

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/631

- Applicants** : Mr. CHOY Wai Hang and Mr. CHOY Yuk Wah represented by Ms. LEE Ha Yu, Venus
- Site** : Lot 365 S.C (Part) in D.D. 84, Tai Po Tin Village, Ping Che, New Territories
- Site Area** : About 370 m²
- Leases** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zonings** : (i) "Agriculture"("AGR") (about 357 m² or 96.4% of the Site)
(ii) "Village Type Development" ("V") (about 13 m² or 3.6% of the Site)
- Application** : Renewal of Planning Approval for Temporary Private Car Park for a Period of 3 Years until 11.3.2023

1. The Proposal

- 1.1 The applicants seek renewal of planning permission to continue using the application site (the Site) for temporary private car park for a further period of three years until 11.3.2023 (**Plan A-1**). The Site falls mostly within an area zoned "AGR" (about 96.4%) with minor portion falling within "V" (about 3.6%) zone on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within "AGR" and "V" 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 with valid planning permission until 11.3.2020.
- 1.2 According to the information submitted by the applicants, the temporary car park under the renewal application is only for private use of the applicants and their family for parking of four private cars. The private car parking spaces will be covered by a movable canopy with an area of about 136m². Landscape planting, drainage facilities and fire service installations (FSIs) are provided within the Site and the Site is accessible via a village track leading to Ping Che Road. A layout plan submitted by the applicants is at **Drawing A-1**.
- 1.3 The Site is the subject of five previous applications (No. A/NE-TKL/263, 301, 340, 461

and 557) (**Plan A-1**). The first application (No. A/NE-TKL/263) was approved on 11.3.2005 for a period of 3 years up to 11.3.2008. Since then, the temporary approval was renewed four times with the last temporary approval up to 11.3.2020 under application No. A/NE-TKL/557. The development scheme submitted under the current renewal application is largely the same as the last application No. A/NE-TKL/557 in terms of the applied use and site area except for the number of private car parking spaces which is reduced from five to four. All the approval conditions of the last application have been complied with.

1.4 In support of the application, the applicants have submitted the following documents:

- (a) Application form with Attachment received on 14.11.2019 (Appendix I)
- (b) Supplementary Information received on 20.11.2019 (Appendix Ia)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in part 7 of the application form and attachment at **Appendix I**. They can be summarized as follows:

- (a) the applicants and their family need to use the Site to park four private cars for private use as there are no public parking spaces available. No other vehicles will be parked on the Site and it has not been used for other purposes since the Site was first approved by the Board for the same use in 2005;
- (b) the car park is not for commercial purpose, and is properly fenced and locked. No vehicles other than that of the applicants and their family members can gain access to it;
- (c) the private vehicles parked within the Site will not cause obstruction to other villagers or vehicles. The applicants have also set back the main entrance of the Site for lay-by purpose; and
- (d) landscape, drainage and FSIs proposals were implemented as required by the Board / the Committee. Trees are trimmed, drains are cleared and fire-fighting and fire service equipment are examined on a regular basis. There has been no change in the Site circumstances since the Site was first approved for the applied use in 2005.

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

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

4. Background

This Site is not involved in any enforcement case.

5. Town Planning Board Guidelines

Town Planning Board Guidelines No. 34C (TPB-PG No. 34C) on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use

or Development' are relevant to this application. The relevant planning criteria are summarized in **Appendix II**.

6. Previous Applications

- 6.1 The Site is the subject of five previous applications (No. A/NE-TKL/263, 301, 340, 461 and 557) submitted by one of the applicants under the current renewal application for the same use. Application No. A/NE-TKL/263 was approved with conditions by the Board on review on 11.3.2005 for a period of three years mainly on sympathetic grounds that there was not enough space for parking in Tai Po Tin Village and the applicant used his land for parking of his own cars; the boundary of the "AGR" zoning was broad-brush and it was noted that the Site was adjacent to "V" zone and four village houses were located to the north of the Site outside "V" zone and some flexibility might be exercised; and the approval of the application would unlikely set a precedent given the uniqueness of the application.
- 6.2 The other four applications (No. A/NE-TKL/301, 340, 461 and 557) for renewal of the planning approval for private car park use for three years, were approved with conditions by the Committee between 2007 and 2017 mainly on the grounds that there was no material change in planning circumstances and land uses of surrounding areas since the previous temporary approval was granted; the use was not incompatible with surrounding rural land uses; the approval conditions under the previous planning approvals were complied with by the applicant; the use would unlikely cause any significant adverse impacts on traffic, environmental, drainage and landscape of the area; and the renewal applications complied with the TPB-PG No. 34C. All the approval conditions under the last application No. A/NE-TKL/557 have been complied with and the planning permission is valid until 11.3.2020.
- 6.3 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

7. Similar Application

There is no similar application in the "AGR" and "V" zones in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.

8. 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)

- 8.1 The Site is:
- (a) flat, hard paved and fenced off; and
 - (b) located to the east of the village proper of Tai Po Tin Village (**Plan A-2**);
 - (c) currently used as temporary private car park, covered by a canopy in the southern portion, a dog kennel in the north-western portion and a meter room in the north-eastern portion; and
 - (d) accessible via a village track leading to Ping Che Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate east and south is fallow agricultural land and to the further east are a mix of active and fallow agricultural land and temporary domestic structures; and
- (b) to the west and north are existing village houses within the “V” zone and village ‘environs’ (‘VE’) of Tai Po Tin Village and some active/fallow agricultural land.

