

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/33

- Applicant** : Mr. HO Lai-fai represented by Man Chi Consultants and Construction Limited
- Site** : Lot 381 S.B RP in D.D. 78, Tsung Yuen Ha, Ta Kwu Ling North, New Territories
(Currently known as Lots 381 S.B ss.1 to ss.12 and 381 S.B RP in D.D. 78, Tsung Yuen Ha, Ta Kwu Ling North, New Territories)
- Site Area** : About 2,529.6 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
- Zonings** : (i) “Village Type Development” (“V”) (about 74% of the Site)
(ii) “Recreation” (“REC”) (about 26% of the Site)
- Application** : Proposed Temporary Car Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary car park (private cars and light goods vehicles) for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls mostly within an area zoned “V” (about 74%) and minor portion falling within “REC” (about 26%) on the approved Ta Kwu Ling North OZP No. S/NE-TKLN/2 (**Plan A-1**). According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use in “V” and “REC” zones requiring planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant’s submission, the Site is accessible from Lin Ma Hang Road (**Plan A-2**). A total of 54 parking spaces for private car (5m x 2.5m each) and 15 parking spaces for light goods vehicles (LGVs) (in a 5.5m wide parking zone) will be provided. An one-storey temporary structure of about 2.44m in height, with a total floor area of about 14.64 m², would be used as ancillary site office at the northeast corner of the Site. The proposed temporary vehicle park will be open 24 hours daily including public holidays. A plan showing the site layout is at **Drawing A-1**. The Site is currently vacant.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 6.3.2020 (**Appendix I**)
 - (b) Supplementary Planning Statement received on 6.3.2020 (**Appendix Ia**)

- (c) Further Information (FI) received on 15.4.2020[^] **(Appendix Ib)**
^accepted and exempted from publication

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement in **Appendix Ia**. They can be summarized as follows:

- (a) the proposed temporary car park could offer proper and legal parking spaces for the villagers; and to cope with the growing parking needs from the Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP) and surroundings;
- (b) the Site is currently vacant and within walking distance to Tsung Yuen Ha Village, the proposed use could cater for the policy need in the area while fully utilize the local resources;
- (c) the proposed development aims to address the need for parking facilities of local villages and the applicant indicates no intention to build Small House on the Site. It would not preempt the long-term planning intention of “V” and “REC” zones;
- (d) since the LT/HYW BCP and its associated facilities, work sites, site offices, temporary car park and temporary structures are found in the vicinity, the proposed temporary car park is considered not incompatible with the surrounding rural environment and village settings;
- (e) the priority of the car parking spaces will be given to the villagers on a monthly rental basis and the Traffic Impact Assessment (TIA) indicates that the road network in the vicinity of the Site will be able to cope with the traffic generated by the proposed development;
- (f) the applicant undertakes to strictly monitor the proposed use and implement management measures to ensure no environmental impact and misuse of the proposed temporary development; and a drainage proposal will be submitted and implemented should the application be approved;
- (g) to the south and southwest of the Site is an approved planning application A/NE-TKLN/8 for temporary staff car parking and site office for public works. In view of the approved application is in the proximity, the proposed temporary development is not expected to set an undesirable precedent.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

There is no previous application for the Site.

5. Similar Application

- 5.1 There is one similar application No. A/NE-TKLN/8 for temporary staff car park and site office for public works for a period of 3 years to the immediate south of the Site (**Plan A-1**). It was approved with conditions by the Committee on 4.5.2018 mainly on the grounds that the staff car park and site office was to serve the staff/workers of the LT/HYW BCP project; the development was not entirely incompatible with the surrounding environment; and renewal of the application was considered unlikely upon completion of the LT/HYW BCP project.
- 5.2 Details of the similar application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

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

- 6.1 The Site is:
- (a) flat, partially grassed and vacant; and
 - (b) accessible from Lin Ma Hang Road.
- 6.2 The surrounding areas have the following characteristics:
- (a) to its immediate west is some vacant land and to its further west across Lin Ma Hang Road is the LT/HYW BCP (**Plan A-1 & A-2**);
 - (b) to its east are some vacant land and fallow agricultural land;
 - (c) to its immediate south is the application No. A/NE-TKLN/8 for temporary staff car park and site office for public works which is currently vacant, and to its further south across the nullah is the village cluster of Tsung Yuen Ha (**Plan A-1**); and
 - (d) to its north is Lin Ma Hang Road.

7. Planning Intentions

- 7.1 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. 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.
- 7.2 The planning intention of the “REC” zone is intended primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission.

