

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

**APPLICATION NO. A/NE-TK/629**

- Applicants** : Messrs WOO On, WOO Wong Sing (WU Wong Shing), WU Kwok Yau, WU Yuet Yau and Goldsun Hill Limited, represented by First Leung Contracting Limited
- Site** : Lots 725 RP (Part), 762 (Part), 722 S.A (Part), 722 RP (Part), 727 (Part) and 763 RP all in D.D. 29 and adjoining Government land, Ting Kok Village, Tai Po, New Territories
- Site Area** : About 2,006m<sup>2</sup> (Including 693.7m<sup>2</sup> Government land)
- Lease** : (a) Block Government Lease (demised for agricultural use) (about 65.4%)  
(b) Government land (about 34.6%)
- Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Car Park (Private Cars only) for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a temporary car park (private cars only) 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 The car park, with 70 parking spaces for private cars, will serve local residents and operate 24 hours a day. The Site abuts on Shan Liu Road. A plan showing the site layout and vehicular ingress/egress to Shan Liu Road is at **Drawing A-1**.
- 1.3 In support of the application, the applicants have submitted the application form and attachments on 11.12.2017 (**Appendix I**).

**2. Justifications from the Applicants**

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

- (a) there is increasing demand for parking spaces due to the completion of many village houses in the area in recent years; and
- (b) approval of the application will relieve the problem of roadside parking at Shan Liu Road, which is the only access to Shan Liu Village and hence reduce traffic congestion as well as traffic accidents.

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

The applicants are some of the “current land owners” 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 “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection. As for the Government land, the “owner’s consent/notification” requirements are not applicable to the application.

**4. Background**

4.1 According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is the subject of two active enforcement cases against unauthorized land filling activities (**Plan A-2**). Enforcement Notices (EN) were issued on 5.10.2015 and 21.12.2015 requiring the notice recipients to discontinue the unauthorized development by 19.10.2015 and 28.12.2015 respectively. On 7.9.2016 and 16.1.2017, Reinstatement Notices (RN) were issued requiring the notice recipients to reinstate the land by 7.12.2016 and 16.4.2017 respectively.

4.2 Recently, the Site was used as parking of vehicles. On 1.2.2018, EN against unauthorized parking of vehicles was issued requiring the notice recipients to discontinue the unauthorized development by 1.4.2018.

**5. Previous Application**

There is no previous application at the Site.

**6. Similar Application**

There is no similar application for the same use within the same “AGR” zone.

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

7.1 The Site is:

- (a) mainly hard-paved and currently used as applied use without valid planning permission;
- (b) situated at the northern fringe of Ting Kok Village and adjoins Shan Liu Road; and
- (c) bounded by woodland to the north and east.

7.2 The surrounding areas are predominantly rural in character with village houses, temporary structures, scattered tree groups and woodland. The village proper of Shan Liu is situated about 35m to the south of the Site across Shan Liu Road. Pak Sin Leng Country Park is located to the further east of the Site.

**8. Planning Intention**

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.

**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) the Site consists of six private lots namely Lots 725 RP (Part), 762 (Part), 722 S.A (Part), 722 RP (Part), 727 (Part) and 763 RP all in D.D. 29 with 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;
- (b) the recent inspection revealed that the Site has been used for an open car park, and several unauthorized canopies were found erected/fixed on ground without LandsD’s approval;
- (c) he has no objection to the application provided that the applicants should immediately exclude several proposed pieces of unallocated Government land from the application as no

direct grant of short term tenancy for a private/commercial car park would be entertained by LandsD and remove the unauthorized canopies erected/fixed on ground; and

- (d) no Small House application has been received at the Site up to present.

### **Traffic**

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

- the existing road near the Site is not under Transport Department's management. He has no in-principle objection to the application provided that the land status of the vehicular access should be clarified with the relevant lands authorities and permission to use should be obtained accordingly in order to avoid any potential dispute and complaints.

