

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-PK/174**

<b><u>Applicant</u></b>	: Mr. WONG Yu Ting Terence represented by Mr. PANG Hing Yeun
<b><u>Site</u></b>	: Lots 1570 S.A (Part), 1570 S.B and 1570 S.C in D.D. 91, Kai Leng, Sheung Shui, New Territories
<b><u>Site Area</u></b>	: About 350.83m <sup>2</sup>
<b><u>Land Status</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
<b><u>Zonings</u></b>	"Village Type Development" ("V") (about 52%) "Agriculture" ("AGR") (about 48%)
<b><u>Application</u></b>	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 an area partly zoned "V" (about 52%) and partly zoned "AGR" (about 48%) 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 to the southeast of Kai Leng Village and is accessible via a local track leading to Yu Tai Road. The applied use comprises a total of 13 parking spaces (5m x 2.5m each), of which 10 for private cars and 3 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 Part of the Site is the subject of two previous applications (No. A/NE-PK/35 and 155) for Small House development which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 11.1.2013 and 10.9.2021 respectively. Details of these applications are set out in paragraph 5.

1.4 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**, 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 Wai Hon Road and Yu Tai Road has caused traffic and pedestrian safety concerns;
- (ii) the Site has been used for car parking for some time and there was no traffic impact incurred on the existing road. The daily vehicular trips to/from the Site is about 10 to 15;
- (iii) 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;
- (iv) the applied use will not involve felling of trees and filling/excavation of land and hence would not generate adverse environmental impact; and
- (v) 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/46) against unauthorized vehicle parking and storage 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 Applications**

Part of the Site is the subject of two previous applications (No. A/NE-PK/35 and 155) for Small House development (**Plans A-1 and A-2**) which were approved with conditions by the Committee on 11.1.2013 and 10.9.2021 respectively mainly on considerations of being generally in compliance with the 'Interim Criteria for Consideration of Application for NTEH/Small House in New Territories' in that more than 50% of the footprints of the proposed Small House fell within the village 'environs' of Kai Leng Village and there was a general shortage of land in the "V" zone of the concerned village in meeting the demand for Small House development at the time of consideration. The latest planning permission is valid until 10.9.2025. Details of the previous applications are summarized at **Appendix II**.

#### **6. Similar Applications**

- 6.1 There are three similar applications (No. A/NE-PK/114, 128 and 129) for temporary private car park (private cars and light goods vehicles) use within the same "AGR" zone in the Ping Kong area.
- 6.2 These similar applications were rejected by the Committee on 26.5.2017, 7.9.2018 and 3.8.2018 respectively mainly on the grounds that the proposed temporary private car parks were not in line with the planning intention of the "AGR" zone; the applicants failed to demonstrate that the development would not result in adverse landscape impact on the surrounding areas; and approval of the applications would set an undesirable precedent for other similar applications within the same "AGR" zone. A/NE-PK/173 falling within "V" zone for temporary car park use will be considered at the same meeting.
- 6.3 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.4 Application No. A/NE-PK/173 falling within the same "V" zone 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) located to the southeast of Kai Leng Village;
  - (b) covered by self-seeded vegetation and used for car parking without valid

planning approval; and

(c) accessible via a local track leading to Yu Tai Road.

7.2 The Site is located in an area of rural character comprising village houses, tree clusters, vegetated areas and farmlands.

## **8. Planning Intentions**

8.1 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.

8.2 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 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 advisor clauses are provided in **Appendices IV** and **V** respectively:

9.2 The following government departments have objection to the application or conveyed local views on the application.

### Agriculture

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

- (a) the application is not supported from agricultural point of view; and
- (b) agriculture activities are active in the vicinity, and agricultural infrastructures such as road access and water sources are available. As the Site can be used for agricultural activities such as greenhouses and plant nurseries etc., the Site possesses potential for agricultural rehabilitation.

### District Officer's Comments

9.2.2 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 VI)**

The application was published for public inspection. During the statutory public inspection period, a total of 26 comments from individuals were received. Amongst which, five individuals support the application mainly on the grounds that there are insufficient parking spaces in the surrounding areas. 19 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, environmental and security impacts to the nearby villagers; and there is already a government vehicle park and adequate parking spaces. One individual provides comments on the deficiency of parking spaces in the vicinity. One individual indicates no comment on the application.

## **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 partly zoned “V” (about 52%) and partly zoned “AGR” (about 48%) on the OZP. The planning intentions of the “V” and “AGR” zones are primarily intended for development of Small Houses by indigenous villagers; and to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes respectively. DAFC does not support the application as the Site possesses potential for agricultural rehabilitation. Although the applied use is not in line with the planning intentions of the Site, the portion zoned “AGR” of the Site is subject to planning approval for Small House development and application of Small House grant within the “V” portion is being processed. District Lands Officer/North of LandsD has no objection to the applied use. According to the applicant’s submission, consent of relevant landowners has been obtained for the applied use and the applicant has committed to cease operation of the applied use once the Small House grant applications for the Site are executed. In view of the above considerations and the temporary nature and small scale of the applied use involving 13 parking spaces only, it is considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intentions of the “V” and “AGR” zones and implementation of the approved Small House development.
- 11.2 The Site is located to the southeast of Kai Leng Village and accessible via a local track leading to Yu Tai Road. It is located in close proximity to the existing village houses and low-density residential development (**Plans A-3 and A-4**). The applied use is not incompatible with the surrounding land uses which are predominated by tree clusters, vegetated areas, farmlands and village

houses. Commissioner for Transport considers 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 There are three similar applications falling within the same “AGR” zone which were rejected by the Committee mainly on the grounds of being not in line with the planning intention of the “AGR” zone; failing to demonstrate no adverse landscape impact; and setting of undesirable precedent within the same “AGR” zone. The current application has different planning circumstance in that the Site falls partly within the “V” zone and partly within the “AGR” zone which is the subject of a valid planning approval for Small House development, and no significant adverse landscape impact anticipated as no tree felling is involved. Approval of the current application should not set a precedent for similar applications within the same “AGR” zone.
- 11.4 Regarding the local objections conveyed by DO(North) of HAD in paragraph 9.2.2 and the objecting 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 representatives 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 9.2.2 and paragraph 10 above, the Planning Department considers that the applied use could be tolerated for a period of three 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 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 V**.

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 intentions of the "Village Type Development" and "Agriculture" zones which are primarily intended for the development of Small Houses by indigenous villagers; and 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 respectively. There is no strong planning justification in the submission to justify a departure from the planning intentions, 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**

<b>Appendix I</b>	Application Form with attachments received on 21.11.2022
<b>Appendix Ia</b>	Supplementary Information received on 25.11.2022
<b>Appendix Ib</b>	FI received on 29.12.2022 and 4.1.2023
<b>Appendix Ic</b>	FI received on 4.1.2023
<b>Appendix II</b>	Previous applications
<b>Appendix III</b>	Similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comments
<b>Drawing A-1</b>	Layout plan submitted by the applicant
<b>Drawing A-2</b>	Access plan submitted by the applicant
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
JANUARY 2023**