

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

**APPLICATION NO. A/NE-TKLN/45**

- Applicant** : Ho Tsz Tsu Tso represented by Man Chi Consultants and Construction Limited
- Site** : Lots 389 RP, 395 S.A, 395 RP, 396 S.A, 396 RP and 398 RP in D.D. 78 and Adjoining Government Land (GL), Tsung Yuen Ha, Ta Kwu Ling North, New Territories
- Site Area** : 2, 248 m<sup>2</sup> (about) (including about 135 m<sup>2</sup> of GL)
- Land Status** : (a) Block Government Lease (demised for agricultural use)  
(about 94% of the Site)
- (b) GL (about 6% of the Site)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan No. S/NE-TKLN/2
- Zonings** : “Agriculture” (“AGR”) (about 61.2% of the Site); and  
“Village Type Development (“V”) (about 38.8% of the Site)
- Application** : Proposed Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary public vehicle park (excluding container vehicle) for a period of 3 years at the application site (the Site) which falls partly within an area zoned “AGR” (about 61.2%) and partly zoned “V” (about 38.8%) on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use in “V” zone requiring planning permission from the Town Planning Board (the Board), while such use is neither a Column 1 nor 2 use within the “AGR” zone. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years within the “AGR” zone requires planning permission from the Board notwithstanding that the use or development is not provided for in terms of the OZP. The Site is largely covered with vegetation and trees.
- 1.2 According to the applicant, the proposed vehicle park, with 42 parking spaces for light goods vehicles (LGVs), will serve the local residents and provide parking spaces to cater for the increasing parking demand after the commencement of Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP). Three single-storey container converted structures with a total floor area of about 23m<sup>2</sup> and a height of 2.15m to 2.44m will be provided within the Site for an ancillary guardhouse, a site office and a store room. The

Site is accessible from Lin Ma Hang Road via a local track (**Plan A-2**). The proposed vehicle park will operate 24 hours daily, including public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- |     |  |                        |
|-----|--|------------------------|
| (a) | Application Form received on 9.6.2022                | ( <b>Appendix I</b> )  |
| (b) | Supporting Planning Statement (SPS)                  | ( <b>Appendix Ia</b> ) |
| (c) | Supplementary Information (SI) received on 14.6.2022 | ( <b>Appendix Ib</b> ) |

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

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

- (a) temporary planning approval will not frustrate the long-term planning intentions of the “V” and “AGR” zones. The proposed use is intended to cater for the pressing parking demand after the commencement of LT/HYW BCP;
- (b) the proposed development is not incompatible with the surrounding land uses. No filling of land activities will be carried out within the Site;
- (c) there are similar applications approved in the vicinity of the Site for the same use. Approval of the application will not set an undesirable precedent; and
- (d) the proposed development will not induce adverse traffic, environmental, drainage and noise impacts on the surrounding areas. Should the application be approved, the applicant will strictly follow the ‘Code of Practice on Handling Environmental Aspect of Temporary Uses and Open Storage Sites’ (Code of Practice) issued by the Environmental Protection Department (EPD).

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

The applicant is one of the “current land owners”. The applicant has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by notifying the land owner of the concerned lots. Detailed information would be deposited at the meeting for Members’ inspection. For the adjoining GL, the TPB PG-No. 31A is not applicable.

## **4. Background**

The Site is not a subject of any enforcement action.

## **5. Previous Application**

The Site is not involved in any previous application.

## **6. Similar Applications**

- 6.1 There is no similar application for the same/similar proposed use within the “AGR” zone in the Ta Kwu Ling North area.
- 6.2 There are two similar applications (No. A/NE-TKLN/33 and 37) involving vehicle park mainly for private car within/partly within the “V” zone and/or the “Recreation” (“REC”) zone in the vicinity of the Site over the past 5 years. Both applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) in April 2020 and May 2021 respectively on consideration that temporary approval of the applications would not frustrate the long-term planning intentions of the “V” and/or “REC” zones; the development would not induce adverse traffic, landscape and drainage impacts on the surrounding areas; the developments were not incompatible with the surrounding land uses; and relevant departments consulted had no adverse comments or their concerns could be addressed by approval conditions. Details of the similar applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is largely covered with vegetation.
- 7.2 The surrounding areas are dominated by village houses of Tsuen Yuen Ha Village and vacant land. The LT/HYW BCP is located to the immediate west of the Site across Lin Ma Hang Road. The vacant land located to the north of the Site was approved with conditions by the Committee in 2021 for a temporary public vehicle park. A nullah running from the northeast to southwest direction is located to the east of the Site.

## **8. Planning Intentions**

- 8.1 The planning intention of the “AGR” zone on the Ta Kwu Ling North OZP 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 The planning intention of the “V” zone on the Ta Kwu Ling North OZP 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 infrastructure and services.

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

- 9.1 Apart from the government departments as set out in paragraph 9.2 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 in **Appendices III** and **IV** respectively.
- 9.2 The following government departments have the following comments on the application.

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

- (a) he has reservation on the application from traffic engineering perspective as the applicant fails to provide the following information/assessment:
  - (i) the applicant shall assess the traffic impact for the design year three years from the date of the application;
  - (ii) the applicant should substantiate the traffic generation and attraction from and to the Site with reference to the trip rates of similar developments;
  - (iii) it is noted that there is already a public vehicle park in the vicinity of the Site. The applicant should substantiate the need for an additional vehicle park (**Plan A-2**). Also, utilization rate of the existing public vehicle park at Tsung Yuen Ha is required;
  - (iv) the applicant shall assess the volume to capacity ratio of the village access of Tsung Yuen Ha Tsuen;
  - (v) the village access of Tsung Yuen Ha Tsuen is only a single traffic lane (**Plan A-2**). The applicant is required to assess the queuing length (of both the village access and Lin Ma Hang Road) at its junction with Lin Ma Hang Road;
  - (vi) the applicant shall advise the management /control management to be implemented to ensure no queueing of vehicles outside the Site; and
  - (vii) the applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety.
- (b) the village access of Tsung Yuen Ha is not managed by his department. The applicant should seek comment from the responsibility party.

