

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE- LT/628

- Applicants** : CHUNG Lap Kee, CHUNG Chor Hei, CHUNG Cheuk Wai and CHUNG Wing Chun represented by Mr. HUI Kwan Yee
- Site** : Lots 408 S.B ss.2, 408 S.B ss.3, 408 S.B ss.4, 408 S.B ss.5 and 408 S.B RP (Part) in D.D. 10, Chai Kek Village, Lam Tsuen, Tai Po, New Territories
- Site Area** : About 705.6 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
- Zonings** : “Agriculture” (“AGR”) (about 84.5%)
“Village Type Development (“V”) (about 15.5%)
- Application** : Temporary Private Car Park (Private Cars and Light Goods Vehicles) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary private car park (private cars and light goods vehicles) for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use without valid planning permission.
- 1.2 There will be a total of 27 parking spaces for private cars and light goods vehicles within the Site (**Drawing A-1**). The car park will serve local residents and operate 24 hours a day. No toilet facilities will be erected on the Site. The Site is accessible via a local track from Chai Kek Road. Plans showing the site layout and vehicular route from Chai Kek Road to the Site are at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) application form and attachments received on 22.11.2017 (**Appendix I**); and
- (b) further information received on 20.12.2017 on minor clarification on non-provision of toilet facility and no generation of wastewater from the proposed use (**Appendix Ia**) (*accepted and exempted from publication and recounting requirement*); and
- (c) further information received on 28.12.2017 on minor clarification on the vehicular ingress/egress of the Site (**Appendix Ib**) (*accepted and exempted from publication and recounting requirement*).

1.4 Part of the Site is the subject of two previous applications (No. A/NE-LT/530 and 616) (**Plan A-2**) submitted by two of the applicants of the subject application (Mr. CHUNG Cheuk Wai and Mr. CHUNG Wing Chun) each for the development of a proposed house (New Territories Exempted House (NTEH) – Small House), which were rejected by the Board on review in 2015 and the Rural and New Town Planning Committee (the Committee) in 2017 respectively.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form and attachment at **Appendix I**. They can be summarized as follows:

- (a) there is increasing demand for parking spaces and no public car park available in the area; and
- (b) approval of the application will relieve the problem of roadside parking and hence reduce traffic accidents. It would provide a convenient and safe environment to the residents.

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

The applicants are the sole “current land owners” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is the subject of an active enforcement case against unauthorized parking of vehicle. Enforcement Notice (EN) was issued to the concerned landowners on 19.10.2017. The EN will expire on 19.1.2018 and CTP/CEP of PlanD will monitor the case according to the established procedures.

5. Previous Applications

- 5.1 Part of the Site is the subject of two previous applications (No. A/NE-LT/530 and 616) each for the development of a proposed house (NTEH – Small House). Both applications were rejected by the Board on review on 10.7.2015 and the Committee on 8.9.2017 respectively mainly on the considerations that the proposed developments were not in line with the planning intention of the “AGR” zone and land was still available within the “V” zone of the concerned village for Small House development.
- 5.2 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-2**.

6. Similar Application

There is no similar application for the same use within the same “AGR” and “V” zones.

7. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3 and A-4a to A-4b)

- 7.1 The Site is:
- (a) generally flat and mainly hard-paved;
 - (b) situated at the northwestern fringe of Chai Kek and accessible via a local track from Chai Kek Road (**Drawing A-1**); and
 - (c) besides Lam Kam Road.
- 7.2 The surrounding areas are predominantly rural in character with village houses, temporary structures, active/fallow agricultural land and tree groups. A cluster of village houses are found to the immediate east of the Site.

8. Planning Intentions

- 8.1 The planning intention of the “AGR” zone is to primarily retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable village expansion. Land within this zone is primarily intended for development of Small House by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the Site consists of five private lots namely Lots No. 408 S.B ss.2, 408 S.B ss.3, 408 S.B ss.4, 408 S.B ss.5 and 408 S.B RP (Part) all in D.D. 10 with four different ownership. All these private lots are held under Block Government Lease demised for agricultural purpose and no structure shall be erected on the aforesaid lots without prior approval from LandsD;
- (c) the recent inspection revealed that the Site has been used for an open car park;
- (d) a Small House application was once received for Lot No. 408 S.B ss.5 in D.D. 10. However, it was rejected by this office on 15.11.2017 as the Board rejected the concerned s.16 application (No. A/NE-LT/616) for Small House development on 8.9.2017; and
- (e) there is no guarantee to the grant of a right of way to the temporary private car park.

