

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

**APPLICATION NO. A/NE-TK/636**

- Applicant** : Mr. CHIM Yung Fat
- Site** : Lots 968 (Part), 970 RP(Part), 977 S.B RP, 977 S.B ss.1, 977 S.B ss.2, 977 S.B ss.3, 977 S.B ss.4, 977 S.B ss.5, 977 S.B ss.6, 977 S.B ss.7, 977 S.B ss.8, 977 S.B ss.15, 977 S.B ss.16, 978, 979 S.A, 979 S.B, 981 S.C, 982, 984 S.B (Part), 1019 S.A (Part), 1019 S.B (Part), 1019 S.C, 1029, 1030, 1031, 1032, 1033 in D.D. 23, Po Sam Pai Village, Ting Kok, Tai Po, New Territories
- Site Area** : About 4,988m<sup>2</sup>
- Lease** : Block Government Lease demised for agricultural use
- Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
- Zoning** : “Agriculture” (“AGR”) (about 86.4%) and  
“Village Type Development” (“V”) (about 13.6%)
- Application** : Temporary Vehicle Park (Private Car and Light Goods Vehicle) for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a temporary vehicle park (private car and light goods vehicle) 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 vehicle park, with 60 parking spaces for private cars and 20 parking spaces for light goods vehicles, will serve local residents and operate from 7:00 a.m. to 10:00 p.m. from Mondays to Fridays, and from 9:00 a.m. to 10:00 p.m. during Saturdays, Sundays and public holidays. The Site is accessible by a track leading from Ting Kok Road. Site plan and vehicular access plan are at **Drawings A-1** and **A-2** respectively.

- 1.3 In support of the application, the applicant submitted the application form with relevant attachments, and supplementary information on 13.2.2018 and 20.2.2018 respectively (**Appendix I**).

## **2. Justifications from the Applicant**

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

- (a) there is no public car park or village car park in San Tau Kok and Po Sam Pai villages. The provision of a temporary parking area is urgently required to satisfy the parking need of local villagers/ residents;
- (b) a portion of Lot 968 and adjoining government land are excluded from the Site to avoid affecting the government land. The excluded area will be separated by chain-link fence to distinguish them from the Site boundary;
- (c) the Site is currently under Section 23(3) Enforcement Notice No. CEP/NE-TK/110. The main purpose of the application is to regularise the temporary use of the Site and to have a better control and management by complying with the conditions to be imposed by the relevant Government departments such that the temporary use of the Site can be maintained to serve the critical need of the villagers/ residents with all possible mitigation measures as required by the departments concerned to minimise the impact on the surrounding environment; and
- (d) the applicant undertakes to comply with the approval conditions to be imposed by the Rural and New Town Planning Committee (the Committee). For instance, the provision of parking layout, landscaping and fire safety installations.

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

The applicant is not 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.

## **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 a previous and an active enforcement cases against unauthorised parking of vehicles and storage use (**Plan A-2**). With regard to the previous case, Enforcement Notice

(EN) and Compliance Notice (CN) were issued on 18.9.2015 and 8.8.2017 respectively.

- 4.2 On 29.8.2017, EN for the current enforcement case was issued against the same unauthorised development. Upon discontinuance of the unauthorised development according to site inspections carried out on 30.10.2017 and 1.12.2017, CN was later issued on 4.1.2018. Meanwhile, Reinstatement Notice (RN) was issued on 19.12.2017 requiring the owners to remove the leftover, debris and hard paving, and to grass the Site by 19.3.2018. Upon expiry of the RN, site inspection revealed that the site was vacant but largely not reinstated except some vegetation observed. The case is currently under monitoring with further inspections to be undertaken. Should the RN eventually not being complied with, prosecution would be undertaken.

## **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” and “V” zones.

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

7.1 The Site is:

- (a) largely hard paved and currently used as the applied use without valid planning permission;
- (b) spotted with some mature trees;
- (c) situated at the northern fringe of Po Sam Pai Village; and
- (d) accessible from Ting Kok Road via a track of about 300m long.

