

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

**APPLICATION NO. A/NE-TKLN/75**

<b><u>Applicants</u></b>	: Mr. MAN Sun Kwai and Mr. MAN Sun Choi represented by Man Chi Consultants and Construction Limited
<b><u>Site</u></b>	: Lots 388 S.A, 388 S.B, 388 RP (Part) and 390 RP (Part) in D.D. 78 and adjoining Government Land (GL), Tsung Yuen Ha, Ta Kwu Ling North, New Territories
<b><u>Site Area</u></b>	: About 3,776m <sup>2</sup> (including about 39m <sup>2</sup> or 1% of GL)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural purpose)
<b><u>Plan</u></b>	: Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
<b><u>Zonings</u></b>	: (i) “Village Type Development” (“V”) (about 3,749m <sup>2</sup> or 99% of the Site) (ii) “Recreation” (“REC”) (about 27m <sup>2</sup> of 1% of the Site) <sup>1</sup>
<b><u>Application</u></b>	: Proposed Temporary Public Vehicle Park (Excluding Container Vehicle) and Shop and Services for a Period of Three Years

**1. The Proposal**

- 1.1 The applicants seek planning permission for a proposed temporary public vehicle park (PVP) (excluding container vehicle) and shop and services for a period of three years at the application site (the Site). The Site falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘PVP (excluding container vehicle)’ and ‘Shop and Services’ are Column 2 uses within the “V” zone which require planning permission from the Town Planning Board (the Board). The Site is hard-paved, fenced-off and currently used as a PVP with valid planning permission granted under Application No. A/NE-TKLN/37 with validity period up to 28.5.2024.
- 1.2 According to the applicants, a total of 77 parking spaces for 40 private cars and 37 light good vehicles (LGVs) and a loading/unloading (L/UL) space for LGVs will be provided at the Site. Six single-storey converted containers, with a height

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<sup>1</sup> A minor portion of the Site of about 27m<sup>2</sup> (i.e. 1% of the Site) falls within an area zoned “REC” on the OZP, which can be regarded as minor boundary adjustment in accordance with the covering Notes of the OZP, and not included in the planning assessment.

of not more than 3.5m and a total floor area of about 184.8m<sup>2</sup>, will be used as ancillary site office, ticket office, meter room, storerooms and shop respectively. A temporary structure with a height of about 2.44m and a floor area of about 2.3m<sup>2</sup> for security guard post will also be provided near the entrance. The operation hours of the PVP will be 24 hours and the shop will be from 8:00 a.m. to 8:00 p.m., both daily including public holidays. The Site is accessible via an access road leading to Lin Ma Hang Road (**Plan A-2**). Layout plan, layout comparison and traffic management plan submitted by the applicants are shown in **Drawings A-1** and **A-3**.

1.3 The Site is the subject of a previously approved application No. A/NE-TKLN/37 submitted by a different applicant for temporary PVP (excluding container vehicle) use. Details of the previous application are set out in paragraph 4 below.

1.4 In support of the application, the applicants have submitted the following documents:

- (a) Application Form with attachments received on 5.12.2023 (**Appendix I**)
- (b) Supplementary Planning Statement (**Appendix Ia**)
- (c) Supplementary Information (SI) received on 8.12.2023 (**Appendix Ib**)
- (d) Further Information (FI) received on 12.1.2024\* (**Appendix Ic**)
- (e) FI received on 29.1.2024\* (**Appendix Id**)
- (f) FI received on 5.3.2024\* (**Appendix Ie**)

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

1.5 On 26.1.2024, the Rural and New Town Planning Committee (the Committee) agreed to the applicants' request to defer making a decision on the application for a period of two months to allow more time for the applicants to address departmental comments.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in the Application Form, Supplementary Planning Statement, SI and FI at **Appendices I to Ie**, as summarized below:

- (a) the Site is covered by a valid planning permission for temporary PVP use. The current application seeks to incorporate shop and services use into the existing PVP to provide a convenient one-stop location offering parking facilities, daily necessities and dry goods<sup>2</sup>. In view of the growing demand for parking and retail facilities at Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP), Tsung Yuen Ha and the surrounding areas, the proposed use could enhance accessibility and convenience to daily necessities and support the growth of the

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<sup>2</sup> According to the applicants, dry goods may include drinks, canned food and other local convenience goods.