8. Comments from Relevant Government Departments

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

Land Administration

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

- (a) the Site comprises private Lot 381 S.B RP in D.D. 78 (**Plan A-2**). The lot is an Old Schedule Lot held under 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;
- (b) the Site should be under one lot designation (Lot 381 S.B RP in D.D. 78). Nevertheless, it is noted that the Site was carved out into 12 lots (Lots 381 S.B ss.1 to ss.12);
- (c) no Small House application regarding the Site has been received. The numbers of outstanding Small House application and 10-year Small House demand of Tsung Yuen Ha are 35 and 95 respectively; and
- (d) should the application be approved, the owners of the lot concerned shall apply to his office for Short Term Waiver (STW) to cover all actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW application is approved, the commencement date would be backdated to the first date of occupation and it 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

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

- (a) he has no in-principle objection to the application from the traffic engineering point of view;
- (b) having reviewed the TIA submitted by the applicant (**Appendix Ia**) in demonstrating the traffic generation and attraction; the road marking and traffic signs arrangement within the Site; and the provision and management of pedestrian facilities. It can be concluded that the proposed use will not induce additional adverse traffic impact on the surrounding road network and affect pedestrian safety;
- (c) should the application be approved, a condition should be included to request the applicant to implement traffic management measures for the Site to ensure that the proposed development will not cause adverse traffic impact to the surroundings; and
- (d) the vehicular access between Lin Ma Hang Road and the Site is not managed

by TD. The applicant shall sought agreement/ comment from the responsible party for the management and maintenance measures to be implemented for the vehicular access.

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

- (a) based on the information submitted, there would be physical conflict between the Site and the project under PWP Item No. 6854TH “Widening of Eastern Section of Lin Ma Hang Road (LMHR) between Tsung Yuen Ha and Lin Ma Hang” undertaken by his department. Nevertheless, given that the proposed temporary car park would last for 3 years and is mainly of temporary nature, and the applicant has undertaken to set back from development boundary upon request from his department (**Appendix Ib**). Considering the latest implementation programme of the his project, he has no comment on the application from project interface perspective;
- (b) the proposed access to the Site will pass through a strip of area between Lin Ma Hang Road and the Site, which is an unallocated government land (UGL) (**Plan A-2**). The applicant is required to sort out the land issues with relevant land authority;
- (c) should the application be approved, the applicant is required to construct a proper ingress/egress for the Site according to HyD Standard Drawings and upon termination of the proposed temporary use, the applicant is required to reinstate the ingress/egress to their original state and to his satisfaction at its own cost; and
- (d) adequate drainage measures should be provided to prevent surface water running from the Site to LMHR and / or the nearby areas.

Environment

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

- (a) he has no objection on the application from environmental point of view;
- (b) as the application is temporary in nature, the applicant is advised to follow EPD’s latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses (CoP)”;
- (c) should the application be approved, the applicant should also be reminded of his obligation to strictly comply with all environmental protection/ pollution control ordinances, in particular Water Pollution Control Ordinance and Waste Disposal Ordinance, and to follow relevant measures given in the EPD’s latest CoP, during construction and operation stages of the proposal; and
- (d) the applicant should also be reminded that necessary precautionary/ pollution control measures should be put in place to prevent any pollution of nearby environment during construction and operation stages of the proposed use.

Agriculture

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

- as the Site is largely disturbed, she has no adverse comment on the application from nature conservation point of view.

Landscape

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

- (a) she has some reservation to the application from the landscape planning perspective;
- (b) based on the aerial photo, the Site was densely vegetated in 2016 but the site had been hard paved in 2018. Landscape impact within the “REC” zone has already taken place;
- (c) there is concern that more similar development would further degrade the landscape quality of the surrounding environment; and
- (d) since there is no major public frontage along the site boundary, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) he has no objection to the application from the public drainage viewpoint;
- (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 the proposed development will not cause adverse drainage impact to the adjacent area. His other advisory comments are at **Appendix IV**; and
- (c) the Site is in an area where no public sewerage connection is available.

Building Matters

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

- (a) there is no record of submission of the proposed building/ structure to the Building Authority (BA) for approval; and
- (b) his other advisory comments are at **Appendix IV**.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of his department;
- (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 be also advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) 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.

Water Supply

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

- (a) he has no objection on the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his/her 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.

District Officer's Comments

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

- (a) he has consulted the locals regarding the application. The Resident Representative (RR) of Tsung Yuen Ha supports the application;
- (b) the RR of Heung Yuen Wai and 14 residents of Heung Yuen Wai object the application mainly on the grounds of adverse traffic impacts; road safety risk to the residents and visitors nearby; and the need of private car and LGV car park to meet the demand for residents; and
- (c) the 1st Vice-chairman of Ta Kwu Ling District Rural Committee (TKLDRC) and the incumbent North District Council (NDC) member of the subject constituency have no comment on the application. The Indigenous Inhabitant Representative (IIR) of Tsung Yuen Ha and the IIR of Heung Yuen Wai did not reply to the consultation.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD); and
- (b) Divisional Commander (Ta Kwu Ling Division), Hong Kong Police Force (DVC TKLDIV, HKPF).