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

- (a) no comment on the application; and
- (b) should the application be approved, the applicant is required to submit the details of run-in/out and/or modification works on Shan Liu Road for HyD's consideration.

### **Environment**

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

- (a) no objection to the application;
- (b) 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); and
- (c) no environmental complaint in relation to the Site has been received in the last three years.

### **Landscape**

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

- (a) has some reservations on the application from landscape planning point of view;

- (b) the Site is situated on a slope to the northeast of Shan Liu Road. Village Houses are concentrated within the “V” zone at the south;
- (c) the Site is situated in an area of rural landscape character comprising of village houses, scattered parking areas, scattered tree groups and woodland patches. Given the nature of the applied use with an area of about 2,006m<sup>2</sup>, it is not incompatible with the surrounding environment. The Site has been cleared, hard paved and in operation as car park. One *Ficus microcarpa* (細葉榕) of mature size (Diameter at Breast Height (DBH) of 1m) is found at the southern boundary within the Site (**Plans A-2 and A-4b**). The concerned tree is of good condition and high amenity value which should be preserved on site. However, no information on tree preservation is provided;
- (d) in comparing the past aerial photos (**Plans A-3a and A-3b**), it is apparent that vegetation has been cleared within and outside the Site for providing car park prior to submission of the application. Approval of the application would set an undesirable precedent to encourage vegetation clearance prior to application. The cumulative effect of approving similar applications would result in degradation of landscape character and cause adverse landscape impact to the area;
- (e) should the application be approved, approval condition on the submission and implementation of a tree preservation and landscape proposal is recommended; and
- (f) noting that the temporary car park is in close proximity to the surrounding village houses, the applicant should be advised to provide planting along the southern and western site boundary should be provided for screening purpose.

### **Drainage**

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) there is no existing DSD maintained public storm drains available for connection in this area. The 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 to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. 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. 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

- (c) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant lot owners should be sought.

### **Agriculture**

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

- the Site is paved and currently used as a car park. Nevertheless, the Site possesses potential for agricultural rehabilitation. As such, he has reservation on the application from agricultural development point of view.

### **Building Matters**

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

- (a) there is no record of submission of site formation works at the subject lots to the Building Authority for approval; and
- (b) the applicant's attention is drawn to the following points:
  - (i) if the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
  - (ii) before any new building works (including site formation works, containers/open sheds as temporary buildings, etc) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - (iii) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance

with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;

- (iv) if the proposed use under the application is subject to the issue of licence, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
- (v) in connection with (ii) above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively; and
- (vi) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

### **Fire Safety**

#### 9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to fire service installations (FSI) and water supplies for firefighting being provided to the satisfaction of the D of FS; and
- (b) the applicant should provide relevant layout plans to Fire Services Department (FSD) incorporated with the proposed FSIs for FSD's approval. The applicant should also note that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and the locations of the proposed FSIs and the access for emergency vehicles should be clearly marked on the layout plans.

### **Geotechnical Aspect**

#### 9.1.10 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- the Site is already serving as an open car park and suspected unauthorized site formation works (USW) have been observed at the Site.

### **Electricity Safety**

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

- (a) no comment on the application from electricity supply safety aspect; and
- (b) 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.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Commissioner of Police;
- (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 II)**

On 19.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 9.1.2018, four public comments were received from World Wide Fund for Nature Hong Kong, Designing Hong Kong Limited, Hong Kong Bird Watching Society and an individual objecting to the application on the grounds of being not in line with the planning intention of the “AGR” zone; being the subject of an unauthorized development and a suspected ‘destroy first, apply later’ application; having adverse impacts on environment and ecology; and setting of undesirable precedent.

## **11. Planning Considerations and Assessments**

11.1 The Site falls within the “AGR” zone. The temporary car park under application 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. 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 the Site possesses potential for agricultural rehabilitation. The applicant has not provided any strong planning justifications in the submission to merit a departure from the planning intention of “AGR” zone, even on a temporary basis.