HYW area, benefitting both visitors and local community;

- (b) the Site is the subject of two previous planning approvals for uses of similar nature<sup>3</sup>. The last planning permission (Application No. A/NE-TKLN/37) for temporary PVP (excluding container vehicle) for a period of three years was granted on 28.5.2021. All approval conditions were complied with. There has been no substantial change in planning circumstances since the last planning approval. Hence, favourable consideration should be given to the current application;
- (c) being temporary in nature, the proposed use will not jeopardize the long-term planning intention of the “V” zone. Similar uses for temporary vehicle park and shop and services are found in the surrounding areas. As a low-density development, the proposed use is not incompatible with the surrounding areas mainly comprising low-rise village houses and temporary structures;
- (d) to ensure that no adverse traffic impact and pedestrian safety issues will be caused by the proposed use, traffic management measures implemented under the last planning permission (Application No. A/NE-TKLN/37)<sup>4</sup> will be properly maintained. Directional signs will be installed throughout the Site to avoid unnecessary queuing and ensure smooth traffic flow. In order to minimize additional traffic generation, local residents and staff will be encouraged to access the shop on foot or via public transport. A private car parking space and a L/UL bay will be exclusively designated for the shop. Clear signage will be provided and users of the PVP will be prohibited from parking in the designated area;
- (e) existing drainage facilities implemented under the last planning permission (Application No. A/NE-TKLN/37) will be maintained to ensure that no adverse drainage impact will be caused by the proposed use on the surrounding areas;
- (f) there are 29 existing trees of *Lagerstroemia Speciosa* (大花紫薇) in good condition within the Site. Should the application be approved, the applicants will continue to maintain the existing trees for screening purpose and preserve the landscape quality of the area;
- (g) to minimize possible environmental impacts and nuisance on the surrounding areas, the applicants will strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department as well as statutory requirements under relevant pollution control ordinances; and

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<sup>3</sup> The Site was the subject of two previously approved applications No. A/NE-TKLN/8 and A/NE-TKLN/37. Application No. A/NE-TKLN/8 for temporary staff car park and site office for public works is considered irrelevant to the current application.

<sup>4</sup> Traffic management measures implemented under the last planning permission include (i) deployment of traffic controllers to regulate vehicle entry and exit from the Site to minimize conflicts with road traffic; (ii) stationing of traffic controller(s) at ingress/egress to direct movement of vehicles and pedestrians during entry and exit of vehicles (**Drawing A-3**); (iii) providing clear guidelines and proper training to patrol staff to ensure effective traffic management; and (iv) installation of a pair of amber revolving lanterns at the site entrance at a height of about 2m from the ground level (**Drawing A-3**), which will be maintained throughout the operation hours.

- (h) the occupation of GL at the northern corner of the Site has ceased and reinstated. Should the application be approved, the applicants are committed to apply for Short Term Tenancies and modification of Short Term Waivers to regularize any irregularities found on the Site.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection. As for the GL, the “owner’s consent/notification” requirements are not applicable to the application.

### 4. **Previous Application**

- 4.1 The Site is the subject of a previous application No. A/NE-TKLN/37 submitted by a different applicant for temporary PVP (excluding container vehicle) use (**Plan A-2**), which was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of three years on 28.5.2021 mainly on considerations of not frustrating the long-term planning intention of the “V” zone; and not causing significant adverse impacts on the surrounding areas. All approval conditions in relation to submission and implementation of drainage proposal, water supplies for fire-fighting and fire service installations (FSIs) as well as implementation of traffic management measures under the previous application have been complied with.
- 4.2 As compared with this application, the current one mainly involves an additional use for shop and services and increase in the total number of structures (from 5 to 7), maximum building height (from 2.44m to 3.5m) and total floor area (from 60.81m<sup>2</sup> to 187.1m<sup>2</sup>) (**Drawing A-2**). A parking spaces for private cars and a loading/unloading space for LGVs will be exclusively designated for use by the shop to accommodate the additional traffic flow (**Drawing A-2**).
- 4.3 Details of the previous application are at **Appendix II** and its location is shown on **Plans A-1** and **A-2**.

### 5. **Similar Applications**

- 5.1 There are six similar applications (No. A/NE-TKLN/33, 35, 40, 45, 53 and 57) covering five sites for PVP and/or shop and services in the vicinity of the Site entirely/partly within the same “V” zone over the past five years (**Plans A-1** and **A-2**). Among them, five were approved by the Committee between 2020 and 2023 and the remaining one was rejected in 2022.
- 5.2 Among the five approved applications, three (No. A/NE-TKLN/35, 40 and 57) involving shop and services use were approved mainly on considerations of meeting the needs of local villagers and visitors in the vicinity; not incompatible with the surrounding environment; no adverse departmental comment; and not causing significant adverse impacts on the surrounding areas. The remaining two applications (No. A/NE-TKLN/33 and 53) solely for PVP use were approved mainly on considerations of alleviating the parking demand in the area

concerned; no adverse departmental comment; and approval of similar applications in the vicinity of the Site.

