

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

**APPLICATION NO. A/NE-STK/25**

- Applicant** : Sha Tau Kok Farm Organic Company Limited represented by Goldrich Planners and Surveyors Limited
- Site** : Lots 443 S.B RP (Part), 444 S.B RP (Part), 445 S.B RP (Part), 446 S.B RP (Part) and 447 S.B RP (Part) in D.D. 41 and Adjoining Government Land (GL), Sha Tau Kok, New Territories
- Site Area** : About 2,150m<sup>2</sup> (includes GL of about 334m<sup>2</sup> or 16% of the Site)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Sha Tau Kok Outline Zoning Plan (OZP) No. S/NE-STK/2
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Public Vehicle Park (PVP) (Coaches and Private Cars Only) for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary PVP (coaches and private cars only) for a period of three years until 15.6.2027 (**Plan A-1**). The Site falls within an area zoned “AGR” on the Sha Tau Kok OZP. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission until 15.6.2024.
- 1.2 According to the applicant, 14 private car parking spaces (5m × 2.5m each) and nine coach parking spaces (12m × 3.5m each) are provided at the Site. No structure is erected on the Site. The operation hours of the applied use are from 7:00 a.m. to 11:00 p.m. daily, including Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.3 The Site is the subject of three previous planning applications (No. A/NE-STK/5, 13 and 21) approved between 2015 and 2021. The last application No. A/NE-STK/21 was submitted by the same applicant for the same use approved by the Rural and New Town Planning Committee (the Committee) on 11.6.2021. Compared with the last approved application, the development parameters including site layout and number of parking spaces under the current application remain unchanged, and all the approval conditions

of the last application have been complied with. Details of the previous applications are set out in paragraph 6 below.

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

- |     |   |               |
|-----|---|---------------|
| (a) | Application form with attachments received on 17.4.2024 | (Appendix I)  |
| (b) | Supplementary Information (SI) received on 17.4.2024    | (Appendix Ia) |
| (c) | Further Information (FI) received on 10.5.2024^         | (Appendix Ib) |
| (d) | FI received on 16.5.2024^                               | (Appendix Ic) |
| (e) | FI received on 28.5.2024^                               | (Appendix Id) |
- ^ accepted and exempted from publication and recounting requirements*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendix I** as summarized below:

- (a) the Site is the subject of a previously approved planning application (No. A/NE-STK/21) and all the approval conditions have been complied with. The approval of the current application would be in line with previous decision made by the Committee;
- (b) the subject application only involves parking of private cars and coaches, and no goods vehicles or container tractors are allowed at the Site. No significant adverse impacts in terms of traffic, drainage, landscape, visual, etc., are anticipated; and
- (c) should the application be approved, the existing drainage facilities implemented at the Site will be maintained in good condition during the planning approval period.

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

The applicant is not the “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. 31B) by posting site notice and sending notice to the Sha Tau Kok District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the GL within the Site, the requirements as set out in the TPB PG-No. 31B are not applicable.

## **4. Town Planning Board Guidelines**

Town Planning Board Guidelines No. 34D (TPB PG-No. 34D) on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

## **5. Background**

The Site is currently not subject to any active enforcement cases.

## **6. Previous Applications**

- 6.1 The Site is the subject of three previously approved applications (No. A/NE-STK/5, 13 and 21) submitted by the same applicant for the same use as the current application, which were approved with conditions by the Committee on 16.1.2015, 15.6.2018 and 11.6.2021 respectively mainly on the grounds that the PVP was not incompatible with surrounding environment; there were no major adverse departmental comments or departmental concerns could be addressed by imposing relevant approval conditions. For the last approved application, all approval conditions have been complied with and the planning permission is valid until 15.6.2024.
- 6.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

## **7. Similar Application**

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

## **8. The Site and Its Surrounding Areas (Plans A-1 to A-4b)**

- 8.1 The Site is formed and currently used for the applied use with valid planning permission.
- 8.2 The Site is accessible via Sha Tau Kok Road – Shek Chung Au (**Plan A-2**).
- 8.3 The surrounding areas are of rural coastal plains landscape character comprising village houses, tree clusters and vegetated areas. There are domestic structures located in vicinity of the Site, and the closest ones are located to its immediate south and southwest (**Plan A-2**).

