

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

**APPLICATION NO. A/NE-TKLN/68**

<b><u>Applicant</u></b>	:	Bliss Achieve Limited represented DeSPACE (International) Limited
<b><u>Site</u></b>	:	Lots 35 RP, 36, 42 RP, 43, 44, 45 RP, 59 RP and 64 S.B RP in D.D. 80 and Adjoining Government Land (GL), Ta Kwu Ling North, New Territories
<b><u>Site Area</u></b>	:	About 5,260.2m <sup>2</sup> (includes GL of about 67.8m <sup>2</sup> (about 1%))
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use) (about 99%)
<b><u>Plan</u></b>	:	Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
<b><u>Zoning</u></b>	:	“Recreation” (“REC”)
<b><u>Application</u></b>	:	Proposed Temporary Public Vehicle Park (PVP) (Excluding Container Vehicle) and Shop and Services for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary PVP (excluding container vehicle) and shop and services for a period of 5 years at the application site (the Site), which falls within an area zoned “REC” on the approved Ta Kwu Ling North 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 “REC” zone which require planning permission from the Town Planning Board (the Board). The Site is largely vacant and covered with vegetation.
- 1.2 According to the submission, the proposed uses comprise five single-storey structures (not more than 5.4m in height) with a total floor area of about 400m<sup>2</sup> for retail shops, guard room, lavatories and fire service installation (FSI) cabinet (excluding electrical and mechanical (E&M) facilities). A total of 94 parking spaces for private cars and 2 disabled carparking spaces are proposed within the Site. In support of the proposed shop and services, 2 loading/unloading (L/UL) bays are proposed (1 each for light goods vehicles and heavy goods vehicles). The PVP will be operating 24 hours daily, while the operation hours of the proposed shop and services are from 9:00 a.m. to 9:00 p.m. daily, including public holidays. The ingress/egress of the Site is proposed along the northwestern boundary connecting to a local road with additional passing bays and lighting to be provided by the applicant. The applicant advises that, subject to further review, the proposed shop and services will operate as a convenience store with an aim of supporting the local residents of Tsung Yuen Ha, as well as catering for the needs of travellers using the Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP). The layout plan and section plan submitted by the applicant are shown in **Drawings A-1** and **A-2**.

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

- (a) Application Form with attachments received on 30.8.2023 (Appendix I)
- (b) Supplementary Information received on 4.9.2023 (Appendix Ia)
- (c) Further Information (FI) received on 18.12.2023^ (Appendix Ib)
- (d) FI received on 9.2.2024^ (Appendix Ic)
- (e) FI received on 12.3.2024\* (Appendix Id)
- (f) FI received on 22.3.2024\* (Appendix Ie)
- (g) FI received on 26.3.2024\* (Appendix If)

*^ accepted but not exempted from publication and recounting requirement*

*\* accepted and exempted from publication and recounting requirement*

1.4 On 27.10.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for 2 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 **Appendices Ia to If**, as summarized below:

- (a) the PVP could serve the nearby residents/villagers and cross-boundary travellers by providing parking spaces and retail services;
- (b) it would alleviate the pressing need for parking facilities associated with the opening of LT/HYW BCP;
- (c) some greenery areas are proposed within the Site. The proposed uses are compatible with the surrounding environment, and no significant adverse traffic, visual and landscape impact will be arising from the proposed uses; and
- (d) the applicant will be responsible for the construction, maintenance and management of the proposed additional passing bays and lighting along the access road in consultation with relevant government departments including Transport Department.

## **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. For the GL portion within the Site, TPB-PG “Owner’s Consent/ Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) is not applicable.

## **4. Background**

The Site is not subject to any active enforcement case.

## **5. Previous Application**

- 5.1 The Site is the subject of an application No. A/NE-TKLN/23 for proposed temporary place of recreation, sports or culture (parent-child play area), eating place, shop and services for a period of 5 years submitted by the same applicant. It was approved with conditions by the Committee on 5.2.2021 mainly on considerations that the proposed uses were not entirely incompatible with the surrounding areas; and no adverse departmental comments were received. This application is of different nature and is considered not relevant to the current application.
- 5.2 Details of the previous application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

## **6. Similar Applications**

- 6.1 There were ten similar applications (No. A/NE-TKLN/33, 37, 39, 40, 53, 55, 57, 58, 67, and 70) involving eight sites for PVP and/or shop and services uses falling within/partly within the “REC” zone in the vicinity of the Site in the past five years in the Ta Kwu Ling North area. All the applications were approved with conditions by the Committee. Details of the similar applications are summarized at **Appendix III** and their locations are on **Plan A-1**.
- 6.2 All ten applications for PVP and/ or shop and services use were approved by the Committee between 2020 and 2023 mainly on considerations that approval of the applications could alleviate the parking demand associated with the opening of LT/HYW BCP; meet local demand for shop and services; no adverse departmental comments; and not entirely incompatible with the surrounding environment.

