

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

**APPLICATION NO. A/NE-TK/637**

- Applicant** : Mr. TO Shu Wing
- Site** : Lot 1055 RP in D.D. 23, Po Sam Pai Village, Tai Po, New Territories
- Site Area** : About 46.5m<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** : “Village Type Development” (“V”)
- Application** : Temporary Private Car Park for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a temporary private car park 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 application is to provide two parking spaces for private cars not exceeding 5.5 tonnes. The Site is accessible by a track leading from Ting Kok Road. Site plan, vehicular access plan and car parking layout are at **Drawings A-1 to A-3** respectively. As the temporary car park is for private use, there is no operation hour for the applied use.
- 1.3 In support of the application, the applicant submitted the following documents :
- (a) an application form with attachments **(Appendix I)**
  - (b) Further Information (FI) received on 7.5.2018 and 8.5.2018 in response to departmental comments and public comments (*accepted and exempted from the publication*) **(Appendix Ia)**

- (c) FI received on 31.5.2018 in response to public comment (**Appendix Ib**)  
(*accepted and exempted from the publication*)

1.4 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed on 18.5.2018 to defer the consideration of the application for two months to allow time for the applicant to prepare FI to support the application. The applicant submitted the FI on 31.5.2018 and the application is re-scheduled for consideration on 6.7.2018.

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

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

- (a) the Site is relatively small in area and located at the dead end of the existing track road. The applied use involves the parking of two private vehicles, one for daily use and the other for holiday use, and would not affect the internal village traffic flow;
- (b) the use of the Site for parking has been long established. The frequency of cars using the access road is very low, on average twice daily. Air and noise pollution is very minimal;
- (c) the car park is open in nature without any structures or covers erected within the Site. No visual impact will be caused to the surrounding environment;
- (d) stormwater discharge system is already in existence;
- (e) the provision of fire service installations is readily available from village houses adjoining the Site;
- (f) there is no provision of public car park or village car park in San Tau Kok and Po Sam Pai. There is a critical demand for parking spaces for the villagers and residents;
- (g) the use of private car park is temporary in nature. By the time when public transport is more convenient in the area, the applicant might not use the Site for car parking purpose;
- (h) should the application be approved, the applicant would allow right of way to pedestrians to pass the Site (outside the parking portion); and
- (i) the car parking spaces are used by the applicant and the other land owner of the Site who live in Po Sam Pai Village at 70m and 100m away from the Site respectively.

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

The applicant is one of the “current land owners” of the lot and has obtained the consent from the remaining owner for the applied use. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Previous Application**

There is no previous application at the Site.

5. **Similar Application**

There is a similar application No. A/NE-TK/636 (with 86% of the application site falling within the “Agriculture” (“AGR”) zone and the remaining 14% falling within the same “V” zone) for temporary vehicle park providing parking spaces for 60 private cars and 20 light goods vehicles for a period of 3 years. It was rejected by the Committee on 6.4.2018 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; failing to demonstrate that the development would not cause adverse landscape and traffic impacts; and setting of undesirable precedent.

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

6.1 The Site is:

- (a) hard paved and currently used as the applied use without valid planning permission;
- (b) situated at the south-western portion of Po Sam Pai Village; and
- (c) accessible from Ting Kok Road via a track of about 250m long.

6.2 The surrounding areas are predominantly rural in character with clusters of village houses nearby.

7. **Planning Intention**

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

## **8. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) has no objection to the application;
- (b) the Site consists of a private lot, namely Lot 1055 RP in D.D. 23. The lot is held under Block Government Lease demised for agricultural purpose and no structure is allowed to be erected without prior approval from LandsD;
- (c) 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;
- (d) no Small House application has been received at the Site; and
- (e) the applicant is not required to seek a lease modification from LandsD to implement the temporary private car park. Therefore, any planning conditions, if imposed by the Board, cannot be written into the lease through lease modification.

### **Traffic**

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

- (a) has no in-principle objection to the application from traffic engineering point of view; and
- (b) the existing access road near the Site is not under Transport Department (TD)'s management. The land status of the access road should be checked with the lands authority. The management and maintenance responsibilities of the access road should be clarified with the relevant lands and maintenance authorities accordingly.

### **Environment**

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

- (a) has no objection to the application;
- (b) there was one non-substantiated environmental complaint in relation to the Site received in the past three years; and

- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.

### **Drainage**

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

- (a) has no in-principle objection to the application from public drainage viewpoint;
- (b) there is no public drain maintained by DSD in the vicinity of the Site. The applicant should ensure that the applied use will not cause adverse drainage impact to the adjacent area;
- (c) the applied use shall not cover up or obstruct the manholes/catchpits of existing public sewers and drains;
- (d) the applied use shall not be located directly above underground sewers/drains. All the properties should be removed at DSD’s request to facilitate any required maintenance works on the concerned underground sewers/drains nearby in the future;
- (e) the applicant should take all precautionary measures to prevent disturbance, damage and pollution from the Site to any parts of the existing drainage facilities in its vicinity. In the event of any damage to the existing drainage facilities, the applicant should rectify the damage and would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom; and
- (f) the applicant should exercise extreme care in the vicinity of any existing drainage facilities in order not to disturb, interfere with or cause damage to them. Any blockage or damage to the said works due to the applicant’s activities in the area shall be made good to the satisfaction of DSD at the resources of the applicant.

### **Water Supply**

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

- (a) has 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.

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

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

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

On 3.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, eight public comments were received (**Appendix III**) from local villagers and individuals objecting to the application mainly on the grounds that the applied use will cause adverse air and noise pollution to the surrounding environment, impose safety risks to villagers in view of the narrow access; and the applicant does not live in the concerned village.

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

10.1 The applied use is for a temporary private car park for a period of three years. Although the "V" zone is primarily intended for Small House development, DLO/TP of LandsD has no objection to the application and advises that there is no Small House application received at the Site. The provision of two parking spaces for private cars is considered not incompatible with the surrounding land uses which are predominated by clusters of village houses. Given its temporary nature and small scale, it is considered that approval of the application on a temporary basis for a period of three years would not jeopardise the long-term planning intention of the "V" zone.

10.2 The private car park at the Site is considered not incompatible with the surrounding land uses which are predominated by clusters of village houses. The applicant has submitted a car parking layout (**Drawing A-3**) to demonstrate that obstruction of the local access would be minimal and undertakes to allow right of way for pedestrian passage outside the parking portion of the Site. Given the small scale of the applied use with a site area of about 46.5m<sup>2</sup> and no vehicles exceeding 5.5 tonnes would be parked within the Site, it is unlikely that the applied use would generate significant environmental nuisance. Relevant Government departments consulted including C for T, DEP, CE/MN of DSD, CE/C of WSD, DAFC, CHE/NTE of HyD, D of FS, DEMS, PM/N and H(GEO) of CEDD and C of P have no objection to or no adverse comment on the application. To minimise possible

environmental nuisance generated by the applied use, approval conditions restricting the types of vehicles and prohibition of workshop-related activities are recommended in paragraphs 11.2 (a) to (c) below. Besides, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

- 10.3 There is a similar application No. A/NE-TK/636 (with 86% of the application site falling within the “AGR” zone and the remaining 14% falling within the same “V” zone) for temporary vehicle park for a period of 3 years involving 60 private car and 20 light goods vehicle parking spaces (**Plan A-1**). It was rejected by the Committee on 6.4.2018 mainly on the grounds of not being in line with the planning intention of the “AGR” zone; failing to demonstrate that the development would not cause adverse landscape and traffic impacts; and setting of undesirable precedent for other similar applications in the “AGR” zone. Compared with application No. A/NE-TK/636, the current application is much smaller in scale. According to the applicant, the Site is used by the applicant and the other land owner of the Site, who live in Po Sam Pai Village, for the parking of their own vehicles.
- 10.4 Regarding the public comments objecting to the application mainly on the grounds that the applied use will cause adverse air and noise pollution to the surrounding environment, impose safety risks to villagers in view of the narrow access; and the applicant does not live in the concerned village, the comments from concerned Government departments and planning assessments in above paragraphs are relevant.

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

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 years.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 6.7.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no vehicles without valid licences issued under the Road Traffic (Regulation and Licensing of Vehicles) Regulations are allowed to be parked/stored on the site at any time during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, 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) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out at the site at any time during the planning approval period; and
- (d) 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.

#### Advisory Clauses

The recommended advisory clauses are attached 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 applied use is not in line with the planning intention of the "V" zone which 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. There is no strong planning justification in the submission for a departure from this planning intention, even on a temporary basis.

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the 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 and attachments received on 27.3.2018
Appendix Ia	FI submitted by the applicant on 7.5.2018 and 8.5.2018
Appendix Ib	FI submitted by the applicant on 31.5.2018
Appendix II	Similar application
Appendix III	Public comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant



Drawing A-2	Vehicular Access plan submitted by the applicant
Drawing A-3	Car parking layout submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT  
JULY 2018**