

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/469

<u>Applicant</u>	: Mr. KONG Yuen Hing
<u>Site</u>	: Lots 369 (Part), 370 (Part), 371 S.A (Part), 371 S.B (Part), 371 RP (Part), 372 (Part) and 390 S.D (Part) in D.D. 94, Hang Tau Village, Sheung Shui, New Territories
<u>Site Area</u>	: 1,016 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Temporary Private Car Park 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 park for a period of 3 years. The Site falls within an area zoned “V” on the Approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16. According to the Notes of the OZP, temporary use not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is used for car park without valid planning permission.
- 1.2 Part of the Site is the subject of a previous application No. A/NE-KTS/403 submitted by another applicant for temporary private car park (Private Cars and Light Goods Vehicles) approved with conditions in 2015, but it was revoked in 2016 due to non-compliance of approval conditions in relation to the submission of proposals of water supplies for fire fighting and fire service installations and landscape proposals, and the provision of boundary fencing.
- 1.3 According to the applicant’s submission, the applied development comprises

24 private car parking spaces and 3 shelters (3m high) with a total area of 63.5m² covering some parking spaces and adjoining walkway (**Drawing A-1**). The car park operates 24 hours daily. The ingress/egress is at the north-eastern corner of the Site. The Site is accessible from a local track leading to Hang Tau Road. There are about 30 trips/day to and from the Site.

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

- (a) Application Form with Plans received on 1.4.2019 (Appendix I)
- (b) Supplementary Information via 2 Emails both dated 4.4.2019 (Appendix Ia)
- (c) Further Information dated 15.5.2019 (Appendix Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application is detailed in Part 9 of the Application Forms at **Appendix I**. They are summarized as follows:

- (a) The applicant is an indigenous villager of Hang Tau Village.
- (b) Out of the 24 parking spaces, 8 are for the use of family members of the applicant while the remaining is for the use of villagers.
- (c) The temporary car park will cater for the need of villagers.
- (d) There is no existing structure extended outside the Site.
- (e) The applied car park does not cause adverse drainage impact to the surrounding areas. The applicant will submit and implement drainage proposal to the satisfaction of the Board.

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

The applicant is one of the “current land owners” and 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 the Sheung Shui District Rural Committee (SSDRC) by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to planning enforcement action under the Town Planning Ordinance against unauthorised development (UD) involving use for place for parking of vehicles (**Plan A-2b**). On 26.9.2018, Enforcement Notice was issued to the concerned lot owners requiring discontinuation of the UD by 26.11.2018. According to the site inspection conducted on 25.4.2019, the UD had not been discontinued upon expiry of the notice. Prosecution action may be taken.

5. Previous Application

Part of the Site is the subject of a planning application No. A/NE-KTS/403 submitted by another applicant for temporary private car park (Private Cars and Light Goods Vehicles) for a period of 3 years. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 7.8.2015 for a period of 3 years mainly on the grounds of serving the parking needs of the villagers, not frustrating the long-term planning intention of the “V” zone, being not incompatible with the surrounding land uses, and unlikely to generate significant adverse impacts on the surrounding areas. The planning permission was revoked on 7.2.2016 due to non-compliance of approval conditions in relation to the submission of proposals of water supplies for fire fighting and fire service installations and landscape proposals, and provision of boundary fencing. Details of the previous application is summarized at **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Application

There is no similar application for temporary private car park use within the same “V” zone.

7. The Site and Its Surrounding Areas (Plan A-2a**, aerial photo on **Plan A-3** and site photos on **Plan A-4**)**

7.1 The Site is:

- (a) within the “V” zone of Hang Tau Village;
- (b) hard-paved and partly fenced at the eastern, southern and western boundary;
- (c) currently occupied by a car park with over 20 parking spaces and 3 shelters for covering some of the parking spaces and adjoining walkway. The current use is without valid planning permission; and
- (d) accessible from a local track leading to Hang Tau Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the west, north and east are mainly village houses and domestic structures;
- (b) to the southeast is a garden of a domestic development; and
- (c) to the south are fallow agricultural land, vacant land, scattered with village houses and domestic structures, and a rehabilitation centre.

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. Selected commercial and community uses serving the needs of 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 Town Planning Board.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises lots No. 369 (Part), 370 (Part), 371 S.A (Part), 371 S.B (Part), 371 RP (Part), 372 (Part) and 390 S.D (Part) in D.D. 94. The lots are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
- (b) the actual occupation area does not tally with the one under the application;

- (c) the existing structures on the Site were erected without approval from his office. Part of the existing structures has extended to the adjoining lot 373 S.B, which is not included in the application. The aforesaid structures are not acceptable under the lease concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
- (d) the total built-over area and the numbers of the existing structures erected on the Site do not tally with the ones mentioned in the application;
- (e) the Government land adjoining the subject lots is being occupied without approval from his office. His office reserves the right to take land control actions against the unauthorised occupation of Government land;
- (f) the subject lots involve no Small House development; and
- (g) if the planning application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area. The application for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

Traffic

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

- (a) he has no comment on the application from traffic engineering viewpoint;
- (b) he considers an approval condition restricting vehicles from queuing back to or reversing onto/from local track appropriate; and
- (c) the vehicular access to the Site is via a local track to access to Hang Tau Road. The local track leading to the Site in abovementioned is not managed by his department. The land status, management and maintenance responsibilities of the local

track should be clarified with the relevant lands and maintenance authorities accordingly.

