

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/746

<u>Applicants</u>	Mr. CHUNG Chi Wing Mr. CHUNG Chi Hung Mr. CHUNG Chi Wah Brian Mr. CHUNG Chi Tong Duncan Ms. LEUNG Chiu Kwan all represented by Mr. LEE Ting Yau
<u>Site</u>	Lots 1055 S.B ss.5 RP and 1055 S.B ss.4 in D.D. 8, San Tong, Lam Tsuen, Tai Po
<u>Site Area</u>	About 370m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
<u>Zonings</u>	“Agriculture” (“AGR”) (about 97%) Area shown as ‘Road’ (about 3%)
<u>Application</u>	Temporary Private Vehicle Park (Private Cars Only) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicants seek planning permission for a temporary private vehicle park (private cars only) for a period of three years at the application site (the Site), which falls within an area largely zoned “AGR”¹ 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 three years as well as filling of land in “AGR” zone² require planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without any valid planning permission.
- 1.2 According to the applicants, the temporary private vehicle park provides nine parking spaces for private cars serving local villagers. The operating hours of the temporary car park would be 24 hours daily (including public holidays). The Site is accessible from Lam Kam Road via a local track. A plan showing the layout and vehicular ingress/egress of the car park is at **Drawing A-2**.

¹ A very minor portion of the Site (about 10m² or 3%) falls within an area shown as ‘Road’, which can be considered as minor boundary adjustment.

² According to the Notes of the OZP for the “AGR” zone, filling of land requires permission from the Board.

1.3 In support of the application, the applicants have submitted the following documents:

- (a) application form and attachments received on **(Appendix I)** 19.10.2022; and
- (b) further information (FI) received on 28.11.2022. **(Appendix Ia)**

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application set out in Part 7 of the application form and FI at **Appendices I** and **Ia** are summarized as follows:

- (a) the Site is currently vacant and left idle;
- (b) in view of the increasing number of population in the area, the applied use could alleviate the parking demand of the villagers; and
- (c) there would be no material increase in pollution effect on the water gathering grounds (WGG).

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is part of the subject of a planning enforcement case (No. E/NE-LT/79) against unauthorized development (UD) involving parking of vehicles and storage use (**Plan A-2**). Enforcement Notice (EN) was issued on 17.11.2021 requiring discontinuation of the UD. Reinstatement Notice (RN) was subsequently issued on 9.8.2022. As the Site has not been reinstated upon expiry of the RN, prosecution action may be followed.

5. Previous Application

There is no previous application at the Site.

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 to A-4)

7.1 The Site is:

- (a) hard paved with concrete and currently vacant;
- (b) situated at the northwestern fringe of San Tong Tsuen;
- (c) accessible via a local track connecting Lam Kam Road; and
- (d) located within the upper direct WGG.

7.2 The surrounding areas are predominantly rural in character comprising farmlands, tree clusters, village houses and temporary structures. To its immediate southeast is the village proper of San Tong Tsuen. To its immediate north is Lam Kam Road.

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 in the “AGR” zone.

9. Comments from Relevant Government Departments

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

9.2 The following government departments have been consulted and their views on the application are summarized as follows:

Agriculture

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

- (a) the Site is paved. There are active agricultural activities in the vicinity and agricultural infrastructure such as road access and water source is available; and
- (b) the Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural development

point of view.

Water Supply

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

- (a) the Site is within upper indirect WGG. It is considered that there are risks of contamination to the WGG due to the operation and management of the private vehicle park;
- (b) having reviewed the FI submitted by the applicant (**Appendix Ia**), it is considered that the information is insufficient to prove and demonstrate that there would be no material increase in pollution effect to the WGG resulting from the applied use. Therefore, he has reservation on the application; and
- (c) other detailed comments are in **Appendix II**.

10. Public Comments Received During Statutory Publication Period

On 28.10.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals objecting to the application mainly due to concerns about traffic congestion, environmental pollution, fire risk, security, living quality of the affected villagers, and that the Site should be restored and used for its intended purpose as there are considerable farming activities in the vicinity of the Site (**Appendix IV**).

11. Planning Considerations and Assessments

11.1 The application is for a temporary private vehicle park (private cars only) for a period of three years at the Site zoned “AGR” (**Plan A-1**). The applied use 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. DAFC does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation. There is no strong justification in the submission for a departure from the planning intention of “AGR” zone, even on a temporary basis. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no adverse comment from the drainage and environmental perspectives.

11.2 The Site is situated at the northwestern fringe of San Tong Tsuen. It forms part of the subject of a planning enforcement case against unauthorized car parking and storage uses. Past aerial photos reveal that vegetation within the Site and its immediate surroundings has been cleared since 2018 (**Plan A-3**). CTP/UD&L of PlanD states that since the site is located adjacent to Lam Kam

Road, the applied use is considered not incompatible with its surrounding environment. Significant adverse impact on the landscape resources within the Site arising from the applied use is not anticipated.

- 11.3 The applied use involves nine parking spaces for private cars. The applicants indicate that the parking spaces are for the use of nearby villagers. C for T has no objection to the application from traffic engineering point of view.
- 11.4 The Site is located within the upper indirect WGG. CE/C, WSD has reservation on the application as he considers that the applicants fail to demonstrate that there would be no material increase in pollution effect to the WGG resulting from the applied use.
- 11.5 There is no similar application within the same “AGR” zone under the OZP. Approval of the application would encourage similar applications within the “AGR” zone, resulting in more vegetated areas being turned into hard paved areas. It would set an undesirable precedent for similar applications within the “AGR” zone and encourage similar site/vegetation clearance prior to obtaining planning permission. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment of the area.
- 11.6 Regarding the public comments objecting to the application 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 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 development is not in line with the planning intention of the “Agriculture” 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, even on a temporary basis; and
 - (b) the applicants fail to demonstrate that the development located within the water gathering ground would not cause adverse impact on the water quality in 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 9.12.2025. 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 are 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 9.6.2023;
- (d) in relation to (c) above, the implementation of the 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 9.9.2023;
- (e) the submission of a proposal on grease trap and petrol interceptor 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 9.6.2023;
- (f) in relation to (e) above, the implementation of the proposal on grease trap and petrol interceptor 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 9.9.2023;
- (g) the submission of a fire service installations 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 9.6.2023;
- (h) in relation to (g) above, the implementation of the fire service installations 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 9.9.2023;
- (i) if any of the above planning condition (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;
- (j) if any of the above planning condition (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; and
- (k) upon expiry of the planning permission, the reinstatement of the 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 III**.

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 applicants.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval conditions 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 and attachment received on 19.10.2022
Appendix Ia	FI received on 28.11.2022
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comments
Appendix V	"Conditions for Working within Water Gathering Grounds" issued by Water Supplies Department
Drawings A-1 and 2	Parking layout submitted by the applicants
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photos
Plan A-4	Site photos

**PLANNING DEPARTMENT
DECEMBER 2022**