

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/674

- Applicant** : Mr. LEUNG Pak Keung
- Site** : Lots 722 S.A (Part), 722 RP (Part), 725 RP (Part), 762 (Part) and 763 RP in D.D. 29 and Adjoining Government Land, Ting Kok, Tai Po, New Territories
- Site Area** : About 1,994m² (Including 693.7m² Government land)
- Lease** : (a) Block Government Lease (demised for agricultural use) (about 65.2%)
(b) Government land (about 34.8%)
- Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Car Park (Private Cars only) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed 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 vacant.
- 1.2 According to the applicant, a total of 68 parking spaces for private cars will be provided within the Site to serve local residents and operate 24 hours daily. No structure will be erected on the Site. 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 The Site is part of the subject of a previous application (No. A/NE-TK/629) submitted by different applicants for the same use for a period of three years, which was rejected by the Rural and New Town Planning Committee (the Committee) on 9.2.2018. Compared with that previous application, the site area in the current application has been reduced slightly from 2,006m² to 1,994m² and the number of parking spaces is reduced from 70 to 68.

- 1.4 In support of the application, the applicant has submitted the application form and attachments on 22.8.2019 (**Appendix I**).

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 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;
- (b) Sha Liu Road, which is the only access to Shan Liu Village, is often blocked by the roadside parking which also hinders the access of emergency vehicles;
- (c) in view of the traffic and safety problems, the applicant and land owners of the Site agree to provide land for car parking to the villagers. As it is noted that the Site is zoned as “AGR”, planning permission is required; and
- (d) the proposed development will operate 24 hours daily.

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

The applicant is not the “current land owner”. The applicant 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 sending notice by registered mails to or obtaining consent of “current land owner(s)”. 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

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is the subject of a previous enforcement case against unauthorized development involving parking of vehicles (**Plan A-2**). Enforcement Notice (EN) was issued on 1.2.2018 requiring the notice recipients to discontinue the unauthorized development by 1.4.2018 and Compliance Notice (CN) was issued on 9.11.2018. On 19.11.2018, Reinstatement Notice (RN) was issued requiring the notice recipients to remove the leftovers, debris and to grass the area (i.e. Lot 725 RP(part) and adjoining Government land) by 19.2.2019. The owners of Lot 725RP failed to comply with the RN upon expiry. The case is now under monitoring according to established procedures.

5. **Previous Application**

- 5.1 The Site is part of the subject of a previous application (No. A/NE-TK/629) submitted by different applicants for the same use for a period of three years, which was rejected by the Committee on 9.2.2018 for the reasons of adverse landscape impact to the area; and setting of undesirable precedent for other similar applications in the “AGR” zone and resulting in a general degradation of the landscape character of the area. Compared with that previous application, the site area in the current application has been reduced slightly from 2,006m² to 1,994m² and the number of parking spaces is reduced from 70 to 68.
- 5.2 Details of the above application are summarized at **Appendix II** and its location is shown on **Plans A-1** and **A-2**.

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-3 and A-4a and A-4b)

- 7.1 The Site is:
- (a) mainly hard-paved and currently vacant;
 - (b) situated near the northern fringe of Ting Kok Village and adjoins Shan Liu Road; and
 - (c) bounded by woodland and undergrowth to the north and east.
- 7.2 The surrounding areas are predominantly rural in character with village houses, scattered tree groups and woodland. The village proper of Ting Kok is situated about 35m to the south of the Site across Shan Liu Road. Pak Sin Leng Country Park is located about 50m to the east of the Site.

8. **Planning Intention**

The planning intention of the “AGR” zone 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. 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 five private lots in D.D. 29, Ting Kok with different ownership and a piece of Government land. The private lots are held under Block Government Lease demised for agricultural purpose. No structure shall be erected thereon without prior approval from LandsD. As regards the Government land, neither occupation nor works of any kind thereon is allowed without prior approval from LandsD;
- (c) the recent inspection revealed that the Site was vacant;
- (d) no direct grant of Short Term Tenancy (STT) will be considered in respect of the Government land concerned and the applicant is required to exclude such Government land from the application;
- (e) should the application be approved by the Board, the applicant is required to submit Short Term Waiver (STW) applications to LandsD if he wishes to erect structures on the private lots. However, there is no guarantee at this stage that the STW applications would be approved. If the STW applications are approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of waiver and administrative fees as considered appropriate; and
- (f) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access (EVA) thereto.

Traffic

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

- (a) no in-principle objection to the application from traffic engineering point of view; and
- (b) according to the applicant's submission, there is sufficient space within the Site for manoeuvring of vehicles.

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

- (a) no adverse comment on the application; and
- (b) the section of Shan Liu Road adjacent to the Site is under HyD's maintenance purview. However, part of the area between roadside verge of Shan Liu Road and the Site is on unallocated Government land (UGL) which is outside HyD's maintenance purview. If vehicular access to the Site is approved, the applicant is required to sort out the maintenance responsibility of the above area with LandsD.

9.1.4 Comments of the Commissioner of Police (C of P):

- (a) no objection to the application;
- (b) it is suggested to obtain relevant authorization from other Government departments;
- (c) it is essential to ensure all residents of the area concerned are informed. No obstruction shall be caused by the visitor vehicles and no inflicted danger to the vehicles travelling along at the same time; and
- (d) the applicant should provide details for the contact persons and telephone number to the residents of that area, so that the residents could reach the organizer in case of any enquiries.

