

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/80

<u>Applicants</u>	HO Tsz Chu Tso and Vantage Treasure Limited represented by Metro Planning & Development Company Limited
<u>Site</u>	Lots 389 RP, 395 S.A, 395 RP, 396 S.A, 396 RP and 398 RP in D.D. 78, Ta Kwu Ling North, New Territories
<u>Site Area</u>	About 2,200m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Ta Kwu Ling North Outline Zoning Plan No. S/NE-TKLN/2
<u>Zonings</u>	“Agriculture” (“AGR”) (about 64% of the Site); and “Village Type Development” (“V”) (about 36% of the Site)
<u>Application</u>	Proposed Temporary Public Vehicle Park (Private Car Only) for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicants seek planning permission for a proposed temporary public vehicle park (private car only) for a period of three years at the application site (the Site) which falls within an area partly zoned “AGR” (about 64%) and partly zoned “V” (about 36%) on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ use is a Column 2 use in the “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 three years within “AGR” zone requires planning permission from the Board. The Site is currently vacant, hard-paved and partly covered with vegetation.
- 1.2 According to the applicants, the proposed development will provide a total of 56 private car parking spaces (5m (L) x 2m (W) each) (**Drawing A-1**). One single-storey structure (not exceeding 4m high) with a total floor area of about 36m² will be provided at the Site as an ancillary site office. Also, the entire Site is proposed to be filled with concrete by 0.2m (**Drawing A-2**). The proposed vehicle park will operate 24 hours daily, including public holidays.
- 1.3 The Site is the subject of a previous application (No. A/NE-TKLN/45)

submitted by the same applicants for the same use for a period of three years, which was rejected by the Rural and New Town Planning Committee (the Committee) on 29.7.2022. Details of the previous application are set out in paragraph 5.1 below.

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

- (a) Application Form with attachments received on 24.1.2024 **(Appendix I)**
- (b) Further Information (FI) received on 29.2.2024 **(Appendix Ia)**
- (c) FI received on 7.3.2024 **(Appendix Ib)**

2. Justifications from the Applicants

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

- (a) the proposed development, which is located within close proximity to the Liantang/ Heung Yuen Wai Boundary Control Point (LT/HYW BCP), will provide public carparking spaces to cater for the increasing parking demand of local residents in the vicinity (e.g. Tsung Yuen Ha) and the cross-boundary travellers using the LT/HYW BCP;
- (b) the proposed development is temporary in nature and will not frustrate the long-term planning intentions of the “V” and “AGR” zones. Also, it is not incompatible with the surrounding land uses;
- (c) the proposed development will not induce adverse traffic, environmental and drainage impacts on the surrounding areas; and
- (d) although the Site partly falls within the “AGR” zone, there are no active agricultural activities in the vicinity. It is not rational to maintain the “AGR” zoning.

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

The applicants are the sole “current land owners” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active planning enforcement action.

5. Previous Application

- 5.1 The Site is the subject of the previously rejected application No. A/NE-TKLN/45 submitted by the same applicants as mentioned in paragraph 1.3 above. It was rejected by the Committee on 29.7.2022 mainly on consideration that the proposed development was not in line with the planning intentions of the “AGR” and “V” zones and the applicants failed to demonstrate that it will not cause adverse traffic impact on the surrounding areas. As compared to the previous application, the current application mainly involves changes in site boundary (by excluding a small portion of the adjoining Government land) and in the number and type of parking spaces (from 42 light goods vehicles parking spaces to 56 private cars parking spaces).
- 5.2 Details of the previous application are summarized at **Appendix II** and its location is shown on **Plans A-1** and **A-2**.

6. Similar Applications

- 6.1 There are four similar applications (No. A/NE-TKLN/33, 37, 53¹ and 57) within the same “V” zone, all of them were approved with conditions by the Committee between 2020 and 2023 mainly on consideration that the proposed developments would not frustrate the long-term planning intention of the “V” zone and Transport Department supports the application from traffic engineering perspective.
- 6.2 There is no similar application for the same/similar proposed use within the same “AGR” zone.
- 6.3 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-2**.
- 6.4 There is another application for a proposed temporary private vehicle park (excluding container vehicle) and shop and services for a period of three years (No. A/NE-TKLN/75) to the north of the Site, which will be considered by the Committee at the same meeting.

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

- 7.1 The Site is currently vacant, hard-paved and partly covered with vegetation.
- 7.2 The surrounding areas are dominated by village houses of Tsuen Yuen Ha Village and vacant land. LT/HTW BCP is located to the immediate west of the Site across Lin Ma Hang Road. The temporary public vehicle park located to the north of the Site was the subject of the planning application No. A/NE-TKLN/37¹ which was approved by the Committee in 2021 for three years.

¹ Applications No. A/NE-TKLN/33 and 53 cover the same site.

8. Planning Intentions

- 8.1 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.
- 8.2 According to the Explanatory Statement (ES) of the OZP, planning permission from the Board is required for filling of land within the “AGR” zone as such activity may cause adverse drainage and environment impacts on the adjacent areas.
- 8.3 The planning intention of the “V” zone is primarily 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.