## **9. 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.

## **10. Comments from Relevant Government Departments**

- 10.1 Apart from the government departments as set out in paragraph 10.2 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 at **Appendices IV** and **V** respectively.
- 10.2 The following government departments have the following comments on the application:

## Land Administration

### 10.2.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via GL is granted to the Site;
- (b) Lot 447 S.B RP in D.D. 41 is covered by a Letter of Approval (LoA) No. 1064 for erection of temporary structures. His office reserves the rights to take enforcement action for irregularities and cancel the LoA as appropriate;
- (c) the Site is already being used for the use under the application. Despite illegal occupation of GL had been stated in the last planning application in May 2021, no rectification nor Short Term Tenancy (STT) application had been received by his office since the last planning approval in June 2021;
- (d) the following irregularities covered by the subject planning application have been detected by his office:

#### Unlawful occupation of GL adjoining the said private lots covered by the planning application

- (i) the GL within the Site (about 334 m<sup>2</sup> as mentioned in the application form) has been fenced off without any permission. Any occupation of GL without Government's prior approval is an offence under Cap. 28. His office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;
- (ii) illegal occupation of GL first and then application for regularisation should not be encouraged especially the unauthorized occupation of GL had been raised since last planning application three years ago in May 2021;
- (e) the following irregularities not covered by the subject planning application have been detected by his office:

#### Unauthorized structures within the said private lot not covered by the planning application

- (i) there are unauthorised structures within Lot 447 S.B RP in D.D. 41 not covered by the subject planning application. The lot owners should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (ii) for the unauthorised structure within the application lot but excluded from the application, Short Term Waiver (STW) cannot be processed before ratification. The lot owner/ applicant

shall remove the unauthorized structures not covered by the subject planning application immediately;

- (f) the lot owners/applicant shall remove the unauthorised structure not covered by the subject planning application immediately and, subject to the approval of the Board to the planning application which shall have reflected the rectification as aforesaid required, apply to his office for a STT to permit the occupation of the GL. The application for STT will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STT, if approved, will be subject to such terms and conditions including the payment of rent and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owners/applicant for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL; and
- (g) unless and until the unauthorised structures are duly rectified by the lot owners, his office objects to the application and it must be brought to the attention of the Board when they consider the application.

#### Environment

##### 10.2.2 Comments of the Director of Environmental Protection (DEP):

- (a) according to the “Code of Practice on Handling the Handling Aspects of Temporary Uses and Open Storage Sites” (the COP), the application should not be supported as the applied use involves the use of heavy vehicles (i.e. coaches) and there are sensitive receivers in the vicinity of the Site (the nearest domestic structures are located in the immediate south and southwest of the Site) (**Plan A-2**); and
- (b) no substantiated environmental complaint has been received for the Site over the past three years.

##### 10.3 The following government department has relayed the local views on the application:

#### District Officer’s Comments

##### 10.3.1 Local views/comments conveyed by the District Officer (North), Home Affairs Department (DO(N), HAD) are as follows:

- (a) a member of the North District Council (NDC) supports the application. Another NDC member and the Resident Representative (RR) of Tong To support the application on the grounds that the applied use could alleviate the shortage of parking spaces in the area, and facilitate tourism development in Sha Tau Kok;
- (b) four NDC members and the Chairman of Lung Shan Area Committee have no comment; and
- (c) the Chairman of Sha Tau Kok District Rural Committee cum NDC member, 17 other NDC members, and the Indigenous Inhabitant

Representative of Tong To do not reply.

## **11. Public Comment Received During Statutory Publication Period**

On 26.4.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from the Chairman of Sheung Shui Rural Committee indicating no comment on the application (**Appendix VI**).

