

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/601

<u>Applicant</u>	Environmental Remediation Consultant Group (Netherlands) Limited
<u>Site</u>	Lot 69 RP, D.D. 7, Kau Lung Hang, Tai Po, New Territories
<u>Site Area</u>	About 3,465 m ²
<u>Plan</u>	Approved Kau Lung Hang Outline Zoning Plan No. S/NE-KLH/11
<u>Zoning</u>	"Village Type Development" ("V")
<u>Application</u>	Temporary Public Vehicle Park (Private Cars Only) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park (private cars only) for a period of three years. The Site falls within "V" zone on the approved Kau Lung Hang OZP No. S/NE-KLH/11 (**Plans A-1 and A-2**). According to the Notes of the OZP, 'public vehicle park (excluding container vehicle)' within "V" zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently used as the applied use without valid planning permission.
- 1.2 According to the applicant's submission, there are 145 parking spaces (5m x 2.5m each) for private cars within the Site. The public vehicle park would open 24 hours daily. The Site is accessible via a local road leading to Tai Wo Service Road West, with an ingress/egress point at the northeastern boundary and a single-storey metal guard (5 m² in area and 2.5 m in height). The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) application form with attachments on 5.11.2021 and (**Appendix I**) supplementary information dated 11.11.2021
 - (b) further information received on 13.12.2021 addressing (**Appendix Ia**) public comments on the possible blockage of access (*accepted and exempted from publication*)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the application form, supplementary information and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) the Site has been used for parking spaces for more than 15 years to serve nearby residents;
- (b) the applied use will not cause additional traffic, adverse environmental impact, tree cutting and diversion of stream; and
- (c) the entrance of the vehicle park will be kept open to the neighbouring residential developments for walking through and driving through.

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

The applicant is not the “current land owner” of the Site. He 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 obtaining the consent of current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is part of the subject of an active enforcement case (No. E/NE-KLH/161) against unauthorized use for parking of vehicles. An Enforcement Notice was issued on 16.9.2021 requiring the discontinuance of the unauthorized development by 16.12.2021.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application within the same “V” zone.

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

7.1 The Site is:

- (a) flat, paved and currently used as public vehicle park without valid planning permission;

- (b) mostly outside the 'VE' of Tai Hang Village; and
- (c) accessible by a local vehicular track connected to Tai Wo Service Road West.

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding land uses are predominantly rural in character intermixed with village houses, active/fallow agricultural land and vacant land;
- (b) to the immediate north, west and south are clusters of village houses;
- (c) to the immediate east is a piece of vacant land; and
- (d) to the immediate southwest, west and northwest are several carports which are also subject of active planning enforcement action.

8. Planning Intention

The planning intention of the "V" zone 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 summarized as follows:

Land Administration

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

- (a) no objection to the application;
- (b) the Site is held under the Block Government Lease demised for agricultural purpose, no structure shall be erected thereon without prior approval from his office;
- (c) two canopies and one container were found erected on the Site without his office's prior approval. The lot owner is required to clear any unauthorized structures on the Site immediately unless they are covered by valid approval. Otherwise, appropriate enforcement action would be taken in due course;
- (d) should the Board approve the application, the lot owner is required to submit an application for Short Term Waiver (STW)

to his office if he wishes to erect structures on the lot. However, there is no guarantee at this stage that the STW application would be approved. If the STW application is approved by his office 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 his office including payment of waiver fee and administrative fee as considered appropriate;

- (e) the application will likely make use of the adjoining Government Land for access to the Site. As such, no trees thereon shall be interfered with unless prior approval is obtained from his office. The maintenance and management responsibility of the said Government Land and any other Government Land leading to the Site should be sorted out with the relevant government departments, prior to making use of them for ingress/egress purpose. Neither occupation nor works of any kind thereon is allowed without the prior approval from his office;
- (f) there is no guarantee to the grant of a right of way to the Site or approval of the Emergency Vehicular Access thereto; and
- (g) no Small House application has been received in respect of the Site.

Traffic

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

- (a) no objection to the application;
- (b) the applicant should ensure that sufficient space within the Site is provided for manoeuvring of vehicles, and no vehicle is allowed to queue back to or reverse onto/from public road at any time; and
- (c) the local road connecting to the Site from Tai Wo Service Road West is not managed by his office, comments from the management and maintenance party of the local road should be sought.

Water Supply

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

- (a) no objection to the application;
- (b) the Site is within the upper indirect Water Gathering Grounds (WGG); and
- (c) there are risks of contamination to the WGG due to the operation

and management of the public vehicle park. In order to safeguard the raw water quality in WGG, the applicant shall provide a risk assessment report to prove and demonstrate to the satisfaction of the WSD that there is no material increase in pollution effect resulting from the proposed development. The risk assessment report shall demonstrate that the requirements at paragraph (c)(i) of **Appendix III** are met; The applicant should also observe and follow the Conditions for Working within WGG mentioned at paragraph (c)(ii) of **Appendix III**; and

- (d) existing water mains are inside the Site and will be affected. The applicant is required to either divert or protect the water mains found on site in accordance with the requirements set out in paragraph (c)(iii) of **Appendix III**.

