

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

**APPLICATION NO. A/NE-HT/10**

<b><u>Applicant</u></b>	:	Mr. WONG Wong Sang represented by Top Bright Consultants Ltd
<b><u>Site</u></b>	:	Lot 292 in D.D. 76, Sze Tau Leng, Fanling, New Territories
<b><u>Site Area</u></b>	:	About 2,180 m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Hok Tau Outline Zoning Plan (OZP) No. S/NE-HT/5
<b><u>Zoning</u></b>	:	“Village Type Development” (“V”)
<b><u>Application</u></b>	:	Temporary Public Vehicle Park (Private Car) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a temporary public vehicle park (private car) for a period of three years (**Plan A-1**). The Site falls within an area zoned “V” on the approved Hok Tau OZP No. S/NE-HT/5. According to the Notes for the “V” zone of the OZP, the development under application is regarded as a ‘public vehicle park (excluding container vehicle)’ use which is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the information submitted by the applicant, there are 38 parking spaces (measuring 2.5m x 5m each) for private cars and 2 staff parking spaces (measuring 2.5m x 5m each) within the Site. Two container converted structures for site office and storage of maintenance equipment (e.g. traffic cones, tree planting tools, jump start cable, fire extinguishers, etc) respectively with a total floor area of 30 m<sup>2</sup> and building height of 2.5m are located at the western portion of the Site next to the entrance of the temporary public vehicle park (**Drawing A-1**).
- 1.3 The temporary public vehicle park is open at all times mainly serving the needs of the local villagers/residents or their visitors. The Site is accessible via a local track to Sha Tau Kok Road (**Drawing A-3**). A total of 26 trees are proposed to be planted along the boundary of the Site. A new drainage system will be constructed to collect surface runoff of the Site. The applicant submits a site layout plan, landscape plan, vehicular access plan and swept path analysis in support of the application (**Drawings A-1 to A-4**).

1.4 In support of the application, the applicant has submitted the following documents:

- |     |   |                    |
|-----|---|--------------------|
| (a) | Application Form with Attachments received on 3.1.2019                              | <b>Appendix I</b>  |
| (b) | Supplementary Planning Statement  | <b>Appendix Ia</b> |
| (c) | Further Information received on 8.2.2019  | <b>Appendix Ib</b> |
| (d) | Letter dated 14.2.2019 requesting for deferment of consideration of the application | <b>Appendix Ic</b> |
| (e) | Further Information received on 16.4.2019   | <b>Appendix Id</b> |
| (f) | Further Information received on 16.5.2019   | <b>Appendix Ie</b> |

1.5 On 22.2.2019, the Committee agreed, at the request of the applicant (**Appendix Ic**), to defer making decision on the application for two months pending the preparation of further information to address the departmental comments. The applicant submitted further information on 16.4.2019 and 16.5.2019 (**Appendices Id and Ie**) and the application is re-scheduled for consideration by the Committee on 31.5.2019.

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

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement and further information. They can be summarized as follows:

- (a) the temporary public vehicle park will be used for parking of vehicles for the local villages/residents. This could meet genuine demand for parking facilities within Sze Tau Leng Tsuen and prevent current congestions as a result of the stopping/parking of vehicles on the local track in Sze Tau Leng Village;
- (b) the temporary use under application is in line with the planning intention of “V” zone and compatible with the surrounding land uses;
- (c) traffic signs, road marking and other pedestrian facilities will be provided, where appropriate to ensure pedestrian safety; and
- (d) the temporary public vehicle park would not generate adverse environmental, traffic, drainage and visual impacts on the surrounding areas.

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

The applicant is not the “current land owner” of the Site 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 sending notice to Fanling District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Background**

The Chief Town Planner / Central Enforcement and Prosecution, Planning Department (CTP/CEP) states that the Site is currently subject to planning enforcement action against an unauthorized development involving use of place for parking of vehicles. Enforcement Notice was issued on 7.1.2019 to the concerned party requiring to discontinue the unauthorized

development by 7.4.2019. It was revealed that the unauthorized development was not discontinued. Her office would continue to monitor the development and further enforcement action would be considered.

**5. Previous Application**

There is no previous application for the Site.