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

- 7.1 The Site is:
- (a) largely vacant and covered with vegetation; and
  - (b) accessible via a local road from its north.
- 7.2 The surrounding areas are of rural inland plains landscape character comprising temporary PVPs, vegetated areas and village houses. LT/HYW BCP is located 200m to the southwest of the Site.

## **8. Planning Intention**

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 Apart from the government departments as set out in paragraphs 9.2 and 9.3 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 IV** and **V** respectively.

9.2 The following government department supports the application:

### **Traffic**

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

- (a) supports the planning application from a cross-boundary parking demand point of view subject to the fulfilling of all approval conditions imposed by his office;
- (b) with the commissioning of passenger clearance in LT/HYW BCP since February 2023, the demand for cross-boundary parking has kept increasing, especially during the weekends and holidays, when the existing carparks were fully utilized;
- (c) there is a shortfall in parking spaces in the area, and the proposed PVP, which is located in close proximity to the BCP, can alleviate the demand for parking spaces in the area;
- (d) having reviewed the submissions provided, his office has no further comments on the subject application provided that the traffic improvement measures on the vehicular access as proposed by the applicant are viable and have obtained no objections from the relevant department; and
- (e) should the application be approved, approval conditions requiring the applicant to implement the proposed traffic management and improvement measures before the commencement of operation should be imposed.

9.3 The following government departments have comments on the application/conveyed local views on the application.

### **Land Administration**

9.3.1 Comments of the 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. The private lots are covered by STW No. 1653 for the purposes of parent-child play area and ancillary uses. The applicant is the STW holder. The proposed “public vehicle park (excluding container vehicle) and shop and services” does not comply with the use permitted in the STW;
- (b) the locations of the proposed passing bays and light poles fall within an existing unnamed road outside the Site without maintenance party identified.

This office has no records on bureaux/departments (B/Ds) looking after the existing road. No consent is given for inclusion of the GL for the proposed use. The applicant should advise the party responsible for the management and maintenance of this road as well as before the commencement of the road works, construction of passing bays and light poles and the necessary statutory procedures under Cap. 370;

- (c) any requirement/conditions including but not limited to the proposed passing bays and light poles etc. may be considered for inclusion in the STW only if relevant B/Ds imposing such requirement agree to take up the approving and monitoring authority under the STW; and
- (d) if the planning application is approved, the holder of STW No. 1653 will need to apply to his office for modification of the STW conditions where appropriate. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered.

### **Environment**

#### 9.3.2 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 heavy vehicle traffic (i.e. heavy goods vehicles) is expected to travel along the access road within 50m from the nearest residential structure (**Plan A-1**); and
- (b) no environmental complaint against the Site has been received over the past three years.

### **District Officer’s Comments**

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

- (a) Ta Kwu Ling District Rural Committee, the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Heung Yuen Wai object to the application mainly on considerations of adverse traffic impact on Lin Ma Hang Road; the Site was distant from LT/HYW BCP; incompatible with neighbouring rural development; and not in line with the planning intention of the “REC” zone;
- (b) the incumbent North District Councilor of N16 Constituency, the RR and the IIR of Chuk Yuen have no comment; and
- (c) the Chairman of Fung Shui Area Committee, the IIR and the RR of Tsung Yuen Ha did not reply.

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

On 8.9.2023, 29.12.2023 and 20.2.2024, the application was published for public inspection. During the statutory public inspection periods, 27 public comments were received, including 3 comments from the Chairman of Sheung Shui District Rural Committee indicating no comment on the application (**Appendix VIa**); 22 supporting comments from the public mainly on consideration that the proposed uses could alleviate the pressing need for parking facilities in the area (**Appendix VIb**); 2 objecting comments from the same individual on the ground that it is a destroy to build application (**Appendix VIc**).