Drainage

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

- (a) 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; and
- (b) advisory comments on the application are given in paragraph (e) of **Appendix III**.

Environment

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

- (a) no objection to the application;
- (b) no environmental complaint has been received on the Site in the past three years; and
- (c) the applicant is advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.

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 zoning and no significant landscape impact arising from the applied use is anticipated; and

- (b) should the Board approve the application, it is considered not necessary to impose a landscape condition as no adverse landscape impact arising from the applied use is anticipated.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction; and
- (b) advisory comments on the application are given in paragraph (f) of **Appendix III**.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (d) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD); and
- (e) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD).

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

On 19.11.2021, the application was published for public inspection. During the statutory public inspection period, a total of 75 public comments were received. 62 commenters, including a Member of Tai Po District Council, Tai Hang Village Office, the owners' committee of a cluster of Small House developments to the immediate north of the Site and 59 individuals (with 32 in the form of standard comments), support the application mainly for a reason that the applied use will help meet the parking demand of local residents. Two commenters object to the application mainly on concerns of adverse traffic, environmental and fire safety impacts to the nearby villagers and possible blockage of access to another cluster of Small House developments to the immediate south of the Site. Two commenters raise concerns on the application including possible blockage of access to nearby residential developments, adverse traffic and fire safety impacts, and abuse of land resources which should be designated for Small House developments. Seven commenters suggest that should the application be approved, the applicant should ensure vehicular and pedestrian access to the nearby Small House developments is maintained, and work out a detailed plan to avoid attracting additional traffic flow to the village. The remaining two commenters suggest that the Committee should defer making a decision on the application pending the applicant's resolution of access arrangement to the nearby Small House developments.

11. Planning Considerations and Assessments

- 11.1 This application is to regularise a temporary public vehicle park (private cars only) for a period of 3 years at the Site zoned “V” on the OZP. The planning intention of the “V” zone is primarily for development of Small Houses by indigenous villagers. According to the applicant’s submission, the applied use is to serve nearby residents. DLO/TP, LandsD advises that there is no Small House application received for the Site and has no objection to the application. Approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The Site is currently flat, paved and located in close proximity to the existing village houses (**Plans A-1 and A-2**). The applied use is considered not entirely incompatible with the surrounding land uses which are predominantly village houses, active/fallow agricultural land and vacant land. CTP/UD&L of PlanD has no adverse comment from landscape planning point of view. C for T has no objection to the application from traffic engineering point of view. DEP also has no objection to the application and advises that no environmental complaint has been received in the past three years.
- 11.3 The Site falls within the upper indirect WGG. CE/C of WSD has no objection to the application, and advises that the applicant shall provide a risk assessment report to prove and demonstrate to the satisfaction of the WSD that there will be no material increase in pollution effect and contamination to the WGG resulting from the proposed use. Other relevant Government departments including CE/MN of DSD, D of FS, CHE/NTE of HyD, H(GEO) and PM/N of CEDD and DO(TP) of HAD have no objection to/adverse comment on the application.
- 11.4 The Site is currently used as the applied use without valid planning permission and is subject to planning enforcement action. EN was issued on 16.9.2021 requiring discontinuance of the use of parking vehicles by 16.12.2021. Approving this application would facilitate regularisation of the use and put them under proper control and monitoring through imposition of planning conditions to ensure no adverse impact would be caused in the locality. It would also help address the parking in the area in coordinated manner thus relieving the risk of illegal parking in the area.
- 11.5 Regarding the public comments as detailed in paragraph 10 above, comments of Government departments and the planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, Planning Department has no objection to the temporary use under 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 three years until 24.12.2024. 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 cars 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) the submission of a 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 24.6.2022;
- (d) in relation to (c) 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 24.9.2022;
- (e) the submission of proposal for water supplies for fire-fighting and fire service installations 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 24.6.2022;
- (f) in relation to (e) above, the provision of water supplies for fire-fighting and fire service installations 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 24.9.2022;
- (g) the submission of a risk assessment report on contamination of Water Gathering Grounds within **6** months from the date of planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 24.6.2022;
- (h) in relation to condition (g) above, the implementation of mitigation measures identified therein within **9** months from the date of planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 24.9.2022;
- (i) if any of the above planning conditions (a) or (b) 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
- (j) if any of the above planning conditions (c), (d), (e), (f), (g) or (h) 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 attached 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 development is not in line with the planning intention of the "Village Type Development" zone which is to designate both existing recognized villages and areas of land considered suitable for village expansion and land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such 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 the permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), 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.

Attachments

Appendix I	Application form with attachments and supplementary information received on 5.11.2021 and 11.11.2021
Appendix Ia	Further Information received on 13.12.2021
Appendix II	Public comments
Appendix III	Recommended advisory clauses
Drawing A-1	Layout plan 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
DECEMBER 2021**