**6. Similar Application**

There is no similar application for temporary public vehicle park and related use(s) within or partly within the “V” zone in the vicinity of the Site in Hok Tau area.

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

7.1 The Site is:

- (a) flat and formed;
- (b) currently used for parking of vehicle without valid planning permission; and
- (c) accessible from Sha Tau Kok Road via local tracks (**Plan A-1**).

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding land uses are predominantly rural in character intermixed with village houses, parking of vehicles, tree groups and fallow agricultural land;
- (b) to the northwest and southwest are existing village clusters of Sze Tau Leng Village;
- (c) to the immediate west is a public toilet and across which is an area being used for parking of vehicles;
- (d) to the south is a stream running from the east to west to Tan Shan River which is an Ecologically Important Stream (EIS) in the vicinity of the Site (**Plans A-1 and A-2**); and
- (e) cluster of tree groups are found to the northeast, east and southeast of the Site.

**8. Planning Intention**

The planning intention of the “V” zone in the area is to designate both existing recognized 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 summarised as follows:

### Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the lot under application is an Old Schedule Agricultural Lot held under Block Government Lease (demised for agricultural use) without any guarantee of right of vehicular access. The applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement;
- (b) the existing structures on the Site were erected without approval of his office. They are not acceptable under the leases concerned. His office reserves the right to take enforcement actions against the structures;
- (c) if the planning application is approved, the owner of the lot concerned shall apply to his office for a Short Term Waiver (STW) to cover the proposed structures on site. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office; and
- (d) no Small House application regarding the Site has been received. The numbers of outstanding Small House application and 10-year Small House demand of Sze Tau Leng Village are 32 and 50 respectively.

### Traffic

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

having reviewed the further information in demonstrating the manoeuvring of vehicles, provision and management of pedestrian facilities to ensure pedestrian safety and substantiating the traffic flow (**Appendices Id and Ie**) submitted by the applicant, she has no further comment on the application.

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

- (a) he has no comment on the application; and
- (b) the village track leading to the Site is not maintained by his department.

### **Nature Conservation**

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

- (a) he has no in-principle objection to the application; and
- (b) the Site is adjacent to a stream running from east to Tan Shan River, an Ecologically Important Stream, at the west (**Plans A-1 and A-2**). Any direct or indirect impact to the stream, such as surface runoff with contaminants, should be avoided. Should the application be approved, precautionary measures to avoid water pollution to the stream should be provided.

### **Environment**

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

- (a) he has no comment on the application;
- (b) it is noted that the development under application would not involve any car washing, vehicle repairing and workshop activities. The applicant is advised to follow ProPECC PN 5/93 to prevent water pollution and install devices such as gully grates to prevent rubbish from entering the drain and any stream in vicinity of the Site during operation (and, if any, constructions). It is noted that an oil interceptor will be installed (**Appendix Ia**) and the applicant is reminded to provide regular cleaning of the above devices;
- (c) he also advises that the applicant should follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” issued by DEP; and
- (d) there was no record of environmental complaint against the Site for 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) the Site falls within a non-landscape sensitive zone and no significant landscape impact arising from the development under application is anticipated. In this connection, she has no objection to the application from landscape planning perspective; and
- (b) it is noted that a few existing trees are found within the Site, the applicant should be advised that all existing trees within the Site should be maintained at all times during the approval period.

### **Drainage**

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

- (a) he has no in-principle objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

### **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 approval of the Building Authority for the proposed temporary structures and BD is not in a position to offer comments on their suitability for the use related to the application;
- (b) the proposed temporary building/structure is subject to control of Part VII of the Building (Planning) Regulations (B(P)Rs). The proposed building works require prior approval and consent under the Buildings Ordinance (BO);
- (c) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
- (d) for any 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;
- (e) 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 B(P)Rs respectively;
- (f) if the Site is not abutting on a specified street having a width not less than 4.5m, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage; and
- (g) detailed comments under the BO will be provided at the building plan submission stage.

### **Fire Safety**

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

- (a) he has no in-principle objection to the application subject to fire service installations and water supplies for fire-fighting being provided to the satisfaction of his department;
- (b) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD; and
- (c) detailed fire safety requirements will be formulated upon receipt of formal submission of the general building plans.