7.2 The surrounding areas are predominantly rural in character with village houses, temporary structures, scattered tree groups and woodland. There are active and fallow agricultural land to the immediate north of the Site, and a cluster of village houses are found to its immediate south.

## **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 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.

## **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 27 private lots, namely Lots 968 (Part), 970 RP(Part), 977 S.B RP, 977 S.B ss.1, 977 S.B ss.2, 977 S.B ss.3, 977 S.B ss.4, 977 S.B ss.5, 977 S.B ss.6, 977 S.B ss.7, 977 S.B ss.8, 977 S.B ss.15, 977 S.B ss.16, 978, 979 S.A, 979 S.B, 981 S.C, 982, 984 S.B (Part), 1019 S.A (Part), 1019 S.B (Part), 1019 S.C, 1029, 1030, 1031, 1032 and 1033 in D.D. 23 with different ownership. As these lots are all held under the Block Government Lease demised for agricultural use, no structure shall be erected on the aforesaid lots without prior approval from LandsD;
- (c) a recent site inspection revealed that the Site has been used for an open vehicle parking purpose;
- (d) the vehicular access to the Site covers various private lots and Government land. There is no guarantee of right of way to the Site, these private lots and the Government land;
- (e) the applicant is not required to seek a lease modification from LandsD to implement the temporary public vehicle park. Therefore, any planning conditions, if imposed by the Board, cannot be written into the lease through lease modification; and
- (f) no Small House/ New Territories Exempted House (NTEH) application has been received at the Site.

## **Traffic**

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

- (a) in general, he has reservation on the application;
- (b) the applicant should submit the car parking layout;
- (c) the applicant should also submit a traffic review to demonstrate that the proposed vehicle park would not cause any adverse traffic impact to the surrounding access road and road network; and
- (d) the existing village access near the Site is not under the Transport Department's (TD) management. He suggests the land status of the village track road should be checked with the lands authority. The management and maintenance responsibilities of the village track road should be clarified with the relevant lands and maintenance authorities accordingly.

## **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 (CTP/UD&L, PlanD):

- (a) has some reservations on the application from the landscape planning perspective;
- (b) based on the latest aerial photo, the Site is situated in an area of rural landscape character comprising of natural woodland, Small Houses and car parks. Although the applied use is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;
- (c) the Site is cleared and paved with gravels. Numbers of mature trees are spotted within the Site. Fallow farmlands and scattered tree groups are found along the northern boundary. According

to the past aerial photos, it is apparent that vegetation has been cleared within the Site 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;

- (d) should the application be approved by the Board, an approval condition on the submission and implementation of landscape and tree preservation proposal is recommended; and
- (e) it is observed that an informal track runs across the Site from the west to the east. The need to maintain the right of way to adjacent Small Houses should be considered.

### **Water Supply**

9.1.6 Comments of the 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.

### **Drainage**

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

- (a) no objection in principle to the application from public drainage viewpoint;
- (b) if the application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to the satisfaction of Director of Drainage Services or the Board to ensure it will not cause adverse drainage impact to the adjacent area;
- (c) there is no public drain maintained by DSD in the vicinity of the Site. The development should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site. The development will increase the impervious area, resulting in a change of the flow pattern and an increase of the

surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such 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) the applicant should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the applicant on his drainage proposal. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/ departments if necessary. He should make sure no adverse impact will be caused to the area and downstream drainage system due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m should be maintained between the development and the top of the embankment of existing stream course/ ponds/ rivers.

### **Agriculture**

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

- the Site is paved and currently used as a car park. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as road access and water supply is available. The Site possesses potential for agricultural rehabilitation. As such, the application is not supported from agricultural development point of view.

### **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. Emergency Vehicular Access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administrated by Buildings Department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Commissioner of Police;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Project Manager/North, Civil Engineering and Development Department;
- (e) Director of Electrical and Mechanical Services; and
- (f) District Officer/Tai Po, Home Affairs Department.