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 government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clause are provided at **Appendices IV and VI** respectively.
- 9.2 The following department supports the application.

Traffic

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

- (a) having considered the applicants’ FI (**Appendix Ia**), C for T supports the application from cross-boundary parking demand point of view and advises that the proposed development could alleviate the parking demand in the concern area; and
- (b) with the commissioning of passenger clearance in the 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. Therefore, there is a shortfall in parking spaces in the area, and the proposed public vehicle park which is located in close proximity to the BCP, can alleviate the demand for parking spaces in the area.

- 9.3 The following department does not support the application:

Agriculture

9.3.1 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 source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. The Site possesses potential for agricultural rehabilitation.

9.4 The following department has the following comments on the application:

District Officer's Comments

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

- (a) he has consulted the locals regarding the application. The indigenous Inhabitant Representative (IIR) of Chuk Yuen and the Resident Representative (RR) of Heung Yuen Wai object to the application mainly for reason that the proposed development will cause adverse impact on the local traffic;
- (b) an incumbent North District Councilor (NDC) supports the proposal mainly for reason that the proposed development can provide more parking spaces; and
- (c) the Chairman of Fung Shui Area Committee, 6 NDCs, the IIR and the RR of Chuk Yuen have no comment on the application.

10. Public Comments Received During Statutory Publication Period

On 2.2.2024, the application was published for public inspection. During the statutory public inspection period, a total of four public comments were received, including three objecting comments from nearby resident(s) and individuals (**Appendix Va**) and one comment from an individual indicating no comment (**Appendix Vb**). The objecting comments are mainly for reasons that the proposed development will cause traffic impact and causes traffic jam in the adjacent village, and insufficient information on the application available to the public.

11. Planning Considerations and Assessment

11.1 The application is for a proposed temporary public vehicle park (private car only) for a period of three years at the Site partly zoned "AGR" (64%) and partly zoned "V" (36%) on the OZP. The proposed use is considered not in line with the planning intentions of the "AGR" and "V" zones. DAFC does not support

the application from the agricultural point of view as part of the Site possess potential for agricultural rehabilitation. Notwithstanding the above, the applicants suggest that the proposed parking spaces for private cars are for serving local residents and cross-boundary travellers using the LT/HYW BCP, and C for T supports the application from cross-boundary parking demand point of view. District Lands Officer/North, Lands Department advises that there is no outstanding Small House application covering the Site. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, Chief Engineer/Mainland North, Drainage Service Department and Director of Environmental Protection have no objection from drainage and environmental perspectives. Taking into account the planning assessment below, the proposed development could be tolerated on a temporary basis of three years.

- 11.2 The Site is surrounded by village houses of Tsung Yuen Ha Village and vacant land. LT/HTW BCP is located to the immediate west of the Site. The “AGR” zone to the south and north of the Site has been developed to LT/HYW BCP and its associated roads. The proposed development is considered not incompatible with the surrounding environment. Chief Town Planner/Urban Design and Landscape, Planning Department has no objection to the application from landscape planning point of view as significant impact on existing landscape resources arising from the proposed development is not anticipated. Other relevant government departments concerned, including Chief Engineer/Mainland North of Drainage Service Department, Director of Environmental Protection and Director of Fire Services have no objection to or no adverse comment on the application.
- 11.3 The previous application (No. NE-TKLN/45) was rejected by the Committee on 2022 mainly on consideration that the proposed development was not in line with the planning intentions of the “AGR” and “V” zones and the applicants failed to provide to demonstrate that the proposed development will not cause adverse traffic impact on the surrounding areas. However, the traffic demand in the area has changed since the opening of the LT/HYW BCP in 2023. C for T supports the application from cross-boundary parking demand point of view, considering that his concern on the traffic demand has been duly addressed and the type of parking spaces has changed from light goods vehicles to private cars. Due to the changes in planning circumstances, these rejection reasons are not fully applicable to this application. Also, there are four similar applications within the same “V” zone approved by the Committee between 2020 and 2023.
- 11.4 Regarding the local comments conveyed by DO(N) of HAD and the public comments as detailed in paragraphs 9.4 and 10 above, government departments’ comments and planning assessment 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 9.4 and 10 above, the Planning Department considers that the temporary development could be tolerated for a period of three years.

- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.3.2027. 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 (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 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 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 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 15.9.2024;
- (h) in relation to (g) 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 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;
- (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; and

- (k) 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 VI**.

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

the proposed development not in line with the planning intentions of the “V” and “AGR” zones which are primarily for development of Small Houses by indigenous villagers and to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. 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 applicants.

14. Attachments

Appendix I	Application Form with Attachments Received on 24.1.2024
Appendix Ia	Further Information Received on 29.2.2024
Appendix Ib	Further Information Received on 7.3.2024
Appendix II	Previous Application
Appendix III	Similar Applications
Appendix IV	Government Department’s General Comments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
MARCH 2024**