9. Public Comment Received During Statutory Publication Period

On 13.3.2020, the application was published for public inspection. During the statutory public inspection period, a current NDC member, Mr. HAU-Chi Keung, indicates no comment on the application (**Appendix III**).

10. Planning Considerations and Assessments

- 10.1 The application is for a proposed temporary car park (private cars and light goods vehicles) in an area with a major portion (about 74%) zoned “V” zone and a minor portion (about 26%) zoned “REC” on the OZP (**Plan A-1**). The applied use is not totally in line with the planning intention of the “V” which is intended for development of Small House by indigenous villagers and “REC” zone which is for low-density recreation development for the use of the general public. Nevertheless, it is noted that the proposed temporary car park is to serve the residents of the nearby village as well as possible parking demand for the operation of LT/HYW BCP. Moreover, DLO/N of LandsD has advised that no Small House application has been received for the Site. Based on the latest estimates by PlanD, sufficient land (about 4 ha or equivalent to 159 Small House sites) is available within the “V” zone to meet the 35 outstanding Small House applications as well as the 10-year Small House demand forecast of 95 small houses in Tsung Yuen Ha. In this regard, 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 intentions of “V” and “REC” zones.
- 10.2 The Site is hard paved and situated in an area of rural inland plains character comprises temporary structures and vegetated areas, and with the LT/HYW BCP located in close proximity to the west of the Site. The Site is mainly surrounded by vacant land, unused land and clustered tree groups (**Plan A-2**). CTP/UD&L of PlanD concerns that more similar developments would further degrade the landscape quality of the surrounding environment and has some reservation to the application from the landscape planning point of view. Nevertheless, as the Site is largely disturbed land, DAFC has no adverse comment on the application from the nature conservation point of view.
- 10.3 Upon review of the TIA submitted by the applicant, C for T considers that the proposed use would not induce additional adverse traffic impact on the surrounding road network and affect pedestrian safety, he has no in-principle objection to the application from traffic engineering point of view. DEP has no objection on the application and advises that the applicant should follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses (CoP)”, perform good site practice and adopt necessary precautionary/ pollution to prevent polluting nearby environment during construction and operation of the proposed development. Other relevant Government departments consulted, including DSD, CEDD, WSD, HyD, FSD and HKPF have no objection to or no comment on the application.

- 10.4 There is one similar application No. A/NE-TKLN/8 for temporary staff car park and site office for public works for a period of 3 years to the immediate south-west of the Site, which was approved with conditions by the Committee on 4.5.2018 mainly on the grounds that the staff car park and site office was to serve the staff/workers of the LT/HYW BCP project. Since the nature of that staff car park is different from the subject application, the circumstances of the two applications are different.
- 10.5 There is no adverse public comment received. Regarding the local objection conveyed by DO(N) of HAD as detailed in paragraph 8.1.11, the Government department's comments and the planning assessments above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the local objections conveyed by DO(N) of HAD mentioned in paragraph 8.1.11 above, the Planning Department has no objection to the application.
- 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 3 years until 24.4.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle without valid licence 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;
- (b) only private car/ light goods vehicle 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;
- (c) a notice should be posted at a prominent location of the Site to indicate that only private car/ light goods vehicle 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;
- (d) no vehicle dismantling, inspection, maintenance, repairing, cleansing, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (e) the provision of peripheral boundary fencing on the Site, as proposed by the applicant, within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 24.10.2020;
- (f) the submission of the design of vehicular run-in/run-out to the Site along Lin Ma Hang Road within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 24.10.2020;
- (g) in relation to (f) above, the provision of vehicular run-in/run-out to the Site along Lin Ma Hang Road within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 24.1.2021;

- (h) 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 24.10.2020;
- (i) in relation to (h) above, the provision of drainage facilities 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 24.1.2021;
- (j) the submission of proposals for water supplies for fire-fighting and fire service installations 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 24.10.2020;
- (k) in relation to (j) above, the implementation of proposals for water supplies for fire-fighting and fire service installations 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 24.1.2021;
- (l) the implementation of traffic management measures, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 24.1.2021;
- (m) 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; and
- (n) if any of the above planning conditions (e), (f), (g), (h), (i), (j), (k) or (l) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

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 intentions of the "V" and "REC" zones for the Ta Kwu Ling North area, which are primarily intended for development of Small Houses by indigenous villagers and for low-density recreation development for the use of the general public. There is no strong planning justification in the submission for a departure from the planning intentions, 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 the permission.

12.2 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.

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 with attachments received on 6.3.2020
Appendix Ia	Supplementary Planning Statement received on 6.3.2020
Appendix Ib	Further Information received on 15.4.2020
Appendix II	Similar S.16 Application for Car Park within/partly within the “Recreation” or “Village Type Development” zone in the vicinity of the application site in the Ta Kwu Ling North Area
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Unmanned Aerial Vehicle Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2020**