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

- 11.1 The application is for a proposed temporary PVP (excluding container vehicle) and shop and services for a period of 5 years at the Site zoned “REC” on the OZP. The proposed uses are considered not in line with the planning intention of the “REC” zone, which is intended for low-density recreation development for the use of the general public. Nevertheless, C for T indicates that the proposed PVP could serve to alleviate the parking demand in the area in particular the increasing parking demand from cross-boundary travellers of LT/HYW BCP. The proposed shop and services operating as convenience store would help serve the needs of the local villagers as well as the cross-boundary travellers of LT/HYW BCP. Approval of the application on a temporary basis will not frustrate the long-term planning intention of the “REC” zone.
- 11.2 The Site is largely vacant and covered with vegetation. The surrounding areas are of rural inland plains landscape character comprising temporary PVPs, vegetated areas and village houses. The proposed use is considered 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 is not anticipated.
- 11.3 C for T supports the planning application from a cross-boundary parking demand point of view subject to the fulfilling of all approval conditions imposed by his office. The ingress/egress of the Site proposed along the northwestern boundary is connected to a local road, where additional passing bays and lighting are proposed by the applicant. C for T has no comments in this regard provided that such traffic improvement measures are viable. DLO/N advises that any requirement/conditions including but not limited to the proposed passing bays and light poles etc. may be considered for inclusion in the STW only if relevant B/Ds agree to take up the approving and monitoring authority under the STW. Should the application be approved, the applicant will be advised to liaise with LandsD to deal with the land issues separately under the land regime. 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.
- 11.4 In support of the proposed shop and services in the development, a L/UL bay for heavy goods vehicles is proposed at the Site. DEP considers that the application should not be supported as the heavy goods vehicles are expected to travel along the access road within 50m from the nearest residential structure (**Plan A-1**). In this connection, relevant approval condition restricting the use of such heavy vehicles at specific hours is recommended to address the concerns of DEP. The applicant would be advised to follow

the environmental mitigation measures set out in the COP.

- 11.5 There are ten similar applications for PVP and/ or shop and services uses approved by the Committee between 2020 and 2023 as detailed in paragraph 6 above. The planning circumstances of the current application are similar to the approved applications.
- 11.6 Regarding the objecting public comments on the application as detailed in paragraph 10 and comments conveyed by DO(N) of HAD in paragraph 9.3.3, 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 DO(N), HAD in paragraphs 10 and 9.3.3 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 5 years until 5.4.2029. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container trailer/tractor, as defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the site between 9:00 p.m. and 9:00 a.m. 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 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 5.10.2024;
- (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 5.1.2025;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the submission of a fire service installations (FSIs) proposal 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 5.10.2024;
- (g) in relation to (f) 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 5.1.2025;
- (h) the submission of the design of vehicular run-in/run-out to the Site within **6**

months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 5.10.2024;

- (i) in relation to (h) above, the provision of vehicular run-in/run-out to the Site within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 5.1.2025;
- (j) the submission of traffic improvement and management measures before the commencement of any operation to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (k) in relation to (j) above, the implementation of traffic improvement and management measures before the commencement of any operation to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (l) in relation to (k) above, the implemented traffic improvement and management measures shall be maintained at all times during the planning approval period;
- (m) if any of the above planning condition (j) or (k) is not complied with before the commencement of any operation, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (n) if any of the above planning condition (a), (b), (e) or (l) 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
- (o) if any of the above planning condition (c), (d), (f), (g), (h), or (i) 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 IV**.

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 intention of the "REC" zone, which is primarily for low-density recreation development for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. 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.



- 13.2 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 30.8.2023
<b>Appendix Ia</b>	Supplementary Information received on 4.9.2023
<b>Appendix Ib</b>	FI received on 18.12.2023
<b>Appendix Ic</b>	FI received on 9.2.2024
<b>Appendix Id</b>	FI received on 12.3.2024
<b>Appendix Ie</b>	FI received on 22.3.2024
<b>Appendix If</b>	FI received on 26.3.2024
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Similar Applications within/ partly within the “REC” zone in the vicinity of the Site in Ta Kwu Ling North Area
<b>Appendix IV</b>	Government Department’s General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendices VIa to VIc</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Section Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Unmanned Aerial Vehicle Photo
<b>Plan A-4</b>	Site Photo

**PLANNING DEPARTMENT  
APRIL 2024**