Traffic

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

- (a) no in-principle objection to the application from traffic engineering view point; and
- (b) the existing village access connecting the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the road and footpath should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

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

- (a) no comment on the application if the applicant could secure a vehicular access through Chai Kek Road; and

- (b) if the proposed site access routes through private lots, the applicant should secure the access right by his own.

Environment

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

- (a) no objection to the application;
- (b) the Site falls partly within the “AGR” and partly within the “V” zones and falls within water gathering grounds (WGG). The applicant confirmed that there will be no toilet facility or wastewater generation from the applied use; and
- (c) as the application is for temporary use, 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 the Environmental Protection Department (EPD).

Landscape

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

- (a) no objection to the application from landscape planning perspective;
- (b) the Site is located at Chai Kek Village and Small Houses are concentrated within the “V” zone to the east and the south, while vacant land and farmlands are found to the west and the north. The Site is involved in two previous applications (No. A/NE-LT/530 and 616) of Small House development;
- (c) the Site is situated in an area of rural landscape character comprising of natural woodlands, village houses and farmlands. Although the applied use is not in line with the planning intention of the “AGR” zone, the proposed use is not incompatible with the surrounding environment;
- (d) most of the Site is hard paved while a small portion is covered with grasses. Two mature trees (*Bischofia javanica* (秋楓)) are found in the close proximity outside the northern boundary (**Plans A-2 and A-4a**). No tree is found within the Site. Adverse impact on landscape resources caused by the applied use is not anticipated;
- (e) since the surrounding landscape already provides sufficient screening for the applied use, further landscaping within the Site is not recommended. Should the application be approved by the Board, the standard condition on submission and

implementation of landscaping proposal is not recommended;
and

- (f) it is noted that two numbers of mature trees (*Bischofia javanica* (秋楓)) are found in close proximity to the northern boundary of the Site, it is advised that tree protection measures, e.g. kerb/wheel stopper/bollard, should be installed at minimum distance of 1m from the tree to guard against potential damage of vehicular movements.

Drainage

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

- (a) no objection to the application from public drainage viewpoint;
- (b) the Site is within an area where connections to existing public stormwater drainage is available in the vicinity. Should the application be approved, an approval condition should be included on the submission and implementation of drainage proposal to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) the Site is within an area where connections to existing sewerage networks are available in the vicinity. Should the applicant choose to connect his proposed drainage systems to DSD's networks, he shall furnish his connection proposals for DSD's agreement;
- (d) should the applicant choose to dispose of sewage of the applied use through other means, views and comments from EPD should be sought; and
- (e) the applicant is required to rectify/modify the drainage/sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system.

Agriculture

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

- the Site is vacant and currently used as a car park. Nevertheless, there are active agricultural activities in the vicinity and the Site possesses potential for agricultural rehabilitation. As such, he has reservation on the application from agricultural point of view.

Water Supply

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

- (a) the Site is located within the upper indirect WGG and is less than 30m from the nearest water course. He has no objection to the application on conditions that the preventive measures against water pollution to the upper indirect WGG should be properly maintained and the development should not cause any water pollution to the upper indirect WGG; and
- (b) the applicant should note the advisory comments at **Appendix V**.

Electricity and Town Gas Safety

9.1.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

Electricity Safety

- (a) no comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. The applicant should also be reminded to observe the Electricity Supply Lines (Protection) Regulation (the Regulation) and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines;

Town Gas Safety

- (b) there is a high pressure underground town gas transmission pipeline (running along Lam Kam Road) in the vicinity of the Site;
- (c) the applicant/consultant/works contractor shall therefore liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum setback distance away from them during the design and construction stages of development; and

- (d) the applicant/consultant/works contractor is required to observe the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoiding Danger from Gas Pipes".

Public Safety

9.1.10 Comments of the Commissioner of Police (C of P):

- no objection to the application provided that no obstruction/danger is caused to road users and members of the public.

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

- (a) Director of Fire Services;
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) Project Manager/North, Civil Engineering and Development Department; and
- (d) District Officer/Tai Po, Home Affairs Department.