Environment

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

- (a) no comment on the application;
- (b) 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"; and
- (c) there was no environmental complaint related to the Site received in the past three years.

Landscape

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

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

- (b) the Site is situated in an area of rural landscape character comprising Small Houses and woodland patches. Given the nature of the proposed development and its proximity to the village settlement, it is not entirely incompatible with the surrounding landscape character;
- (c) the Site is hard paved. One mature *Ficus microcarpa* (細葉榕) with Diameter at Breast Height (DBH) of 1m is found at the southern boundary within the Site (**Plans A-2 and A-4b**). Referring to the submitted layout plan (**Drawing A-1**), while the existing *Ficus microcarpa* (細葉榕) is in direct conflict with the proposed parking spaces, detailed information of the proposed tree treatment is not provided. Adverse impact on existing landscape resources cannot be ascertained;
- (d) comparing the past aerial photos (**Plan A-3**), it is apparent that vegetation has been cleared within and outside the Site, and the Site has been hard-paved 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; and
- (e) in view that the Site is not bounded by prominent public frontage, should the application be approved by the Board, it is considered unnecessary to impose any condition for submission and implementation of landscaping proposal.

Drainage

9.1.7 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) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (c) there is no existing DSD maintained public drains available for connection in the area. The applicant should have his 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. The applicant should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (d) there are existing public sewers in the vicinity of the Site; and
- (e) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant lot owners should be sought.

Agriculture

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

the Site is paved. Nevertheless, the Site possesses potential for agricultural rehabilitation. As such, he has reservation on the application 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) being provided to his satisfaction;
- (b) in consideration of the design/nature of the application, FSIs are anticipated to be required. Therefore, the applicant is advised to submit the relevant layout plans incorporated with the proposed FSIs for his approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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

- (a) Chief Engineer/Construction, Water Supplies Department;

- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) Project Manager/North, Civil Engineering and Development Department;
- (d) Director of Electrical and Mechanical Services; and
- (e) District Officer/Tai Po, Home Affairs Department.

10. **Public Comments Received During Statutory Publication Period (Appendix III)**

On 30.8.2019, the application was published for public inspection. During the statutory public inspection period, five public comments were received from WWF Hong Kong, Designing Hong Kong Limited and individuals 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; unauthorized use of Government land; being a “destroy first, build later” case; causing adverse traffic, environmental and ecological impacts; and setting of undesirable precedent.

11. **Planning Considerations and Assessments**

- 11.1 The application is for a proposed temporary car park (private cars only) with 68 private car parking spaces on a site falling entirely in an area zoned “AGR” on the OZP. The proposed 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. DAFC has reservation on the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation. The applicant has not provided any strong planning justifications in the submission to justify a departure from the planning intention of “AGR” zone, even on a temporary basis.
- 11.2 The Site is situated near the northern fringe of Ting Kok Village and adjoins Shan Liu Road. The Site is mainly hard-paved (**Plans A-4a** and **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**). While the concerned *Ficus microcarpa* (細葉榕) is in direct conflict with the proposed parking spaces, there is no information submitted by the applicant on tree treatment and adverse impact on existing landscape resources cannot be ascertained. Furthermore, whilst the proposed development is considered not entirely incompatible with the surrounding areas which are predominantly rural in character with village houses, scattered tree groups and woodland (**Plan A-3**), CTP/UD&L of PlanD advises that, according to the past aerial photos (**Plan A-3**), 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;

- 11.3 About 34.8% of the Site is on Government land (**Plan A-2**) and DLO/TP of LandsD advises that the applicant is required to exclude the Government land concerned from the application as no direct grant of STT will be considered by LandsD. C for T has no in-principle objection to the application from traffic engineering point of view. DEP advises that no environmental complaint against the Site was received in the past three years. Other relevant Government departments consulted including H(GEO) of CEDD, 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 The Site is part of the subject of a previous application (No. A/NE-TK/629) submitted by different applicants for the same use for a period of three years, which was rejected by the Committee on 9.2.2018 for the reasons of adverse landscape impact to the area; and setting of undesirable precedent for other similar applications in the “AGR” zone and resulting in a general degradation of the landscape character of the area. Compared with that previous application, the site area in the current application has been reduced slightly from 2,006m² to 1,994m² and the number of parking spaces is reduced from 70 to 68. The scale of the proposals under both applications are similar. Furthermore, there has been no material change in planning circumstances since the rejection of the previous application.
- 11.5 There is no similar application for the same use within the same “AGR” zone. As such, approving the application would set an undesirable precedent for similar applications in the “AGR” zone and the cumulative effect of approving such similar applications will result in a general degradation of the landscape character of the area.
- 11.6 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 10, Government departments’ comments and the planning assessments in above paragraphs 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 proposed 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 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 18.10.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle without valid licence issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) only private car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) a notice should be posted at a prominent location of the Site to indicate that only private car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle dismantling, inspection, maintenance, repairing, cleansing, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (e) the provision of peripheral 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 18.4.2020;
- (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 18.4.2020;
- (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 18.7.2020;

- (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 18.4.2020;
- (i) in relation to (h) 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 18.7.2020;
- (j) if any of the above planning conditions (a), (b), (c) or (d) 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;
- (k) if any of the above planning conditions (e), (f), (g), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (l) 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 IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

14. Attachments

Appendix I	Application form and attachments received on 22.8.2019
Appendix II	Previous application
Appendix III	Public comments

Appendix IV	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photos
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2019**