## **10. Public Comments Received During Statutory Publication Period**

On 23.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments were received (**Appendix II**) from local villagers, Kadoorie Farm & Botanic Garden and an individual opposing to the application mainly on the grounds that agricultural land should not be used for commercial car park, the applicant is not a local resident, the application will have adverse impact to the green countryside environment as well as the pedestrian/ vehicular access, being not in line with the planning intentions of “AGR” and “V” zones, setting of undesirable precedent, and has reversed the ‘apply first, develop later’ development approach.

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

- 11.1 The Site falls mainly within “AGR” zone (about 86.4%) and partly within “V” zone (about 13.6%) on the OZP. The temporary car park 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. DAFC does not support the application as there are active agricultural activities in its vicinity and the Site has 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, situated at the northern fringe of Po Sam Pai Village, is largely hard paved, and some mature trees were found within the Site. The temporary car park will provide 60 parking spaces for private cars and 20 parking spaces for light goods vehicles. Whilst the applied use is considered not incompatible with the surrounding areas which are predominantly rural in character with village houses, temporary structures, scattered tree groups and woodland (**Plan A-3**), CTP/UD&L of PlanD advises that, according to the past aerial photos, vegetation has been cleared within the Site prior to submission of the application. Therefore, he has some reservations on the application from the landscape planning point of view as approval of the application would set an undesirable precedent to encourage vegetation clearance prior to application, and the cumulative effect of approving similar applications would result in degradation of landscape character and cause adverse landscape impact to the



area. CTP/CEP, PlanD also advises that the Site is the subject of past and active enforcement cases against unauthorized parking of vehicles and storage use, and relevant ENs, CNs, and/or RNs have been issued to the concerned lot owners. According to the latest site inspection, the RN requirements have not been complied with.

- 11.3 C for T, in general, has reservation on the application. He advises that the applicant should submit a car parking layout and a traffic review to demonstrate that the vehicle park would not cause any adverse traffic impact to the surrounding access road and road network. The Site is accessible from Ting Kok Road via a 300m track leading to Ting Kok Road. C for T advises that the existing village access near the Site is not under TD's management and suggests that the land status, management and maintenance responsibilities of the village track road should be checked and clarified by the applicant with the relevant lands and maintenance authorities. 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, DEMS, PM/N and H(GEO) of CEDD, 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 on the grounds that agricultural land should not be used for commercial car park, the application will have adverse impact to the green countryside environment as well as the pedestrian/ vehicular access, being not in line with the planning intentions of "AGR" and "V" zones, setting of undesirable precedent, and has reversed the 'apply first, develop later' development approach, 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 and traffic impacts; 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 3 years until 6.4.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 10:00 p.m. and 7:00 a.m. from Mondays to Fridays, and between 10:00 p.m. and 9:00 a.m. on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no vehicles other than private cars and light goods vehicles are allowed to be parked within the application site during the planning approval period;
- (c) no vehicle repairing, car washing/fuelling, vehicle dismantling and workshop activities shall be permitted within the application site during the planning approval period;
- (d) the provision of boundary fencing on the application 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 6.10.2018;
- (e) the submission of car parking layout and traffic review within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.10.2018;
- (f) in relation to (e) above, the implementation of car parking layout within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.1.2019;
- (g) 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 6.10.2018;
- (h) in relation to (g) 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 6.1.2019;
- (i) 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 6.10.2018;

- (j) in relation to (i) above, the implementation 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 6.1.2019;
- (k) 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 6.10.2018;
- (l) in relation to (k) 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 6.1.2019;
- (m) if any of the above planning conditions (a), (b) or (c) 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;
- (n) if any of the above planning conditions (d), (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 on the same date without further notice; and
- (o) upon the 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 submitted by the applicant
Appendix II	Public comments

Appendix III	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	Vehicular Access plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT  
APRIL 2018**