10. Public Comments Received During Statutory Publication Period (Appendix III)

On 1.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 22.12.2017, two public comments was received from World Wide Fund for Nature Hong Kong and an individual objecting to the application on the grounds that the Site is the subject of an unauthorized development and it should not be tolerated; the applied use will induce adverse impacts on environment, drainage and pedestrian circulation.

11. Planning Considerations and Assessments

11.1 The Site falls mainly within the "AGR" (about 84.5%) and partly within the "V" (about 15.5%) zones. The temporary private car park under application is not in line with the planning intention of the "AGR" zone, which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC has reservation on the application as there are active agricultural activities in its vicinity and the Site possesses potential for agricultural rehabilitation. Nevertheless, given its temporary nature and small scale, it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the "AGR" zone.

11.2 Whilst the applied use is not in line with the planning intention of "V" zone where land is primarily intended for development of Small Houses by indigenous villagers, the application is for a temporary car park to serve the

local residents. DLO/TP, LandsD has no objection to the application. It is considered that granting temporary planning permission for private car park would not frustrate the long-term planning intention of the “V” zone.

- 11.3 The Site is located at the northwestern fringe of the “V” zone of Chai Kek. The temporary private car park will provide a total of 27 parking spaces for private cars and light goods vehicles (**Drawing A-1**). The Site is mainly hard-paved and no trees are found within the Site. The applied use is considered not incompatible with the surrounding areas which are predominantly rural in character with village houses, temporary structures, fallow/active agricultural land and tree groups (**Plans A-2 and A-3**). CTP/UD&L, PlanD has no objection to the application from landscape planning perspective as adverse impact on landscape resources caused by the applied use is not anticipated.
- 11.4 The Site is located within the WGG and the applicant confirmed that there will be no toilet facility or wastewater generation from the applied use (**Appendix Ia**). In this connection, both DEP and CE/C of WSD have no objection to the application on conditions that the preventive measures against water pollution to the upper indirect WGG should be properly maintained and the development should not cause any water pollution to the upper indirect WGG. Other relevant Government departments consulted including C for T, CE/MN and CE/PM of DSD, CHE/NTE of HyD, D of FS and C of P have no objection to or adverse comment on the application. Besides, CTP/CEP, PlanD advises that EN was issued to the concerned lot owners against the unauthorized parking of vehicles and the case would be monitored by the Planning Authority according to the established procedures.
- 11.5 To minimize any possible environmental nuisance generated by the applied use and ensure that the temporary private car park would not degrade the environmental quality of the rural surrounding, approval conditions on restricting the types of vehicles and preventive measures against water pollution to the upper indirect WGG during the planning approval period are recommended in paragraphs 12.2 (a) to (d) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on-site will be subject to enforcement action taken by the Planning Authority. Besides, the applicant will be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to alleviate any potential environmental impact.
- 11.6 Regarding the public comments objecting to the application mainly for the reasons of being subject of an unauthorized development and having adverse impacts on environment, drainage and pedestrian circulation, Government departments’ comments and the planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department

considers that the temporary use under the 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 until 12.1.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no medium or heavy goods vehicles exceeding 5.5 tonnes including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (b) no reversing of vehicles into or out from the Site is allowed at any time during the planning approval period;
- (c) the preventive measures against water pollution to the upper indirect water gathering ground should be properly maintained at all times during planning approval period;
- (d) the development should not cause any water pollution to the upper indirect water gathering ground at any time during the planning approval period;
- (e) the provision of boundary fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 12.7.2018;
- (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 12.7.2018;
- (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 12.10.2018;
- (h) if any of the above planning conditions (a), (b), (c) or (d) 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;
- (i) if any of the above planning conditions (e), (f) or (g) 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

- (j) upon 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 attached at **Appendix IV**.

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

- (a) the development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. It is also not in line with the planning intention of the "V" zone which 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 intentions of "AGR" and "V" zones, even on a temporary basis; and
- (b) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications in the "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

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 conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.
- 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

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| Appendix I | Application form and attachments received on 22.11.2017 |
| Appendix Ia | Further information received on 20.12.2017 |
| Appendix Ib | Further information received on 28.12.2017 |
| Appendix II | Previous applications for Small House developments at the Site |
| Appendix III | Public comments |
| Appendix IV | Recommended advisory clauses |
| Appendix V | Advisory comments of the Chief Engineer/Construction, |

Water Supplies Department

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| Drawing A-1 | Site plan submitted by the applicant |
| 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
JANUARY 2018**