Environment

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

- (a) there is no environmental complaint case related to the Site from 2016 to Feb 2019; and
- (b) 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” issued by the DEP.

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

the Site is within an area where no public sewerage connection is available.

Drainage

9.1.5 Comments of CE/MN, DSD:

- (a) he has no objection in principle to the application from public drainage point of view; and
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.

Landscape

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

some existing trees were observed at the northern boundary of the site, and the following approval condition is suggested, should the Board approve this application:

“The existing trees and vegetation within the application site shall be maintained in healthy condition at all times during the planning approval period.”

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the development subject to fire service installations being provided to his satisfaction; and
- (b) his advisory comments are at **Appendix IV**.

Water Supply

9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards.

District Officer's Comments

9.1.9 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals from 12.4.2019 to 30.4.2019. The North District Council (NDC) member of the subject constituency supports the application. The Chairman of Sheung Shui District Rural Committee (SSDRC), the Indigenous Inhabitant Representatives (IIR) and the Resident Representative (RR) of Hang Tau and the Chairman of Golf View Garden Owners Committee have no comment on the application.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Commissioner of Police (C of P);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Project Manager/North, Civil Engineering and Development Department (PM(N), CEDD).

10. Public Comments Received During Statutory Publication Period

On 9.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 30.4.2019, a total of 2 public comments from members of the general public were received. One commenter (**Appendix IIIa**) objects to the application for the reason that the applicant did not comply with previous approval conditions and queries if further approval should be granted. The remaining comment (**Appendix IIIb**) indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary private car park with 24 private car parking spaces for a period of 3 years within an area zoned “V”. According to the applicant, the car park is to serve the family members of the applicant and the villagers. The planning intention of the “V” 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 applied use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/N, LandsD advises that the subject lots involve no Small House development. In this regard, approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “V” zone or the provision of land for Small House development.
- 11.2 The Site is located in Hang Tau village. The temporary private car park is considered not incompatible with the surrounding land uses, which are predominantly rural in nature mainly with village houses, domestic structures, vacant land and fallow agricultural land in the vicinity.
- 11.3 Relevant departments consulted including DEP, C for T, CTP/UD&L, PlanD, CE/MN, DSD and D of FS have no objection to or adverse comment on the application. DEP advises that there is no environmental complaint case related to the Site from 2016 to Feb 2019. To minimise any potential nuisance, approval conditions prohibiting vehicles other than private cars are recommended in paragraphs 12.2 (a) and (b) below. C for T considers an approval condition restricting vehicles from queuing back to or reversing onto/from local track appropriate. CTP/UD&L, PlanD suggests an approval condition requiring maintenance of the existing trees and vegetation within the Site in healthy condition at all times during the planning approval period. Relevant approval conditions are recommended in paragraphs 12.2 (d) and (e) below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Besides, the applicant will be 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” issued by DEP in order to alleviate any potential impact. Other approval conditions as suggested by CE/MN, DSD and D of FS are in paragraphs 12.2 (f) to (i) below.

- 11.4 Part of the Site involves a previous application No. A/NE-KTS/403 submitted by another applicant for temporary private car park (Private Cars and Light Goods Vehicles) approved with conditions in 2015, but the planning permission was revoked on 7.2.2016 due to non-compliance of approval conditions as stated in paragraph 5. There has been no material change in the planning circumstance in the surrounding areas since the last approval of application No. A/NE-KTS/403. Approval of the current application is in line with the previous decision of the Committee.
- 11.5 Of the 2 public comments received, one objects to the application on the ground of non-compliance with the approval conditions under the previous application. In this regard, it is noted that the current application is submitted by a different applicant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local views and public comments mentioned in paragraphs 9.1.9 and 10, the Planning Department considers that the temporary private car park under application 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 up to 31.5.2022. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no vehicles other than private cars are allowed to be parked/stored on the the application site, as proposed by the applicant, at any time during the planning approval period;
- (b) a notice should be posted at a prominent location of the application site to indicate that no vehicles other than private cars are allowed to be parked/stored on the application site at any time during the planning approval period;
- (c) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the application site at any time during the planning

approval period;

- (d) no vehicle is allowed to queue back to or reverse onto/from local track at any time during the planning approval period;
- (e) the existing trees and vegetation within the application site should be maintained in healthy condition at all times during the planning approval period;
- (f) the submission of drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 30.11.2019;
- (g) in relation to (f) above, the implementation of drainage proposal within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 29.2.2020;
- (h) the submission of proposal for fire service installations and water supplies for fire fighting 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 30.11.2019;
- (i) in relation to (h) above, the implementation of proposal for fire service installations and water supplies for fire fighting 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 29.2.2020;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (k) if any of the above planning conditions (f), (g), (h) or (i) 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 development 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 this 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 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 Plans received on 1.4.2019
Appendix Ia	Supplementary Information via 2 Emails both dated 4.4.2019
Appendix Ib	Further Information dated 15.5.2019
Appendix II	Previous Application
Appendices IIIa and IIIb	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan submitted by the Applicant
Plan A-1	Location Plan
Plans A-2a and 2b	Site Plans
Plan A-3	Aerial Photo
Plan A-4	Site Photos