

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

**APPLICATION NO. A/NE-SSH/119**

- Applicant** : Nga Yiu Tau Village Welfare Association represented by Grandmax Surveyors Limited
- Site** : Lots 1445, 1446 S.A and 1446 RP in D.D. 165, Nga Yiu Tau, Shap Sz Heung, Sai Kung, New Territories
- Site Area** : About 928.4 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Temporary Private Car Park (Private Cars Only) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) (**Plan A-1**) for temporary private car park (private cars only) for a period of three years. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires permission of the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.2 The proposed temporary private car park will provide 28 parking spaces for private cars serving only the local residents of Nga Yiu Tau and their visitors. The Site is accessible by a local track leading to Sai Sha Road. Site Plan showing the vehicular access and car parking layout are at **Drawings A-1** and **A-2** respectively.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on (**Appendix I**) 14.6.2018

- (b) Further Information (FI) received on 17.7.2018 (**Appendix Ia**) providing responses to comments raised by the Transport Department (TD) and a revised layout plan of the proposed car park (*accepted and exempted from publication*); and
- (c) FI received on 22.8.2018 in response to TD's further (**Appendix Ib**) comments (*accepted and exempted from publication*)

1.4 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed on 3.8.2018 to defer the consideration of the application for two months to allow time for the applicant to prepare FI to support the application. With the FI submitted on 22.8.2018, the application is re-scheduled for consideration at this meeting.

## **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 at **Appendix I** and the FI at **Appendix Ia**. They are summarized as follows:

- (a) Nga Yiu Tau is a geographically self-enclosed village. Except limited public transport services along Sai Sha Road, private vehicles are the only means of transportation for the local residents of Nga Yiu Tau. However, there is no proper parking area available in the village. The proposed private car park will address the basic parking needs of the local residents;
- (b) the proposed private car park will only serve the local residents of Nga Yiu Tau and their visitors. There will be no additional traffic generated from the proposed car park. The daily in/out trips of the proposed private car park would not cause adverse noise impact;
- (c) the Site is currently abandoned and grown with weeds, which may become a breeding ground for mosquitos. The applicant will properly pave the Site with environmental friendly and water-soaking materials;
- (d) there are plenty of trees and shrubs along the boundary of the Site, and the proposed car park would not induce visual impact on the surroundings. The applicant is willing to undertake additional landscape works within the Site if required;
- (e) no structure will be erected on the Site and there would be no fire safety concern; and
- (f) temporary car parks are common in Shap Sz Heung, with similar applications approved within "V" zone (No. A/NE-SSH/100, 101, 105 and 106).

**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 site notice and giving notification to the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Previous Application**

There is no previous application at the Site.

**5. Similar Application**

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

**6. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plan A-4)**

6.1 The Site is:

- (a) a piece of abandoned agricultural land covered with weeds; and
- (b) accessible via a local track leading to Sai Sha Road.

6.2 The surrounding areas are predominantly rural in character with a mix of village houses and tree groups. A cluster of village houses is situated to the northwest of the Site.

**7. Planning Intention**

The planning intention of the “V” zone is to designate both existing recognised 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.

**8. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) no objection to the application;
- (b) the Site consists of three private lots No. 1445, 1446 S.A and 1446 RP in D. D. 165 in Nga Yiu Tau Village of Shap Sz Heung. As these lots are all held under Block Government Lease demised for agricultural purpose, no structure shall be erected without prior approval from LandsD;
- (c) there is no guarantee of right of way to these private lots;
- (d) the lot owner is not required to seek lease modification from LandsD to implement the proposed temporary open private car park. Any planning conditions, if imposed by the Board, cannot be written into the lease through lease modification;
- (e) the applicant is required to obtain a written consent from the registered owner of the Site before the implementation of the proposal; and
- (f) no Small House application has been received for the Site up to present.

### **Traffic**

#### 8.1.2 Comments of Commissioner for Transport (C for T):

- (a) no adverse comment on the application from traffic engineering point of view;
- (b) the existing access road to the Site is not under TD's management. The land status, management and maintenance responsibilities of the road should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes; and
- (c) sufficient space within the Site should be provided for manoeuvring of vehicles. No vehicle queuing and no reverse movement of vehicles on public road are allowed.

### **Environment**

#### 8.1.3 Comment of Director of Environmental Protection (DEP):

the applicant should 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”. No environmental complaint in relation to the Site has been received in the last three years.

### **Drainage**

- 8.1.4 Comments of Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) no in-principle objection to the application from public drainage viewpoint;
  - (b) no existing public storm drains maintained by DSD are available for connection in this area. The proposed car park should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site. Sufficient openings should be provided at the bottom of the boundary wall/fence, if erected, to allow surface runoff to pass through. Any existing flow path affected should be re-provided. An approval condition to ensure that the proposed development would neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas should be considered;
  - (c) the applicant/owner is required to maintain such drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems; and
  - (d) for works to be undertaken outside the boundary of the application lots, the applicant should consult LandsD and seek consent from relevant lot owners.