- 11.2 The Site is located at the northern fringe of Ting Kok Village and besides Shan Liu Road. The temporary private car park will provide a total of 70 parking spaces for private cars (**Drawing A-1**). The Site is mainly hard-paved (**Plans A-4a** and **A-4b**) and one *Ficus microcarpa* (細葉榕) of mature size is found at the southern boundary within the Site (**Plans A-2** and **A-4b**). Whilst the applied use is considered not incompatible with the surrounding areas which are predominantly rural in character with village houses, scattered tree groups and woodland (**Plan A-3b**), CTP/UD&L of PlanD advises that, according to the past aerial photos (**Plan A-3a**), vegetation has been cleared within and outside the Site for providing car park prior to submission of the application. Therefore, he has some reservations on the application from the landscape planning point of view as approval of this application will set an undesirable precedent to encourage vegetation clearance prior to application and the cumulative effect would result in degradation of landscape character and cause adverse landscape impact to the area. Furthermore, there is no information submitted by the applicant on tree preservation for the concerned *Ficus microcarpa* (細葉榕) within the Site, which is of good condition and with amenity value and should be preserved on site.
- 11.3 About 34.6% of the Site is on Government land (**Plan A-2**) and DLO/TP, LandsD advises that the applicants should exclude the unallocated Government land concerned from the application as no direct grant of short term tenancy for a private/commercial car park would be entertained by LandsD. CTP/CEP, PlanD advises that the Site is the subject of active enforcement cases against unauthorized land filling activities, and ENs and RNs have been issued to the concerned lot owners. Furthermore, EN against unauthorized parking of vehicles was issued on 1.2.2018 requiring the notice recipients to discontinue the unauthorized parking of vehicles by 1.4.2018. The existing road near the Site is not under Transport Department’s management. C for T has no in-principle objection to the application provided that the land status of the vehicular access should be clarified with the relevant lands authorities and permission to use should be obtained accordingly in order to avoid any potential dispute and complaints. DEP advises that no environmental complaint against the Site has been received in the past three years. Other relevant Government departments consulted including CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD, D of FS and C of P have no objection to or adverse comment on the application.
- 11.4 Regarding the public comments objecting to the application mainly for the reasons of being not in line with the planning intention of the “AGR” zone; being the subject of an unauthorized development and a suspected ‘destroy first, apply later’ application; having adverse impacts on environment and ecology; and setting of undesirable precedent, 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 does not support the application for the following reasons:

- (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. There is no strong planning justification in the submission for a departure from the planning intention of “AGR” zone, even on a temporary basis;
- (b) the applicant fails to demonstrate in the submission that the development would not result in adverse landscape impact to the area; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications in the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the landscape character of the area.

12.2 Alternatively, 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 9.2.2021. 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 during the planning approval period;
- (b) no vehicle repairing, car washing/fuelling, vehicle dismantling and workshop activities shall be permitted within the application site during the planning approval period;
- (c) 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 9.8.2018;
- (d) the submission of landscape and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 9.8.2018;
- (e) in relation to (d) above, the implementation of landscape and tree preservation proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 9.11.2018;

- (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 9.8.2018;
- (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 9.11.2018;
- (h) the submission of fire service installations and water supplies for fire fighting 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 9.8.2018;
- (i) in relation to (h) above, the provision of fire service installations and water supplies for fire fighting 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 9.11.2018;
- (j) the design of vehicular run-in/out to the application site along Shan Liu 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 9.8.2018;
- (k) in relation to (j) above, the provision of vehicular run-in/out to the application site along Shan Liu 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 9.11.2018;
- (l) if any of the above planning conditions (a) or (b) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (m) if any of the above planning conditions (c), (d), (e), (f), (g), (h), (i), (j) or (k) 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
- (n) 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**.

### **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**

Appendix I	Application form and attachments received on 11.12.2017
Appendix II	Public comments
Appendix III	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3b	Aerial Photos
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT  
FEBRUARY 2018**