor, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site at any time during the planning approval period;
- (d) no vehicle without valid licence issued under the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public roads at any time during the planning approval period;
- (f) the existing drainage facilities on-site shall be maintained at all times during the planning approval period;
- (g) 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 **17.8.2019**;
- (h) all the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;

- (i) 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 **17.11.2019**;
- (j) in relation to (i) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **17.2.2020**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (h) 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
- (l) if any of the above planning conditions (g), (i) or (j) is not complied with by the above 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 entirely in line with the planning intention of the "R(C)" zone which is intended for low-rise, low-density residential development where commercial uses serving the residential neighbourhood may be permitted on application to the Town Planning Board.

13. Decision Sought

- 13.1. The Committee is invited to consider the application and decide whether to grant or refuse to grant the planning 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
Appendix Ia

Application Form received on 22.3.2019
Supplementary Planning Statement including a site plan, vehicular access plan, proposed layout plan, proposed tree preservation plan and as-built drainage plan

Appendix Ib

Letter dated 9.5.2019 clarifying the pedestrian access

Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within the “R(C)” Zone
Appendix IV	Public Comment
Appendix V	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Proposed Layout Plan
Drawing A-4	Proposed Tree Preservation Plan
Drawing A-5	As-built Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2019**