

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/188

Applicant : Mr. TANG Sui Ching represented by Mr. PANG Hing Yeun

Site : Lot 57 (Part) in D.D. 46, Tai Tong Wu, Sha Tau Kok, New Territories

Site Area : About 197.5m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11

Zonings : “Agriculture” (“AGR”)

Application : Filling of Land for an Emergency/Vehicular Access

1. The Proposal

- 1.1 The applicant seeks planning permission for regularization of the land filling works involving concrete (about 0.2m in depth) for the entire application site (the Site) for construction of an emergency/vehicular access to serve the village houses in Tai Tong Wu Village in the immediate southwest (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Man Uk Pin OZP (**Plan A-1**). According to the Notes of the OZP, filling of land within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is hard-paved and currently used as an emergency/vehicular access without valid planning permission.
- 1.2 According to the applicant, the Site has been formed and used as an emergency/vehicular access serving the adjacent village houses for 18 years. It connects to two existing access roads leading to Sha Tau Kok – Wo Hang (**Plan A-1**). The applicant has not provided any layout plan and vehicular access plan in the submission.
- 1.3 In support of the application, the applicant has submitted an Application Form with attachments received on 29.6.2023 at **Appendix I** and a Further Information (FI) received on 11.8.2023 at **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 the FI at **Appendices I and Ia**, and summarized below:

- (a) the existing local access to the southwest (i.e. access No. 2) is too narrow to make way for emergency vehicles. The subject vehicle access connects to the only route for emergency vehicles to gain access to Tai Tong Wu Village (i.e. access No. 1) (**Plan A-2**);
- (b) no structures would be erected on Site. The subject vehicular access intends to serve the local residents only;
- (c) the applicant has consulted the Home Affairs Department and received no objection to/no comment on the subject vehicular access; and
- (d) the applicant is the resident representative of the village and claims that the application is submitted on behalf of the villagers as to regularize the subject vehicular access.

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

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

4. Background

- 4.1 The Site was covered by tree clusters in 1990 before the gazettal of the draft Man Uk Pin Development Permission Area (DPA) Plan No. DPA/NE-MUP/1 on 12.7.1991 (**Plan A-3a**). The site condition remained the same until it was found paved in 2016 (**Plan A-3b**).
- 4.2 The Site is subject to planning enforcement action against an unauthorized development (UD) for parking of vehicles (No. E/NE-MUP/133). Enforcement Notice (EN) was issued on 30.5.2022 and the UD was subsequently discontinued with Compliance Notice (CN) for EN issued on 15.11.2022. A Reinstatement Notice (RN) was issued on 17.11.2022 requiring reinstatement of the “AGR” portion by removing the leftovers, debris and fill materials (including asphalt and hard paving) and grassing the land. As the Site has not been reinstated as required by the Notice, prosecution action may be taken.

5. Previous Application

There is no previous application for the Site.

6. Similar Application

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

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

7.1 The Site is:

- (a) hard-paved and currently used as a vehicular access without valid planning permission;
- (b) accessible via two existing local roads in Tai Tong Wu Village leading to Sha Tau Kok Road – Wo Hang (**Plan A-2**);

7.2 The surrounding areas are of rural inland plains landscape character comprising village houses, active/fallow agricultural land, vegetated areas and tree clusters. Sha Tau Kok – Wo Hang is located to the further south 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/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government. No right of access via Government land (GL) is granted to the Site; and
- (b) land filling works are proposed in the planning submission. The applicant should comply with all the land filling requirements imposed by relevant government departments. GL should not be disturbed.

Traffic

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

- (a) no comment on the application from traffic engineering perspective; and
- (b) the access road adjacent to the Site is not maintained by Transport Department. The applicant should seek comment from the responsible party.

Agriculture

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

- agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. 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 perspective.

Landscape

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

- (a) she has no objection to the application from landscape planning perspective;
- (b) the Site is located in an area of rural inland plains landscape character comprising village houses in the west, farmland in the east, vegetated areas, tree clusters and woodland in the further northwest within the “Green Belt” zone (**Plan A-1**); and
- (c) the Site is hard paved with no significant sensitive landscape resources. Significant adverse impact on the landscape character and the existing landscape resources within the Site arising from the development is not anticipated.

Fire Safety

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

- (a) no in-principle objection to the application;
- (b) the existing access roads serving Tai Tong Wu Village (i.e. access Nos.1 and 2) are both capable for EVA purpose (pending confirmation by FSD) (**Plan-A-2**); and
- (b) the applicant could make reference to the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administrated by the Building Department.

Drainage

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

- (a) no objection to the application from public drainage viewpoint; and
- (b) should the application be approved, the applicant should maintain the existing drainage system at all times and rectify if they are found inadequate/ineffective during operation.

District Officer's Comments

9.1.7 Local views/comments conveyed by the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) the incumbent North District Councilor of N16 Constituency and the Indigenous Inhabitant Representative (IIR) of Tai Tong Wu support the application without providing justifications. The Resident Representative (RR) of Tai Tong Wu supports the application mainly for reasons that the subject vehicular access would serve as an EVA and can be accessible by elderly and wheelchair users;
- (b) the Chairman of Lung Shan Area Committee and the Chairman of Sha Tau Kok District Rural Committee have no comment on the application; and
- (c) with regards to the applicant's claim that HAD has been consulted on the construction of the subject access road at the Site and received no objection to/no comment on the proposal, DO(N) confirms that no such application/enquiry has been received.

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

- (a) Director of Environmental Protection (DEP);
- (b) Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD); and
- (e) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD).

10. Public Comments Received During Statutory Publication Period

On 7.7.2023, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix II**), the Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Kadoorie Farm & Botanic Garden Corporation and an individual object to the application mainly on grounds that the Site is not the subject of any previous approvals; the application would encourage development outside the "V" zone; and the applicant should obtain planning permission before commencement of construction works.

11. Planning Considerations and Assessments

11.1 The applicant seeks planning permission for regularization of land filling works involving concrete (about 0.2m in depth) for the Site for construction of an emergency/vehicular access within the "AGR" zone. According to the applicant, the subject access road at the Site connects to two existing local roads leading to Sha Tau Kok Road – Wo Hang and serves as an alternative route for the village houses of Tai Tong Wu Village since one of the local roads (i.e. access No. 2) is too narrow for emergency vehicles. The 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 does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Although the applicant claims that the subject access road was formed 18 years ago and would serve the nearby village houses, in particular serving as the only vehicular road for emergency vehicles to gain access to Tai Tong Wu Village, it should be noted that D of FS advises that the existing vehicular road to the southeast (i.e. access No.2), which the applicant claims to be too narrow, is capable for EVA purpose from fire safety perspective. With regards to the applicant’s claim that HAD has been consulted on the construction of the subject access road at the Site and received no objection to/no comment on the proposal, it should be noted that DO(N) has confirmed that no such application/enquiry has been received. In this regard, the applicant fails to demonstrate that there is a genuine need for the construction of the subject access road at the Site. There is no strong planning justification in the submission for a departure from the planning intention.

- 11.2 The Site, situated at the eastern fringe of Tai Tong Wu Village, is hard-paved without valid planning permission. The development is considered not entirely incompatible with the surrounding environment which are predominantly village houses, active/fallow agricultural land, vegetated areas and tree clusters. Although CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse landscape impact is not anticipated, it should be noted that the Site forms part of an enforcement case against UD for parking of vehicles. Notwithstanding that the UD has been discontinued, the applicant fails to comply with the reinstatement requirements as stipulated in the notice (including the requirements to remove the leftovers and grass the Site). Besides, there is no similar application approved in the same “AGR” zone. Approval of the application would set an undesirable precedent to encourage other similar applications. Other relevant departments consulted, including C for T, CE/MN of DSD, CE/C of WSD, etc. have no adverse comment on or no objection to the application.
- 11.3 Regarding the public comments received on the application as detailed in paragraph 10 and the local comments/views conveyed by DO(N), HAD in paragraph 9.1.7 above, government departments’ comments and 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 and local views/comments conveyed by DO(N), HAD as mentioned in paragraphs 10 and 9.1.7 respectively, 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 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.

- 12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the ‘filling of land’ operation under the application has already been completed. The following condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

the implemented drainage facilities on the Site shall be maintained.

Advisory Clauses

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

13. Decision Sought

The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.

13.1 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

13.2 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 date when the validity of the permission should expire.

14. Attachments

Appendix I	Application Form with Attachment received on 29.6.2023
Appendix Ia	FI received on 11.8.2023
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a to A-3c	Aerial Photos
Plans A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2023**