- 5.3 The remaining application (No. A/NE-TKLN/45) for PVP use straddling “V” and “AGR” zones was rejected in 2022 for failing to demonstrate that no adverse traffic impact on the surrounding areas; and being not in line with the planning intentions of the “AGR” and “V” zones.
- 5.4 Details of the applications are shown at **Appendix III** and their locations are shown on **Plan A-1**.
- 5.5 There is another application for a proposed temporary PVP (private cars only) for a period of three years (No. A/NE-TKLN/80) in the vicinity of the Site, which will be considered by the Committee at the same meeting.

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

- 6.1 The Site is :
  - (a) hard-paved, fenced-off and currently used as a PVP with valid planning permission; and
  - (b) accessible via an access road leading to Lin Ma Hang Road (**Plan A-2**).
- 6.2 The surrounding areas are predominantly rural in character with vehicle parks, temporary structures and vacant land. To its immediate west across Lin Ma Hang Road is LT/HYW BCP (**Plans A-2 and A-3**). To the immediate north and northeast of the Site are two temporary car parks with/without shop and services covered by valid planning approvals (Applications No. A/NE-TKLN 53 and 57) (**Plan A-2**). To its south is a nullah and the village cluster of Tsung Yuen Ha within the “V” zone of the OZP (**Plans A-2 and A-3**).

## **7. Planning Intention**

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. Selected commercial, community and recreational uses in support of the village development may be permitted on application to the Board.

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

- 8.1 Apart from the government departments as set out in paragraphs 8.2 to 8.4 below, other departments consulted have no objection to or no comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices IV and V** respectively.

8.2 The following government department objects to the application:

**Land Administration**

8.2.1 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) the Site is already being used for the applied uses;
- (c) the following irregularities have been detected by her office:
  - (i) unauthorized structures within the said private lots: there are unauthorized structures on the private lots. Lot No. 338 RP in D.D. 78 is subject to lease enforcement action according to case priority. The lot owners should immediately rectify the lease breaches as demanded and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice; and
  - (ii) unlawful occupation of GL: the GL within the Site (about 47m<sup>2</sup> as stated in the applicants' submission) and portions of the adjoining GL at the northern corner of the Site have been fenced off without any permission. Any occupation of GL without Government's prior approval is an offence under Cap. 28. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;
- (d) the lot owners shall cease the illegal occupation of the GL at the northern corner immediately and include the GL not covered by the subject planning application in the application for further consideration by the relevant departments and, subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as aforesaid required, apply to her Office for a Short Term Waiver (STW) and Short Term Tenancy (STT) to permit the structures erected/to be erected and the occupation of the GL. The applications for STW and STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and STT, if approved, will be subject to such terms and conditions including the payment of waiver fee/rent and administrative fee as considered appropriate to be imposed by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structures will be considered; and
- (e) unless and until the unauthorized structures and the unlawful occupation of GL not covered by the subject application is duly

rectified by the lot owners or entirely included in the application, her office has objection to the application.

8.3 The following government department has comment on the application:

**Traffic**

8.3.1 Comment of the Commissioner for Transport (C for T):

- (a) supports the application from cross-boundary parking demand point of view;
- (b) with the commissioning of passenger clearance in HYWBCP 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. Therefore, 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; and
- (c) should the application be approved, an approval condition requiring the applicants to implement the proposed traffic management measures should be imposed.

8.4 The following government department has relayed the following local views and comments on the application:

**Local Views**

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

- (a) the 1<sup>st</sup> Vice-chairman of Ta Kwu Ling District Rural Committee (TKLDRC), the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of HYW and the RR of Fung Wong Wu support the application mainly on consideration of its close proximity to LT/HYW BCP; providing convenience to cross-boundary travellers and the public; alleviating the parking demand in the HYW area; and relieving illegal parking issue along Lin Ma Hang Road;
- (b) the IRR and RR of Chuk Yuen and the RR of Tsung Yuen Ha object to the application mainly due to adverse traffic impact on Lin Ma Hang Road; blocking the only vehicular access to Tsung Yuen Ha; causing vehicle-pedestrian conflicts and environmental pollution; affecting land availability of the “V” zone concerned; and poor operation and management of the existing PVP on the Site;
- (c) no comment was received from the Chairman of Fung Shui Area Committee; and

- (d) details of the local views are appended at **Appendix VI**.

**9. Public Comments Received During Statutory Publication Period**

- 9.1 On 12.12.2023, the application was published for public inspection. During the statutory public inspection period, ten public comments were received, including six supporting comments (**Appendix VIIa**), three objecting comments (**Appendix VIIb**) and a comment from an individual indicating no view on the application (**Appendix VIIc**).
- (a) the six supporting comments received from individuals and Skye Parking Limited, the management company of LT/HYW BCP Public Car Park, state that the proposed use could alleviate illegal parking issue; meet the parking demand in HYW area; and bring convenience to the community by integrating parking facilities and shop and services at the same location. Skye Parking Limited also states that they would be entrusted by the applicants to take up the management of the proposed PVP, should the application be approved; and
  - (b) the three objecting comments were received from the RR of Tsung Yuen Ha and local residents raising objection to the application mainly for reasons of blocking the only vehicular access to Tsung Yuen Ha; causing serious traffic congestion, vehicle-pedestrian conflicts and environmental pollution; affecting land availability of the “V” zone concerned; and more suitable locations for PVP being found along Lin Ma Hang Road. The objecting comment from the RR of Tsuen Yuen Ha also encloses 117 signatures from the village committee and residents of Tsung Yuen Ha.