### **Water Supply**

- 8.1.5 Comments of Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):
- (a) no objection to the application; and
  - (b) for provision of water supply to the development, the applicant may need to extend the 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 WSD’s standards.

### **Agriculture**

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

- (a) no particular comment on the application; and
- (b) the Site is located entirely within the “V” zone and is currently vacant and covered with weeds. Nonetheless, there are mature trees on the Government land adjoining the Site in the east. The applicant should avoid encroachment onto the Government land and causing any impacts to the trees.

### **Fire Safety**

8.1.7 Comment of Director of Fire Services (D of FS):

no in-principle objection to the application subject to provision of fire service installations and water supplies for firefighting to the satisfaction of the D of FS.

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

- (a) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (b) Commissioner of Police (C of P);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Director of Electrical and Mechanical Services;
- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (f) Project Manager (North), Civil Engineering and Development Department; and
- (g) District Officer (Tai Po), Home Affairs Department.

## **9. Public Comment Received During 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, one public comment was received (**Appendix II**) raising that using the Site for car park rather than residential purpose was a waste of land resources and would have negative impact on the quality of the land and environs.

## **10. Planning Considerations and Assessments**

10.1 The application is for a proposed temporary private car park in the “V” zone of Nga Yiu Tau Village. Whilst the proposed use is not totally in line with the planning intention of “V” zone where land is primarily intended for

development of Small Houses by indigenous villagers, it is noted that the temporary private car park is to serve the residents of Nga Yiu Tau Village. DLO/TP, LandsD has no objection to the application and advises that there is no Small House application received at the Site. Given the temporary nature of the proposed car park, it is considered that approval of the application on a temporary basis for a period of three years would not jeopardise the long-term planning intention of the “V” zone.

- 10.2 The proposed temporary private car park under application will provide a total of 28 parking spaces for private cars only to meet the parking needs of the local residents (**Drawing A-2**). The Site is a piece of abandoned agricultural land covered with weeds (**Plan A-4**). The proposed use is considered not incompatible with the surrounding village setting (**Plans A-2 and A-3**). CTP/UD&L, PlanD has no objection to the application as significant landscape impact on the area is not anticipated. C for T has no adverse comment on the application from traffic engineering point of view. DEP also advises that no environmental complaint against the Site has been received in the past three years. Other relevant Government departments consulted included DAFC, CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD, D of FS and C of P have no adverse comment on the application.
- 10.3 To ensure that the temporary private car park would not degrade the environmental quality of the rural surroundings, approval conditions requiring no vehicles other than private cars to be parked on the Site; no workshop activities permitted on the Site and reinstatement of the Site upon expiry of planning permission are recommended in paragraphs 11.2 (a), (b) and (i) below. Besides, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 10.4 Regarding applications No. A/NE-SSH/100, 101, 105 and 106 for temporary private car park within “V” zone on the Shap Sz Heung OZP mentioned by the applicant, they are located at Tseng Tau, Tai Tung and Kei Ling Ha San Wai (about 500m - 600m from the Site) and were approved by the Committee between 2015 and 2017 on the grounds of having no adverse impacts and being the subject of previously approved application with no major change in the development proposal and planning circumstances of the surrounding areas. The circumstances of the subject application are similar to those approved cases.
- 10.5 Regarding the public comment objecting to the application mainly for the reasons of being an inappropriate use of land and possible environmental impacts, the comments from concerned Government departments and planning assessments in the above paragraphs are relevant.

## **11. Planning Department’s Views**

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comment mentioned in paragraph 9, the Planning Department

considers that the temporary private car park (private cars only) could be tolerated for a period of three years.

- 11.2 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 three years until 19.10.2021. 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 within the application site;
- (b) no vehicle repairing, car washing/fuelling, vehicle dismantling and workshop activities shall be permitted within the site during the planning approval period;
- (c) 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 19.4.2019;
- (d) in relation to (c) 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 19.7.2019;
- (e) the submission of water supplies for fire fighting and 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 19.4.2019;
- (f) in relation to (e) above, the implementation of water supplies for fire fighting and 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 19.7.2019;
- (g) if any of the above planning conditions (a) or (b) is not complied with at any time during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (h) if any of the above planning conditions (c), (d), (e) or (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked on the same date without further notice; and
- (i) upon expiry of the planning permission, the reinstatement of the application 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 III**.

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "V" zone which is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for the 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. There is no strong planning justification in the submission to justify a departure from the planning intention, even on a temporary basis.

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

## **13. Attachments**

Appendix I	Application form and attachments received on 14.6.2018
Appendix Ia	Further Information received on 17.7.2018
Appendix Ib	Further Information received on 22.8.2018
Appendix II	Public comment
Appendix III	Recommended Advisory Clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	Layout plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos