

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

**APPLICATION NO. A/NE-TK/650**

- Applicant** : Mr. LEE Hon Wan John
- Site** : Lots 1103 S.B and 1103 RP in D.D. 23, Po Sam Pai Village, Tai Po, New Territories
- Site Area** : About 343.5m<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 10 parking spaces for private cars not exceeding 5.5 tonnes. The Site is accessible from Ting Kok Road via a local track. Site plan with vehicular access and layout plan of the car parking spaces are at **Drawings A-1** and **A-2** 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 21.8.2018 in **(Appendix Ia)** response to departmental comments (*accepted and exempted from the publication*)

- (c) FI received on 11.10.2018 providing a revised layout (**Appendix Ib**) plan of car parking spaces (*accepted and exempted from the publication*)

1.4 On 17.8.2018, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months to allow time for preparation of FI to address departmental and public comments. Subsequently, the applicant submitted further information on 21.8.2018 and 11.10.2018. The application is re-scheduled for consideration by the Committee on 19.10.2018.

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

The justifications put forth by the applicant in support of the application are detailed in part 9 of the application form and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) the Site is located at the dead end of an existing track road, and is already used for the parking of ten private vehicles currently owned and used by the applicant and the villagers/residents living at premises adjoining the Site;
- (b) the Site is about 7m in width, and the vehicles are parked along the northern boundary of the Site (each parking space is 5m x 2.5m in dimension). Four vehicles for daily use and the other six only for holiday use, hence would not affect the internal village traffic flow;
- (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 from 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; and
- (h) the existing access road off Ting Kok Road to the Site runs over a portion of private land Lot No. 1052 S.B RP in D.D. 23 where a property management office (guard booth) with a drop gate is installed by the owner of the private land providing a free access 'right-of-way' to the local villagers. After passing through the private land, the access road turns north over a strip of government land (formed as a traditional village road) and the Site is linked at the junction with the part of access road on government land. The management and

maintenance of the access rest on the landowner of the private land concerned and there is no special permission for using the access.

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 at the Site.

5. **Similar Application**

5.1 There are two similar applications No. A/NE-TK/636 and 637 for temporary vehicle park within the same “V” zone (**Plan A-1**). The former was rejected on 6.4.2018 and the latter was approved on 6.7.2018 by the Rural and New Town Planning Committee (the Committee).

5.2 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, was rejected 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.

5.3 Similar to the current application, application No. A/NE-TK/637, falling entirely within the same “V” zone, for temporary private car park providing two parking spaces for a period of 3 years, was approved on 6.7.2018 on the consideration that the applied use would not frustrate the long-term planning intention of the “V” zone; and would unlikely cause adverse traffic, environmental, drainage, landscape and sewage impacts on the surrounding area.

5.4 Details of the above applications are summarized at **Appendix II** and their locations are shown on **Plans A-1**.

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 north-eastern portion of San Tau Kok Village; and
- (c) accessible from Ting Kok Road via a track of about 100m 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 falls within two private lots, namely Lot 1103 S.B and 1103 RP in D.D. 23;
- (c) the lots are held under Block Government Lease demised for agricultural purpose. No structure shall be erected on the lots without approval from LandsD;
- (d) the vehicular access to the Site covers private lots and Government land. There is no guarantee of right of way to the Site, these private lots and the Government land;
- (e) no Small House application has been received at the Site; and
- (f) 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):

- as the applicant will use the existing run-in out along Ting Kok Road, he has no in-principle objection to the application from traffic engineering point of view.

### **Environment**

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

- (a) no comment on the application;
- (b) there was no environmental complaint in relation to the Site received in the past three years; and
- (c) 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) no comment on the application from public drainage point of view;
- (b) the temporary private car park does not encroach upon the adjacent DSD's drainage manholes/pipes;
- (c) DSD has an underground drainage pipe running immediately to the south of the temporary carpark. The recent site inspection revealed that the associated manholes were not covered; and
- (d) noting that there would not have any temporary fencing delineating the boundary of this temporary carpark, the applicant and/or the users of the carpark should own the ultimate responsibility to keep the covers of these manholes not to be blocked by vehicles throughout the planning approval period.

### **Water Supply**

#### 8.1.5 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 applied use, 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/no adverse 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 13.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received (**Appendix III**) from private individuals objecting to the application mainly on the grounds that the applied use will impose safety risks to villagers in view of the narrow access with increased traffic flow; have negative impact on the quality of environment; and land within "V" zone could have been better utilised for temporary housing or recreational needs.

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

10.1 The application is for a temporary private car park in the "V" zone of San Tau Kok and Po Sam Pai villages 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. Moreover, it is noted that the temporary private car park is to serve the applicant and the local residents in the vicinity of the Site. Given the temporary nature of the applied use, 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 temporary private car park under application will provide a total of ten parking spaces. The Site is hard-paved and accessible from Ting Kok Road via a local track (**Plans A-3 and A-4**). The applied use is considered not incompatible with the surrounding village setting. Given the relatively small scale of the applied use providing ten parking spaces 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. DEP has no objection to the application and advises that no environmental complaint

related to the Site has been received in the past three years. Other relevant Government departments consulted including C for T, 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/no adverse comment on the application.

- 10.3 To ensure that the temporary private car park would not degrade the environmental quality of the rural surroundings, approval conditions restricting the types of vehicles and prohibition of workshop-related activities are recommended in paragraphs 12.2 (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”.
- 10.4 There is a similar application No. A/NE-TK/637 falling within the same “V” zone for temporary private vehicle park for a period of 3 years providing parking spaces for two private cars (**Plan A-1**), which was approved by the Committee on 6.7.2018 mainly on the grounds that the applied use would not frustrate the long-term planning intention of “V” zone; and would unlikely cause adverse traffic, environmental, drainage, landscape and sewage impacts on the surrounding area. The planning circumstances under the current application are similar to this approved application.
- 10.5 Regarding the public comments objecting to the application mainly on the grounds that the applied use will impose safety risks to villagers in view of the narrow access with increased traffic flow; will have a cumulative negative impact on the quality of environment; and land within “V” zone could have been better utilised for housing or recreational needs, 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 19.10.2021. 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 development 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 6.7.2018
Appendix Ia	Further information received on 21.8.2018
Appendix Ib	Further information received on 11.10.2018
Appendix II	Similar applications



Appendix III	Public comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site plan with vehicular access route submitted by the applicant
Drawing A-2	Layout plan of car parking spaces submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2018**