9. Planning Intentions

- 9.1 The planning intention of the “AGR” zone in the Ping Che and Ta Kwu Ling area is primarily 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.
- 9.2 The planning intention of the “V” zone in the Ping Che and Ta Kwu Ling area 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.

10. Comments from Relevant Government Departments

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

Land Administration

- 10.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
 - (a) the lot is an Old Schedule lot held under Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access. The applicants should make their own arrangement. 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) existing structures on the Site were erected without approval from his office. The aforesaid structures are not acceptable under the lease concerned. His office reserves the right to take enforcement actions against the aforesaid structures; and
 - (c) if the renewal of the planning approval is granted, the owners of the lot concerned shall apply to his office for a Short Term Waiver (STW) covering all the 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 is approved, its 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 and administrative fees as considered appropriate by his office.

Traffic

10.1.2 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; and
- (b) the vehicular access between the Site and Ping Che Road is not managed by TD. The applicant should also seek comment from the responsible party.

Environment

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

- (a) the applicants are advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Uses' issued by DEP; and
- (b) there was no environmental complaint against the Site during the past three years.

Drainage

10.1.4 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 a conditional record of the existing drainage facilities on site as previously implemented on the same site in the planning application No. A/NE-TKL/557 to the satisfaction of this Division within three months of the TPB's letter of approval; and
- (c) maintain those existing drainage facilities properly and rectify those facilities if they are found inadequate / ineffective during operation.

Fire Safety

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

he has no in-principle objection to the application subject to the existing FSIs implemented on the site being maintained in efficient working order at all times.

Agriculture

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

she has no strong view against the application for renewal of planning approval.

District Officer's Comments

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

he has consulted the locals regarding the application. The Vice-Chairman of Ta Kwu Ling District Rural Committee objected to the proposal as some local villagers raised concern on the application. The Resident Representative (RR) of Tai Po Tin Village supported the proposal and one local consultee objected to the captioned application.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 22.11.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 3 public comments were received (**Appendix IV**). The comment from a NDC member supports the application as it can provide convenience to the villagers, whereas the comment from the Chairman of Sheung Shui Rural Committee indicates no comment on the application. One individual object to the proposal mainly on the grounds that the development is not in line with the planning intention of "AGR" zone.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning permission for temporary private car park for a further period of three years. The temporary development is not in line with the planning intentions of "AGR" and "V" zones which are primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and for development of Small Houses by indigenous villagers respectively. Nevertheless, DAFC has no strong view against the renewal application as the Site has been largely formed and used for the applied use since 2005. DLO/N advises that there is no Small House application on the Site. Approval of the application on a temporary basis for another three years would not frustrate the long-term planning intentions of the "AGR" and "V" zones.

12.2 The current development scheme is largely the same as the last approved scheme in terms of the applied use and site area except for the number of private car parking spaces from five to four. The applied use is considered not incompatible with the surrounding rural landscape character, which is predominantly a mix of active / fallow agricultural land, village houses and parking of vehicles (**Plan A-2**). In view of the nature and the small-scale of the temporary private car park (with a maximum number of four private car parking spaces for private use only), the development is not expected to have significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. Concerned government departments consulted, including C for T, DEP, CE/C of WSD, D of FS and CE/MN of DSD have no adverse comment on or no objection to the application.

- 12.3 The Site is the subject of five previous applications (No. A/NE-TKL/263, 301, 340, 461 and 557) for the same temporary use which were approved with conditions by the Committee between 2005 and 2017. All the approval conditions for the last approved application have been complied with and the planning permission will lapse on 11.3.2020. There has been no material change in planning circumstances since the approvals of the previous applications.
- 12.4 The renewal application generally complies with the Town Planning Board Guidelines on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34C) in that there has not been any material change in planning circumstances since the approval of the last application; there are no major adverse departmental comments against the renewal application; all the approval conditions for the last application have been complied with; and the approval period sought which is for the same as the last approval granted by the Board is not unreasonable.
- 12.5 Regarding the adverse public comments as detailed in paragraph 11, the Government departments' comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary use under application could be tolerated for a further period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a further period of 3 years and be renewed from 12.3.2020 until 11.3.2023. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the car park should be restricted for parking of private cars only and should not be opened to the public on a commercial basis;
- (b) the existing FSIs implemented on the site should be maintained in efficient working order at all times;
- (c) the submission of a condition record of the existing drainage facilities within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 12.6.2020;
- (d) if any of the above planning conditions (a) or (b) 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;
- (e) if the above planning condition (c) 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; and

- (f) 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 at **Appendix V**.

- 13.3 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 "AGR" zone in the Ping Che and Ta Kwu Ling area which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with Attachment received on 14.11.2019
Appendix Ia	Supplementary Information received on 20.11.2019
Appendix II	Relevant Extract of TPB Guidelines No. 34C on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development
Appendix III	Previous s.16 Applications
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos