

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-PK/173

Applicant : Miss POON Mo Kuen Joe represented by Mr. PANG Hing Yeun

Site : Lots 1128 RP, 1130 S.A, 1130 S.B, 1130 RP, 1131 S.A, 1131 S.B and 1131 RP in D.D. 91, Kai Leng, Sheung Shui, New Territories

Site Area : About 637.45m²

Land Status : Block Government Lease (demised for agricultural use)

Plan : Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11

Zoning : "Village Type Development" ("V")

Application : Temporary Private Car Park (Private Car and Light Goods Vehicle) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary private car park (private car and light goods vehicle) for a period of 3 years at the application site (the Site). The Site falls within "V" zone on the approved Ping Kong OZP No. S/NE-PK/11 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is situated at the eastern fringe of Kai Leng Village and is accessible via a local track to Yu Tai Road. The applied use comprises a total of 20 parking spaces (5m x 2.5m each), of which 16 for private cars and 4 for light goods vehicles (not more than 3.3 tonnes). According to the applicant's submission, the car park operates 24 hours daily and serves the villagers and residents of Kai Leng Village only. The site layout and access plan submitted by the applicant are at **Drawings A-1 to A-2**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 21.11.2022 (**Appendix I**)
 - (b) Supplementary Information received on 25.11.2022 (**Appendix Ia**)

- (c) Further Information (FI) received on 29.12.2022 and 4.1.2023 (Appendix Ib)
(d) FI received on 4.1.2023 (Appendix Ic)

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 to Ic** respectively, as summarized below:

- (i) the Site is located in Kai Leng Village where there is insufficient parking spaces to meet the demand of the villagers and residents. Illegal parking near Yu Tai Road has caused traffic and pedestrian safety concerns;
- (ii) the Site is accessible via an existing local track leading to Yu Tai Road with a width ranging from 3.2m and 6m. Adequate manoeuvring space is provided within the Site. In response to local objections related to the right-of-way issue, the applicant will liaise with relevant village representatives should the application be approved;
- (iii) the applied use will not involve any felling of trees and filling/excavation of land and hence would not cause adverse environmental impact; and
- (iv) the Site is the subject of Small House grant applications and will be used as a car park temporarily. The applied use will cease operation once the Small House grant applications are executed. Consents of relevant landowners to support the applied use have been obtained.

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 owners’ consents, posting site notice and sending notice to the Sheung Shui District Rural Committee. 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-PK/47) against unauthorized vehicle parking use (**Plan A-2**). An Enforcement Notice (EN) was issued on 7.10.2022 requiring the discontinuance of the unauthorized development (UD) by 7.1.2023.

5. **Previous Application**

There is no previous application at the Site.

6. Similar Application

Application No. A/NE-PK/174 falling partly within the same “V” zone and partly within the “Agriculture” (“AGR”) for temporary private car park will be considered at the same meeting.

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

7.1 The Site is:

- (a) situated at the eastern fringe of Kai Leng Village;
- (b) flat, partly paved and currently used for car parking without valid planning permission; and
- (c) accessible via a local track leading to Yu Tai Road.

7.2 The surrounding areas are predominantly rural in character comprising village houses and vacant/unused land.

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 Apart from the government department 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 advisory comments in the Recommended Advisory Clauses are provided at **Appendices II** and **III** respectively.

9.2 The following government department has conveyed local views on the application.

District Officer’s Comments

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

- (a) the Indigenous Inhabitant Representative and Resident Representative of Kai Leng object to the application mainly for concerns on the absence of a formal vehicular access to the Site,

right-of-way issues and land matters, and that a temporary car park is not needed and the application will set an undesirable precedent.

10 Public Comments Received During Statutory Publication Period (Appendix IV)

- 10.1 On 29.11.2022, the application was published for public inspection. During the statutory public inspection period, a total of 41 comments were received. Amongst which, a Member of North District Council, the Chairman of Sheung Shui District Rural Committee, two Members of Legislative Council and 13 individuals support the application mainly on the grounds that there are insufficient parking spaces in the surrounding areas which cause serious illegal parking and road safety problems, and the applied use can provide convenient parking spaces for nearby residents and relieve illegal parking problems. One individual lodges a petition supported by 122 individuals for the similar reasons as mentioned above. Five comments provide views on the application in respect of lack of car parking spaces in the village and strong demand for it.
- 10.2 18 comments from individuals object to the application mainly for the reasons that there is no proper vehicular access to the Site which poses risk on pedestrian safety; it would lead to right-of-way issues; it would cause adverse fire safety and environmental impacts on nearby villagers; there is already a government vehicle park; and it would affect land available for Small House development.

11 Planning Considerations and Assessments

- 11.1 The application is for temporary private car park (private car and light goods vehicle) 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 villagers and residents of Kai Leng Village. Although the applied use is not in line with the planning intention of the “V” zone, it could serve the locals for meeting their car parking needs. According to District Lands Officer/North of LandsD, the Small House grant applications at the Site are still under processing. The applicant has obtained consents from the relevant landowners for the applied use and committed to cease the operation of the applied use once the Small House grant applications at the Site are executed. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The Site is located at the eastern fringe of Kai Leng Village and accessible to Yu Tai Road via a local track. It is located in close proximity to the existing village houses (**Plans A-2 and A-3**). The applied use is considered not incompatible with the surrounding rural environment dominated by village houses and vacant/unused land. Commissioner for Transport considers that the application is tolerable from traffic engineering point of view. Chief Engineer/Mainland North, Drainage Services Department and Director of Fire Services recommend to impose approval conditions requiring the submission and implementation of drainage proposal and proposal for water supplies for fire-fighting and fire service installations. Other relevant departments have no

objection to/adverse comment on the application.

- 11.3 Regarding the local objections to the application conveyed by DO(N) of HAD in paragraph 9.2 above and the public comments as detailed in paragraph 10 above, comments of government departments and the planning assessments above are relevant. Regarding the local objections related to right-of-way issue, according to the applicant, they will liaise with relevant village representative should the application be approved.

12 Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local views and public comments mentioned in paragraph 9.2 and paragraph 10 respectively, the Planning Department considers that the applied use could be tolerated for a period of 3 years.
- 12.2 Should the Rural and New Town Planning Committee (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 13.1.2026. 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 and light goods vehicles not exceeding 3.3 tonnes, as proposed by the applicant, 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 13.7.2023;
- (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 13.10.2023;
- (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 13.7.2023;
- (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 13.10.2023;

- (g) 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
- (h) if any of the above planning conditions (c), (d), (e) or (f) 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 are 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. 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.

14 Attachments

Appendix I	Application Form with attachments received on 21.11.2022
Appendix Ia	Supplementary Information received on 25.11.2022
Appendix Ib	FI received on 29.12.2022 and 4.1.2023
Appendix Ic	FI received on 4.1.2023
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comments
Drawing A-1	Layout plan submitted by the applicant
Drawing A-2	Access 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
JANUARY 2023**