

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LK/145

<u>Applicant</u>	: Mr. FONG Chung-kwok, Ben
<u>Site</u>	: Lots 1406 S.A ss.1, S.A RP, S.B, S.C and RP in D.D. 39, Ma Tsuek Leng, Sha Tau Kok, New Territories
<u>Site Area</u>	: 408.8 m ² (about)
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Luk Keng and Wo Hang Outline Zoning Plan No. S/NE-LK/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Private Vehicle Park (Private Car) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary private vehicle park (private car) for a period of 3 years and filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. Filling of land for the proposed use in the “AGR” zone also requires planning permission from the Board. The Site is currently vacant.
- 1.2 According to the proposed layout plan (**Drawing A-1**), there will be a single-storey power supply room (not exceeding 2.42 m in height) with a total floor area of about 1.44m². A total of fourteen private car parking spaces (5m x 2.5m) will be provided within the Site. The Site is proposed to be filled with reinforced concrete with a depth of about 0.1m. The vehicle park will operate between 6:30 a.m. to 11:30 p.m. daily. The proposed vehicular ingress/egress is via a local track leading to Sha Tau Kok Road (Wo Hang Section), as shown on **Drawing A-1**.
- 1.3 The Site is the subject of three previous applications (Nos. A/NE-LK/94, A/NE-LK/95 and A/NE-LK/135) for Small House development. Details of the previous applications are set out in section 5 below.

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

- | | | |
|-----|--|---------------|
| (a) | Application Form with Attachments received on 6.6.2022 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 7.6.2022 | (Appendix Ia) |

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and Supplementary Information at **Appendices I** and **Ia** respectively, as summarized below:

- (a) the proposed car park would serve the villagers of Sheung Ma Tsuek Leng Village where parking spaces are not sufficient to cater for the needs of the villagers;
- (b) the proposed development can help resolve illegal roadside parking issues and traffic congestion in the area, thereby ensuring the safety of villagers;
- (c) the proposed use will not pose adverse noise or landscape impacts on the surrounding areas, and the applicant undertakes to plant trees to promote the environmental quality of the surrounding areas; and
- (d) no adverse drainage impacts on the surrounding areas as the existing drainage network within the Site is in good condition, and the applicant undertakes to maintain the drainage network.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any enforcement action.

5. Previous Applications

- 5.1 The Site is the subject of three previous planning applications for proposed Houses (New Territories Exempted Houses – Small Houses). Applications No. A/NE-LK/94 and A/NE-LK/95 for proposed Small Houses were approved by the Rural and New Town Planning Committee (the Committee) on 16.1.2015, but the planning permissions lapsed on 17.1.2019. Application No. A/NE-LK/135 for a proposed Small House was rejected on review by the Board on 2.7.2021 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone, and land was still available within the “V” zone of the village cluster.
- 5.2 The proposed use and planning circumstances under the current application is different from the previous applications.
- 5.3 Details of the previous applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application within the same “AGR” zone in the vicinity of the Site.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Site is:

- (a) vacant and covered with grass; and
- (b) accessible via a local track leading to Sha Tau Kok Road to the south (**Plan A-1**).

7.2 The surrounding areas have the following characteristics:

- (a) to its north are village houses, and to its further north across a local road are the village cluster of Ma Tseuk Leng and some active agricultural land;
- (b) to the immediate east and west are village houses and a local track leading to Sha Tau Kok Road (Wo Hang Section) respectively; and
- (c) to the south are mainly fallow agricultural land.

8. Planning Intention

8.1 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.

8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities within “AGR” zone.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III** and **IV** respectively.

9.2 The following government department has the following comments on the application.

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

Agriculture

- (a) he does not support the application from agricultural perspective; and
- (b) agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water sources are available. The Site possesses potential for agricultural rehabilitation and can be used

for other agricultural activities such as open-field cultivation, greenhouses, plant nurseries.

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

On 14.6.2022, the application was published for public inspection. During the statutory public inspection period, four public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Two individuals object the application mainly on the grounds that approval of the application would cause adverse traffic and environmental impacts to the surrounding areas and increase fire risk; and thus affecting the quality of life and safety of residents living nearby; there is no previous application for the current application, there are active agricultural activities in the area, and parking spaces should be confined within the “V” zone, etc. The remaining comment submitted by the Kadoorie Farm and Botanic Garden Corporation objects the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; the approval of the application might set an undesirable precedent for similar applications in the vicinity.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary private vehicle park for a period of 3 years and filling of land at the Site zoned “AGR” on the OZP. The proposed development is considered 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 does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation, and there are active agricultural activities in the vicinity, and agricultural infrastructure such as road access and water sources are available. There is no strong planning justifications to justify a departure from the planning intention of “AGR” zone, even on a temporary basis.
- 11.2 The proposed development is considered not incompatible with the surrounding land uses, which are mainly village houses, vacant land, active/fallow agricultural land, clusters of woodland, etc. (**Plan A-3**) CTP/UD&L, PlanD has no objection to the application from landscape planning perspective. The development involves 14 parking spaces for private cars. C for T has no objection on the application from traffic engineering perspective and advises that the vehicular access between the Site and Sha Tau Kok Road is not maintained by her department. Nevertheless, the Site possesses potential for agricultural rehabilitation as advised by DAFC, it is considered that provision of car park for local residents should better be confined to areas intended for development purposes such as those within the “V” zone. While the applicant claims that the proposed development would help resolve illegal parking issue, such problem should be tackled by traffic enforcement action instead of undesirable proliferation of rural car parks in the “AGR” zone. Local parking needs should be addressed separately in suitable areas.
- 11.3 There is no similar application for vehicle park approved within the same “AGR” zone in vicinity of the Site.
- 11.4 Regarding the public comments on the application as detailed in paragraph 10 above, government departments’ comments and planning assessments above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in section 11 and having taken into account the public comments as detailed in paragraph 10 above, the Planning Department does not support the application for the following reason:

- 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis.

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 3 years until 29.7.2025. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 11:30 p.m. and 6:30 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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;
- (c) 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) 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 29.1.2023;
- (e) in relation to (d) 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 29.4.2023;
- (f) the submission of proposals 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 29.1.2023;
- (g) in relation to (f) above, the implementation of proposals for 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 29.4.2023;
- (h) if the above planning condition (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;

- (i) if any of the above planning conditions (d), (e), (f) or (g) 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
- (j) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are 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 the 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), if any, 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 received on 6.6.2022
Appendix Ia	SI received on 7.6.2022
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2022**