### **Water Supply**

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

- (a) he 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 nearest suitable Government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

### **District Officer's Comments**

9.1.11 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee and the Indigenous Inhabitant Representative of Sze Tau Leng have no comment on the application whereas the incumbent North District Council (NDC) Members of subject Constituency support the application. The Resident Representative (RR) of Sze Tau Leng supports the application and states that residents have demand on parking space as the remoteness of the village.

9.2 Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD) has no comment on/no objection to the application.

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

On 11.1.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received (**Appendix II**). A NDC member supports the application as it provides convenience to the villagers whereas the Chairman of Sheung Shui District Rural Committee has no comment on the application. An individual objects to the application as at grade vehicle park is ineffective use of land; and

vehicle park should be accommodated in multi-storey car park or on the ground floor of house development.

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

- 11.1 The Site falls within an area zoned “V” on the Hok Tau OZP. Whilst the applied use is not totally in line with the planning intention of the “V” zone, which is primarily intended for development of Small Houses by indigenous villagers, it is noted that the temporary public vehicle park is mainly to serve the local villagers for meeting their car parking needs. Besides, as advised by DLO/N, LandsD, no Small House application has been received for the Site. There are still sufficient land (about 5.28 ha or equivalent to 211 Small House sites) available within the “V” zone to meet the outstanding 32 Small House applications in Sze Tau Leng. Approval of the temporary public vehicle park would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The Site is located within the “V” zone of Sze Tau Leng Village, and is in close proximity to the village cluster of Sze Tau Leng (**Plan A-1**). Given the temporary nature and relatively small scale of the development, the temporary public vehicle park is considered not incompatible with the surrounding land uses which are predominantly village houses, tree clusters and fallow agricultural land (**Plan A-2**). Significant adverse landscape impact arising from the development under application is not anticipated. CTP/UD&L, PlanD, in this regard, has no objection to the application from the landscape planning perspective.
- 11.3 The Site is located close to a stream running from east to west to Tan Shan River which is an Ecologically Important Stream (**Plans A-1 and A-2**). Any direct or indirect impact to the stream should be avoided. It is noted that the development would not involve any car washing, vehicle repairing and workshop activities. Both DAFC and DEP have no objection to the application. To ensure that the temporary public vehicle park would not degrade the environmental quality of the rural surrounding environment, should the application be approved, approval conditions requiring only private car is allowed to be parked on the Site; no car washing, vehicle repairing and workshop activity is permitted on the Site, etc are recommended. The applicant is also advised to follow ProPECC PN 5/93 to prevent water pollution and the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” issued by DEP. Other Government departments consulted, including C for T, CE/MN, DSD, CE/C, WSD and D of FS, have no adverse comment on or no objection to the application.
- 11.4 Regarding the adverse public comment mainly on the grounds that the car park is inefficient use of the land which should be accommodated in multi-storey car park or at ground floor of the house development as detailed in paragraph 10 above, the Government department’s comments and the planning assessment 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 has no objection to the application for a period of 3 years.

12.2 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 31.5.2022. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit 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 car washing, vehicle repair, dismantling, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (e) 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 30.11.2019;
- (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 30.11.2019;
- (g) in relation to (f) above, the provision of drainage facilities 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 29.2.2020;
- (h) the submission of proposals for fire service installations and water supplies for firefighting 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 30.11.2019;
- (i) in relation to (h) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 29.2.2020;
- (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; and
- (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.

### Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "V" zone which is to designate both existing recognized 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. There is no strong planning justification in the submission to justify a departure from the planning intention, even on a temporary basis.

### **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, if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 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**

<b>Appendix I</b>	Application Form with Attachments received on 3.1.2019
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	Further Information received on 8.2.2019
<b>Appendix Ic</b>	Letter dated 14.2.2019 requesting for deferment of consideration of the application
<b>Appendix Id</b>	Further Information received on 16.4.2019
<b>Appendix Ie</b>	Further Information received on 16.5.2019
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Landscape Proposal
<b>Drawing A-3</b>	Vehicular Access to the Site
<b>Drawing A-4</b>	Swept Path Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2019**