**10. Planning Considerations and Assessment**

- 10.1 The application is for a proposed temporary PVP (excluding container vehicle) and shop and services for a period of three years at the Site zoned “V” on the OZP. The proposed use is not entirely in line with the planning intention of the “V” zone which is primarily intended for development of Small Houses by indigenous villagers. Nevertheless, the proposed use could provide parking spaces and retail services to serve local residents and alleviate the increasing parking demand arising from cross-boundary travellers of LT/HYW BCP. C for T supports the application from cross-boundary parking demand point of view and advises that the PVP could alleviate the parking demand in the concerned area. Approval of the application on a temporary basis will not frustrate the long-term planning intention of the “V” zone.
- 10.2 The Site is hard-paved, fenced-off and currently used as a PVP with valid planning permission. The surrounding areas are of rural inland plains landscape character comprising vehicle parks (approved by the Committee between 2020 and 2023), temporary structures, vacant land, with LT/HYW BCP found to the immediate west of the Site (**Plans A-2 and A-3**). The proposed use is considered not entirely incompatible with the surrounding land uses. Chief Town Planner/Urban Design and Landscape of Planning Department considers that no significant adverse landscape impact arising from the proposed use is



anticipated and has no objection to the application from landscape planning perspective. According to Director of Environmental Protection, no environmental complaint related to the Site has been received in the past three years. Other relevant government departments consulted including Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Fire Services (D of FS) have no objection to/no adverse comment on the application. While DLO/N, LandsD objects to the application due to unauthorized structures found within the private lots and unlawful occupation of GL, the land matters should be dealt with separately under the land regime. The applicants will be advised to follow up with DLO/N, LandsD on their concerns.

- 10.3 The Site is the subject of a previously approved application (No. A/NE-TKLN/37) (**Plan A-2**) submitted by a different applicant for temporary PVP (excluding container vehicle) use. The application was approved by the Committee in 2021 and all approval conditions have been complied with. Compared with the previous application, the current application mainly involves an additional use for shop and services, and increase in the total number of structures (from 5 to 7), maximum building height (from 2.44m to 3.5m) and total floor area (from 60.81m<sup>2</sup> to 187.1m<sup>2</sup>) (**Drawing A-2**). A parking spaces for private cars and a loading/unloading space for LGVs will be exclusively designated for use by the shop to accommodate the additional traffic flow (**Drawing A-2**).
- 10.4 There are five similar applications involving temporary PVP and/or shop and services uses within the same “V” zone approved by the Committee between 2020 and 2023 as detailed in paragraph 5.2 above. The planning circumstances of approving these applications are applicable to the current one.
- 10.5 Regarding the public comments on the application as detailed in paragraph 9, government departments’ comments and planning assessment above are relevant.

## **11. Planning Department’s Views**

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the local views/comments as conveyed by DO/N, HAD and the public comments in paragraphs 8.4 and 9.1 respectively, Planning Department has no objection to the application.
- 11.2 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 until 15.3.2027. The following approval conditions 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) the implementation of traffic management measures, as proposed by the applicants, within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 15.12.2024;
- (d) 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 15.9.2024;
- (e) in relation to (d) above, the implementation of the drainage proposal 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 15.12.2024;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a proposal for fire service installations and water supplies for fire-fighting 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 15.9.2024;
- (h) in relation to (g) above, the implementation of the fire service installations and water supplies for fire-fighting 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 15.12.2024;
- (i) if any of the above planning condition (a), (b) 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; and
- (j) if any of the above planning condition (c), (d), (e), (g) or (h) 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**.

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

- the proposed use is not in line with the planning intention of the "V" zone which 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. Selected commercial, community and recreational uses in support of the village development may be permitted on application to the Board. There is no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis.

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

## **13. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 5.12.2023
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	SI received on 8.12.2023
<b>Appendix Ic</b>	FI received on 12.1.2024
<b>Appendix Id</b>	FI received on 29.1.2024
<b>Appendix Ie</b>	FI received on 5.3.2024
<b>Appendix II</b>	Previous application
<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>	Local views conveyed by DO(N), HAD
<b>Appendix VII</b>	Public comments
<b>Drawing A-1</b>	Layout plan submitted by applicants
<b>Drawing A-2</b>	Layout comparison submitted by applicants
<b>Drawing A-3</b>	Traffic management plan submitted by applicants
<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