## **12. Planning Considerations and Assessments**

- 12.1 The application is for renewal of temporary PVP (coaches and private cars only) for a period of three years at the Site zoned “AGR” on the OZP. While 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 has no strong view against the renewal application from agricultural perspective. Taking into account the planning assessments below, the renewal of the applied use on a temporary basis for three years could be tolerated.
- 12.2 The current scheme is the same as the last approved scheme in terms of the applied use and development parameters. The surrounding areas are of rural coastal plains landscape character comprising village houses, tree clusters and vegetated areas. The applied use is considered not entirely incompatible with the surroundings. Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from landscape planning perspective and advises that further significant adverse impact on the existing landscape resources within the Site arising from the continued use is not anticipated.
- 12.3 The Site is accessible via Sha Tau Kok Road – Shek Chung Au. Commissioner for Transport has no comment to the renewal application from traffic engineering viewpoint. DEP does not support the application as there are sensitive receivers, i.e. domestic structures, in the vicinity of the Site (**Plan A-2**). To address DEP’s concerns on the possible environmental nuisance generated by the temporary use, relevant approval condition restricting the operation hours is recommended. Moreover, the applicant will be advised to follow the latest COP issued by DEP in order to minimize any potential environmental nuisance. Other relevant government departments consulted, including Chief Highway Engineer/New Territories East of Highways Department, Chief Engineer/Mainland North of Drainage Services Department, Chief Engineer/Construction of Water Supplies Department and Director of Fire Services, have no objection to or no adverse comment on the renewal application.
- 12.4 The Site is the subject of three previously approved applications for the same use submitted by the same applicant as detailed in paragraph 6. The last application No. A/NE-STK/21 was approved by the Committee on 11.6.2021 and all the approval conditions have been complied with.
- 12.5 In response to DLO/N, LandsD’s objection regarding the occupation of GL within the Site and unauthorised structures outside the Site which are subject to land control and lease enforcement actions, the applicant advises that he will rectify the matters and settle the land issues by applying STT accordingly. The applicant will be advised to liaise with LandsD to deal with the land issues separately under the land administration regime.

- 12.6 In view of the above, this application generally complies with TPB PG-No. 34D in that there has been no material change in planning circumstances since the approval of the previous application; there are no major adverse departmental comments on the renewal application; all approval conditions under the previous approval have been complied with; and the 3-year approval period sought is the same as the previous approval and is considered reasonable.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local comments conveyed by DO(N), HAD and public comment as detailed in paragraphs 10.3.1 and 11 respectively, the Planning Department considers that the temporary use could be tolerated for a further period of 3 years.
- 13.2 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 3 years and be renewed from 16.6.2024 until 15.6.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

#### **Approval Conditions**

- (a) no operation between 11:00 p.m. and 7:00 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 or enter/exit the Site at any time during the planning approval period;
- (c) only non-franchised buses and private cars 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;
- (d) the peripheral fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.9.2024;
- (f) the existing drainage facilities shall be properly maintained at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b), (c), (d) or (f) 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;
- (h) if the above planning condition (e) 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
- (i) 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 at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:
- the applied use is not in line with the planning intention of the "AGR" zone which is intended 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 justification in the submission for a departure from such planning intention, even on a temporary basis.

## **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 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.

## **Attachments**

<b>Appendix I</b>	Application Form with attachments received on 17.4.2024
<b>Appendix Ia</b>	SI Received on 17.4.2024
<b>Appendix Ib</b>	FI received on 10.5.2024
<b>Appendix Ic</b>	FI received on 16.5.2024
<b>Appendix Id</b>	FI received on 28.5.2024
<b>Appendix II</b>	Relevant Extract of TPB Guidelines No. 34D on Renewal of Planning Approval and Extension of Time of Compliance with Planning Conditions for Temporary Use or Development
<b>Appendix III</b>	Previous s.16 Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	Public Comment
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos