

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/57

<u>Applicant</u>	:	Allied Treasure Development Limited represented by LCH Planning & Development Consultants Limited
<u>Site</u>	:	Lots 377, 380 S.A, 380 S.B, 380 S.C and 380 RP in D.D. 78 and Lot 61 S.B RP in D.D. 80, Heung Yuen Wai, Ta Kwu Ling North, New Territories
<u>Site Area</u>	:	About 1,924m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
<u>Zonings</u>	:	(i) "Village Type Development" ("V") (about 61% of the Site) (ii) "Recreation" ("REC") (about 39% of the Site)
<u>Application</u>	:	Proposed Temporary Public Vehicle Park (Private Cars Only) and Shop and Services (Convenience Store) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary public vehicle park (PVP) for private cars and shop and services for a period of three years at the application site (the Site), which falls partly within an area zoned "V" and partly within an area zoned "REC" on the OZP (**Plan A-1**). According to the Notes of the OZP, 'Public Vehicle Park (excluding container vehicle)' and 'Shop and Services' are Column 2 uses in the "V" and "REC" zones, which require planning permission from the Town Planning Board (the Board). The Site is partly covered with vegetation and partly hard paved with a 2-storey temporary structures (approved under Application No. A/NE-TKLN/40).
- 1.2 The proposed development consists of one 2-storey structure (about 6m in height) with a total floor area of about 204m² for shop and services and its ancillary storage/office uses. According to the applicant, the proposed convenience store will be selling general grocery goods. A total of 24 parking spaces for private cars and one loading/unloading (L/UL) bay for light goods vehicles are proposed within the Site. The PVP will be operating 24 hours daily, while the operation hours of the convenience store are from 9:00 a.m. to 8:00 p.m. daily, including public holidays. The Site is accessible via Lin Ma Hang Road from its north (**Plan A-2**). The layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.3 The northern portion of the Site is the subject of a previous application (No. A/NE-TKLN/40) submitted by the same applicant as the current application for similar use (shop and services), which was approved with conditions by the Rural and New Town Planning

Committee (the Committee) in 2021 as detailed in paragraph 5 below.

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

- | | | |
|-----|--|----------------------|
| (a) | Application Form with attachments received on 1.6.2023 | (Appendix I) |
| (b) | Supplementary Planning Statement (SPS) | (Appendix Ia) |
| (c) | Further Information (FI) received on 4.7.2023* | (Appendix Ib) |
| (d) | FI received on 3.8.2023* | (Appendix Ic) |
| (e) | FI received on 11.8.2023* | (Appendix Id) |
| (f) | FI received on 7.9.2023* | (Appendix Ie) |
| (g) | FI received on 13.9.2023* | (Appendix If) |

**accepted and exempted from the publication and recounting requirements*

1.5 On 28.7.2023, the Committee agreed to the applicant's request to defer making a decision on the application for two months to address departmental comments.

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 proposed development could serve the nearby residents/villagers and cross-boundary travellers by providing parking spaces and retail services;
- (b) the PVP would alleviate the pressing need for parking facilities associated with the opening of Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP);
- (c) the proposed development is compatible with the surrounding environment. Temporary approval would not jeopardize the long-term planning intentions of the "V" and "REC" zones;
- (d) there are similar applications approved by the Committee in the vicinity of the Site (Applications No. A/NE-TKLN/33, 35 and 37) for PVP use. For the shop and services portion, the layout of the convenience store aligns with the approved scheme under application No. A/NE-TKLN/40; and
- (e) signage and notices would be posted near the ingress/egress of the Site to ensure pedestrian safety. No significant adverse traffic, drainage, environmental, visual and landscape impact arising from the proposed development is anticipated.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner" of the Site. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is not subject to any active enforcement case.

5. **Previous Application**

- 5.1 The northern portion for the Site is the subject of a previous application (No. A/NE-TKLN/40) for proposed temporary shop and services (convenience store) submitted by the same applicant as the current one. It was approved with conditions by the Committee on 25.6.2021 mainly on consideration that the proposed development was not entirely incompatible with the surrounding areas; no adverse departmental comments; and similar applications were approved in the vicinity. The planning permission is valid until 25.6.2024 and all the approval conditions have been complied with.
- 5.2 Compared with the previous application, the current application involves a larger site area (i.e. an additional 1,001m²) with provision of parking spaces.
- 5.3 Details of the previous application are summarized at **Appendix II** and its location is shown on **Plan A-2**.

6. **Similar Applications**

- 6.1 There are seven similar applications (No. A/NE-TKLN/23, 33, 35, 37, 39, 45 and 53) involving six sites for PVP and/or shop and services falling within/partly within the “V” zone and/or the “REC” and “AGR” zones in the vicinity of the Site in the Ta Kwu Ling North area. Among them, six were approved between 2020 and 2023 and the remaining one was rejected by the Committee in 2022 (Application No. A/NE-TKLN/45). Details of the similar applications are summarized at **Appendix III** and their locations are on **Plan A-1**.
- 6.2 The six approved applications fall within/partly within the “V” and/or “REC” zones proposed for various uses including shop and services and PVP. Among them, three applications (No. A/NE-TKLN/23, 35 and 39) involving shop and services were approved mainly on considerations that the developments could provide catering services to meet the needs of the local villagers and visitors in the vicinity; the developments were not incompatible with the surrounding environment and no adverse impact was anticipated; and there was no adverse departmental comment. The remaining three applications (No. A/NE-TKLN/33, 37 and 53) for PVP were approved mainly on considerations that approval of the applications could alleviate the parking demand in the concerned area; no adverse departmental comment; and similar applications had been approved in the vicinity of the Site.
- 6.3 One application (No. A/NE-TKLN/45) straddling over the “V” and “AGR” zones for PVP was rejected by the Committee in 2022 mainly on the grounds that the applicant failed to provide sufficient information to demonstrate that the development would not induce adverse traffic impact on the surrounding areas; and the proposed PVP was not in line with the planning intentions of the “AGR” and “V” zones.
- 6.4 For Members’ information, two applications involving shop and services use (i.e. one for proposed temporary shop and services (real estate agency) submitted by a different applicant as the current application (No. A/NE-TKLN/55); and another for the same applied use submitted by the same applicant as the current application (No. A/NE-TKLN/58)) located in the west and east of the Site respectively will be considered by the Committee at the same meeting (**Plans A-1** and **A-2**).

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

7.1 The Site is:

- (a) partly hard-paved and partly covered with vegetation;
- (b) currently vacant and the northern portion of the Site is occupied by a 2-storey temporary structure (approved under the Application No. NE-TKLN/40); and
- (c) accessible via Lin Ma Hang Road from its north.

7.2 The surrounding areas are predominantly rural in character comprising village houses of Tsung Yuen Ha, PVPs approved under Applications No. A/NE-TKLN/37 and 53, vacant land and fallow agricultural land. LT/HYW BCP is located in the further southwest of the Site.

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 and reprovisioning of village houses affected by government projects. 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 “REC” zone is primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

9.1 All the 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.

9.2 Commission for Transport (C for T) supports the application from traffic engineering perspective for meeting the public demand for car parking spaces. With the commissioning of passenger clearance in HYW BCP since January 2023, the trend of cross-boundary parking demand has been kept on increasing, especially during the weekends. There is a shortfall in parking spaces in the concerned area. The proposed PVP can alleviate the demand for parking spaces. Should the application be approved, an approval condition requiring the applicant to implement the proposed traffic management measures should be imposed.

9.3 District Officer (North) of Home Affairs Department (DO(N), HAD) has relayed the following local views and comments on the application:

- (a) the Indigenous Inhabitant Representative (IIR) of Tsung Yuen Ha supports the application without providing justification. The IIR of Heung Yuen Wai supports the application on consideration that there is parking demand in the area;

- (b) the Chairman of Fung Shui Area Committee, the incumbent North District Councilor of N16 Constituency, the IIR and the Resident Representative (RR) of Chuk Yuen have no comment on the application; and
- (c) Ta Kwu Ling District Rural Committee, the RR of Heung Yuen Wai and the RR of Tsung Yuen Ha do not reply on the application.

10. Public Comments Received During Statutory Publication Period

On 9.6.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received, including one from the Chairman of Sheung Shui District Rural Committee indicating no comment on the application and an individual objecting to the application (**Appendix VI**). The major grounds of objection are that the demand of parking spaces should be absorbed and coped with by the parking facilities provided in LT/HYW BCP; and approval conditions of the previous application have not been complied with.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary PVP for private cars and shop and services for a period of three years at the Site zoned “V” and “REC” on the OZP. The proposed uses are considered not entirely in line with the planning intentions of the “V” and “REC” zones, which are intended for development of Small House by indigenous villagers and for low-density recreation development for the use of the general public respectively. However, according to the applicant, the proposed uses could provide parking spaces and retail services to meet any such demand arising from the opening of LT/HYW BCP in the area. C for T supports the application from traffic engineering perspective and advises that the proposed PVP could alleviate the parking demand in the concerned area. District Lands Officer/North, Lands Department advises that there is no outstanding Small House application covering the Site. As such, approval of the application on a temporary basis will not frustrate the long-term planning intentions of the “V” and “REC” zones.
- 11.2 The Site is mainly surrounded by village houses, PVPs (approved by the Committee between 2020 and 2023), vacant land, vegetated areas and fallow agricultural land. The proposed uses are not entirely incompatible with the surrounding land uses. Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from landscape planning perspective and advises that adverse impact on the landscape character and the existing landscape resources within the Site are not anticipated. Other relevant governments concerned, including Chief Engineer/Mainland North, Drainage Service Department, Director of Fire Services and Director of Agriculture, Fisheries and Conservation, etc., have no objection to or no adverse comment on the application.
- 11.3 The northern portion of the Site is the subject of a previous application submitted by the same applicant for proposed temporary shop and services (convenience store) as detailed in paragraph 5.1 above. The application was approved by the Committee in 2021 and all the approval conditions had been complied with. Compared with the previous application, the current application involves a larger site area with provision of parking spaces to cater for the parking demand generated by the opening of LT/HYW BCP.

- 11.4 There are six similar applications involving shop and services and/or PVP uses approved with conditions by the Committee between 2020 and 2023 as detailed in paragraph 6.2 above. The planning circumstances of the above six applications are similar with the current application.
- 11.5 Regarding the objecting public comment on the application as detailed in paragraph 10, 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 public comments and the local views/comments as conveyed by District Officer (North), Home Affairs Department in paragraphs 10 and 9.3 respectively, the Planning Department has no objection to the application.
- 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 22.9.2026. 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/ light goods vehicles 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;
- (c) a notice should be posted at a prominent location of the Site to indicate that only private cars/ light goods vehicles 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 maintenance of the existing vehicular run-in/run-out to the Site along Lin Ma Hang Road at all times during the planning approval period;
- (e) the submission of a record of the existing run-in/run-out along Lin Ma Hang Road within ~~6~~ 3 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by ~~22.3.2024~~ 22.12.2023;
- (f) 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 22.3.2024;
- (g) in relation to (f) 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 22.6.2024;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;

- (i) the submission of a fire service installations proposal (FSIs) 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 22.3.2024;
- (j) in relation to (i) above, the implementation of the FSIs proposal 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 22.6.2024;
- (k) the implementation of traffic management measures, as proposed by the applicant, within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 22.6.2024;
- (l) if any of the above planning condition (a), (b), (c), (d) or (h) 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
- (m) if any of the above planning condition (e), (f), (g), (i), (j) or (k) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory Clauses

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

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

- The proposed uses are not in line with the planning intentions of the "V" and "REC" zones in the Ta Kwu Ling North area, which are primarily for development of Small Houses by indigenous villagers and for low-density recreation development for the use of the general public. There is no strong planning justification in the submission for a departure from such 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

Appendix I	Application Form with attachments received on 1.6.2023
Appendix Ia	SPS
Appendix Ib	FI received on 4.7.2023
Appendix Ic	FI received on 3.8.2023

Appendix Id	FI received on 11.8.2023
Appendix Ie	FI received on 7.9.2023
Appendix If	FI received on 13.9.2023
Appendix II	Previous Application
Appendix III	Similar Applications within/partly within the “V” and/or “REC” and “AGR” zones in the vicinity of the Site in Ta Kwu Ling North Area
Appendix IV	Government Department’s General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

PLANNING DEPARTMENT
SEPTEMBER 2023