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

- (a) does not support the application from agricultural point of view; and
- (b) agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water sources are available. The Site possesses potential for agricultural rehabilitation and can be used for other agricultural activities such as open-field cultivation, greenhouses, plant nurseries.

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

- he has consulted the locals regarding the application. The Indigenous Inhabitant Representative (IIR) of Chuk Yuen objects the application.

The Chairman of Fung Shui Area Committee, the incumbent North District Councilor of N16 Constituency, the Resident Representative (RR) of Chuk Yuen and the IIR of Tsung Yuen Ha have no comment on the application.

#### **10. Public Comments Received During Statutory Publication Period**

On 17.6.2022, the application was published for public inspection. During the statutory public inspection period, a total of 25 public comments were received (**Appendix V**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. 22 support the application mainly on consideration that the proposed use intends to cater for the parking demand arising from the commencement of the LT/HYW BCP; the proposed use is temporary in nature and would not generate adverse environmental and landscape impacts to the surrounding areas; approval of the application could alleviate the illegal parking problem in the vicinity; and similar applications in the vicinity were approved. The remaining two individuals object to the application mainly on the grounds that there is insufficient information in the submission to demonstrate that there is a shortage of parking provision in the LT/HYW BCP; proposed development would cause adverse traffic and environmental impacts to the surrounding area; and would threaten the safety and deteriorate the quality of life of residents living nearby.

#### **11. Planning Considerations and Assessments**

- 11.1 The application is for a proposed temporary public vehicle park (excluding container vehicle) for a period of 3 years at the Site partly zoned “AGR” (61.2%) and partly zoned “V” (38.8%) on the OZP. The proposed use is considered not in line with the planning intentions of the “AGR” and “V” zones as set out in paragraph 8 above. DAFC does not support the application from the agricultural point of view as part of the Site possesses potential for agricultural rehabilitation. While the applicant suggests that the proposed parking spaces for LGVs are to serve local residents, there is no information in the submission to demonstrate that the proposed use would meet the needs of the villagers and in support of the village development within the “V” zone. There is no strong justification provided in the submission for a departure from the planning intentions of “AGR” and “V” zones, even on a temporary basis. Approval of the application will set undesirable precedent for similar applications within the “AGR” zone.
- 11.2 The Site is surrounded by village settlements of Tsung Yuen Ha Village and vacant land. The LT/HYW BCP is located to the immediate west of the Site. The proposed use is considered not incompatible with the surrounding environment. CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as significant impact on existing landscape resources arising from the proposed use is not anticipated.
- 11.3 C for T has reservation on the application and advises that the applicant fails to provide sufficient technical information in the submission to demonstrate that the proposed development would not induce adverse traffic impact on the surrounding areas, especially on Lin Ma Hang Road; and that there is a shortage in LGVs parking spaces in the area. Other relevant government departments consulted, including DEP, C for P, CE/MN of DSD and D of FS, etc., have no objection to or no adverse comment on the application.
- 11.4 There are two similar applications involving vehicle park mainly for private car within the “V” and/or “REC” zone in the past 5 years approved by the Committee in 2020 and 2021 mainly on consideration set out in paragraph 6.2 above. For the current application,

the applicant fails to demonstrate that the proposed vehicle park would not induce adverse traffic impact on the surrounding areas and there is a shortage of LGV's parking spaces in the area. No similar application has been approved in the subject "AGR" zone, and the planning circumstances under the current application are different from those approved applications within the "V"/"REC" zones.

- 11.5 Regarding the local comments conveyed by DO(N) of HAD and the public comments on the application as detailed in paragraphs 9.2.3 and 10 above, government departments' comments and 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 local comments conveyed by DO(N), HAD and public comments as detailed in paragraphs 9.2.3 and 10 respectively, the Planning Department does not support the application for the following reasons:

- (a) the proposed use is not in line with the planning intentions of the "AGR" and "V" zones which are 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, and 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 respectively. There is no strong planning justification in the submission for a departure from such planning intentions, even on a temporary basis; and
- (b) the applicant fails to provide sufficient information in the submission to demonstrate that the proposed development will not cause adverse traffic impact on the surrounding areas.

- 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 3 years until 29.7.2025. The following conditions of approval and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) 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 29.1.2023;
- (c) in relation to (b) 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 29.4.2023;
- (d) the submission of proposals 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 29.1.2023;

- (e) in relation to (d) above, the implementation of proposals for 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 29.4.2023;
- (f) if planning condition (a) 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;
- (g) if any of the above planning conditions (b), (c), (d) or (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
- (h) upon expiry of the planning permission, the reinstatement of part of the Site within the “AGR” zone 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 IV**.

### **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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant
- 13.3 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 period of which the permission should be valid on a temporary basis..

### **14. Attachments**

<b>Appendix I</b>	Application Form received on 9.6.2022
<b>Appendix Ia</b>	Supporting Planning Statement
<b>Appendix Ib</b>	SI received on 14.6.2022
<b>Appendix II</b>	Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comments
<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 to A-4c</b>	Site Photos