

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/433

- Applicant** : Mr FAN Wai Ping
- Site** : In Keen Garden Phase II, Kiu Hing Road, Yuen Long, New Territories (Lots 3049 and 3050 in D.D.120)
- Site Area** : 1,525 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Private Car Vehicle Park and Temporary Private Residential Estate Guard House 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 private car vehicle park and temporary private residential estate guard house for a period of 3 years. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years within the zones requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently used for the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**). The Site is not subject to any previous application.
- 1.2 Major development parameters of the application are summarized below:

Site Area	About 1,525m ²
Total Floor Area (Non-domestic)	94.04m ²
No. of Structures and Height of Structures	5 (for covered parking spaces (not exceeding 2m, 1 storey), management office (not exceeding 2.1m, 1 storey), refuse collection point (not exceeding 1.8m, 1

	storey), storage (not exceeding 2m, 1 storey) and toilet (not exceeding 1m, 1 storey) uses)
Parking Spaces	52 nos. private car parking spaces (37 nos. open-air car parking spaces for residents, 5 nos. covered car parking spaces for residents and 10 nos. open-air car parking spaces for visitors)
Operation Hours	24 hours daily

- 1.3 The Site is accessible from Kiu Hing Road via an ingress/egress to its west (**Plan A-2**). According to the applicant, the vehicle park serves the residents (and their visitors) of In Keen Garden Phase II, which is a residential development consisting of 39 Small Houses (with 117 flats) (**Plan A-3**). A site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information (**Appendix I**) received on 12.6.2018
 - (b) Further Information received on 23.7.2018 confirming that the vehicle park is restricted for residents (and their visitors) to park their private cars, no goods vehicles are allowed to be parked on site, and a notice will be posted at the entrance/exit of the Site notifying the vehicle park is restricted for private use only (**Appendix Ia**)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Section 9 of the Application Form and the supplementary information at **Appendix I** and the further information at **Appendix Ia**. They can be summarized as follows:

- (a) In Keen Garden Phase II, which is a private residential development comprising Small Houses, was developed by indigenous villagers in the 1990s. Since then, there were parking of vehicles on the Site. The Site is the only access to the said development.
- (b) In view of the increasing number of private car users and the resulting conflict on vehicle parking, the applicant set up a company in 2014 to better manage car parking at the Site.
- (c) Only private cars are allowed to be parked on site and the parking spaces are only for residents' use. Sufficient width for the ingress/egress (6m) has been provided.
- (d) The Site is well-equipped with lightings, CCTV security system, an electric gate, road signage, as well as speed reducer. Also, there are 3 fire services equipments and drainage facilities on site.

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 a notice of application at the Site and sending the notice to Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to planning enforcement action against unauthorized development (UD) involving parking of vehicles. Enforcement Notice (EN) was issued to the concerned parties on 6.3.2017 requiring discontinuance of the UD. The compliance period of the EN expired on 6.6.2017 and the UD on site has not been discontinued. Further enforcement action is being considered for the case.

5. Previous Application

The Site is not subject to any previous planning application.

6. Similar Applications

- 6.1 There are two similar applications (No. A/YL-TT/45 and 423) within the subject “V” zone. Details of the applications are summarized in **Appendix II** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-TT/45 for temporary lorry park was rejected by the Board upon review on 23.4.1999 on the grounds of not being in line with the planning intention of the “V” zone; not compatible with the surrounding rural area and the nearby village houses; no information in the submission on vehicular access arrangement and the layout of the proposed lorry park; and setting of an undesirable precedent for proliferation of similar uses resulting in a general degradation of the environment of the area.
- 6.3 Application No. A/YL-TT/423 for temporary private vehicle park (private cars only) for a period of 3 years was approved with conditions by the Committee on 2.3.2018 on consideration of not frustrating the long-term planning intention of the “V” zone; not incompatible with the surrounding land uses; and no significant environmental impact anticipated.

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

7.1 The Site is:

- (a) accessible from Kiu Hing Road via an ingress/egress to its west (**Plan A-2**);
and

- (b) formed, fenced off and used for the parking of vehicles and private residential estate guard house without valid planning permission (**Plans A-2, A-4a and A-4b**).

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding areas comprise mainly of village houses;
- (b) surrounding the Site at its north, east and south is a residential development named In Keen Garden Phase II;
- (c) to its further north are some village houses mixed with a Tsz Tong, parking of vehicles, open storage of timber, a toilet and a refuse collection point;
- (d) to its further south within an area zoned “Agriculture” are open storage yards, an engineering company and fallow agricultural and vacant land;
- (e) to its southwest across Kiu Hing Road and Kung Um Road within an area zoned “Undetermined” is a vehicle workshop;
- (f) to its west within the adjacent “V” zone are village houses mixed with parking of vehicles and vacant land;
- (g) except for the vehicle workshop to its southwest which may be tolerated under the Town Planning Ordinance, the open storage yards and parking of vehicles in the vicinity are suspected unauthorized developments subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of “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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses 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 Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) The Site is accessible to Kiu Hing Road via government land (GL). Her office does not provide maintenance works for the GL involved and does not guarantee any right-of-way to the Site.
- (c) According to her record, there is no Small House (SH) application approved or under processing within the Site. In the vicinity (about 30m) of the Site, 36 SH applications have been approved and one SH application is received and under processing.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the planning application, the lot owner(s) will need to apply to her office to permit structures to be erected or regularize any irregularities on Site. Such application(s) will be considered by her department acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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 her department.

Traffic

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

- (a) The car park should be restricted for use by the residents and the visitors of In Keen Garden Phase II only as advised by the applicant.
- (b) The applicant is reminded that sufficient space within the Site should be provided for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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 the Transport Department (TD).
- (b) If the proposed access arrangement is agreed by TD, a proper run-in/run-out or road connection to Kiu Hing Road should be constructed to C for T's and his satisfaction.
- (c) Adequate drainage measures should be provided at the site access

to prevent surface water flowing from the Site to the nearby public roads/drains.

- (d) His department shall not be responsible for the maintenance of any access connecting the Site and Kiu Hing Road.

Environment

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

- (a) The applicant is advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storages Sites” issued by the Environmental Protection Department.
- (b) There is no environmental complaint case related to the Site in the past three 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 the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal, the implementation and maintenance of drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

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.
 - (ii) The location of where the proposed FSIs 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.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the existing structures on the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
 - (ii) 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.
 - (iii) 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 UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iv) 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.
 - (v) 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.

Others

9.1.11 Comments of the Chief Engineer/Cross-boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) CEDD and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the Study). According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8 August 2017, the Site mainly falls outside the development area of YLS and slightly encroaches onto an area shown as ‘Road’.
- (b) The objective of YLS development is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS development.

9.1.12 Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

- (a) He has no objection to the temporary use for 3 years, which should be considered in accordance with the provisions of the current OZP and existing infrastructure capacities.
- (b) However, a small portion of the Site marginally falls within the boundary of YLS Development. According to the Study, to ensure timely and orderly implementation, the development of YLS and relevant site formation and infrastructure works would be implemented in four stages. The lot(s) concerned falls within a site under Stage 2 Works. While the detailed implementation programme for the project is still being formulated, based on the Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the YLS Development expected in 2027.

District Officer’s Comments

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

The local consultation has been completed and his office has not received any comments from the village representatives in the vicinity.

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 Agriculture, Fisheries and Conservation (DAFC);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Project Manager (West), CEDD (PM(W), CEDD); and
- (e) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 22.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 13.7.2018, two public comments (**Appendices III-1 and III-2**) were received from members of the public. A commenter (**Appendix III-1**) commenting on the guard of the vehicle park working under hot weather, while another commenter (**Appendix III-2**) objecting to the application on the grounds that the Site could be used for temporary housing; long term use as parking facilities would have negative impact on the quality of the environment; and at-grade parking is an inefficient use of land.

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary private car vehicle park and temporary private residential estate guard house to serve the need of an existing residential development for a period of 3 years at a Site zoned “V” on the OZP. The applied use is not entirely in line with the planning intention of the “V” zone which is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion, and for development of SH by indigenous villagers. Nonetheless, DLO/YL of LandsD advises that there is no SH application approved or under processing within the Site at present. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The applied development is considered not incompatible with the surrounding land uses comprising predominantly village houses (**Plan A-2**).
- 11.3 The Site is located at the fringe of the subject “V” zone and is accessible directly from Kiu Hing Road and does not require traversing any village clusters (**Plan A-2**). The concerned government departments consulted, including DEP, C for T, CHE/NTW of HyD and C of P have no objection to or adverse comment on the application. 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 “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 A similar application for temporary private vehicle park (private cars only) (No. A/YL-TT/423) was approved by the Committee in the subject “V” zone on

2.3.2018. Approval of the current application is in line with the Committee's previous decision. Whilst there is a similar application (No. A/YL-TT/45) for a temporary lorry park within the subject "V" zone rejected by the Board on 23.4.1999, the current application is different in that only parking of private cars is involved.

- 11.5 There are two public comments (**Appendices III-1 and III-2**) received on the application raising concerns on the application on the grounds as summarised 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 assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary private car vehicle park and temporary private residential estate guard house 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 3.8.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) Only private cars, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (b) no vehicle without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) a notice shall be posted at a prominent location of the Site, as proposed by the applicant, to indicate that the Site is restricted for use by the residents and the visitors of In Keen Garden Phase II only at all times during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a run-in/run-out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 3.2.2019;
- (f) in relation to (e) above, the implementation of the run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 3.5.2019;
- (g) the submission of a 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 3.2.2019;

- (h) in relation to (g) above, the implementation of the 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 3.5.2019;
- (i) in relation to (h) above, the implemented drainage facilities on the Site 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 planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 3.2.2019;
- (k) in relation to (j) 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 3.5.2019;
- (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;
- (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; and
- (n) upon the 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 at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

the planning intention of "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. The development is not in line with the planning intention of the "V" zone. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

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

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

14. Attachments

Appendix I	Application form with supplementary information received on 12.6.2018
Appendix Ia	Further Information received on 23.7.2018
Appendix II	Similar applications within the subject “V” Zone on the Tai Tong OZP No. S/YL-TT/16
Appendices III-1 and III-2	Public comments received during the statutory publication period
Appendix IV	Recommended advisory clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
AUGUST 2018**