

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/90

- Applicant** : Ho Nam Kai Tso (Manager: HO Lai Fai, HO Cheong Yau and HO Yuet Ming)
represented by Man Chi Consultants and Construction Limited
- Site** : Lot 356 in D.D. 78, Tsung Yuen Ha, Ta Kwu Ling North, New Territories
- Site Area** : About 3,053m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Temporary Public Vehicle Park (Excluding Container Vehicle), Eating Place and Shop and Services (Local Provision Store) with Ancillary Office and Store Room for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary public vehicle park (excluding container vehicle), eating place and shop and services (local provision store) with ancillary office and store room 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, ‘Public Vehicle Park (excluding container vehicle)’, ‘Eating Place’ and ‘Shop and Services’¹ are Column 2 uses in “V” zone, which require planning permission from the Town Planning Board (the Board). The Site is partly vacant and partly occupied by a vacant structure.
- 1.2 The Site is accessible via a local track leading to Lin Ma Hang Road (**Plan A-1**). According to the applicant, the proposed uses comprise one single-storey structure (building height of not more than 3.5m) with a total floor area of about 200m² for eating place (about 136m²), shop and services (i.e. a local convenience store) (about 20m²) and an ancillary office and store room (about 44m²). 60 parking spaces for private cars (five of them are reserved for staff) and one loading/unloading space for light goods vehicles will be provided at the Site. The proposed eating place will provide catering services for a maximum of 60 persons. The operation hours of the public vehicle park are 24 hours daily, including public holidays, whilst the operation hours of the eating place and local provision store with ancillary office and store room are between 9:00 a.m. and 9:00 p.m. daily, including public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

¹ According to the Notes of the OZP for the “V” zone, only ‘eating place’ and ‘shop and services’ on the ground floor of a New Territories Exempted House are always permitted.

- 1.3 The proposed traffic management measures include requiring prior reservation for parking at the Site, deploying staff to facilitate vehicles entering/exiting the Site, providing light poles at the Site, and installing signs and flashing lights at the site entrance/exit to ensure traffic and pedestrian safety. The applicant also proposes to carry out road improvement works at the junction of Lin Ma Hang Road and the local track (**Drawing A-2**). The applicant also submitted a drainage plan in support of the application. Apart from maintaining the existing drainage facilities, new U-channels and drainage facilities will be constructed to accommodate the additional drainage needs. The existing septic tank will be maintained.
- 1.4 Part of the Site is the subject of a previously approved application (No. A/NE-TKLN/35) for proposed temporary eating place and shop and services with ancillary office/store room for a period of three years submitted by the same applicant as the current application. All approval conditions have been complied with and the planning approval lapsed on 8.1.2024. Details of the previous application are set out in paragraph 6.1 below.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 9.9.2024 **(Appendix I)**
 - (b) Further Information (FI) received on 13.12.2024* **(Appendix Ia)**
 - (c) FI received on 7.1.2025^ **(Appendix Ib)**
- * *accepted and exempted from publication and recounting requirements*
^ *accepted but not exempted from publication and recounting requirements*
- 1.6 On 8.11.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I** and **Ib**, as summarised below:

- (a) being situated to the north of the village cluster of Tsung Yuen Ha and in proximity to Heung Yuen Wai Boundary Control Point (HYW BCP), the Site is an ideal location for the proposed uses. It would optimise land resources by providing car parking spaces to meet the substantial demand from cross-boundary travellers and nearby residents, while offering an one-stop location where essential goods and services can be conveniently available to the villagers and cross-boundary travellers;
- (b) part of the Site is the subject of a previously approved application (No. A/NE-TKLN/35) for the same/similar use. The eating place, local provision store, ancillary office and store room remain the same as the previously approved application. All approval conditions have been complied with and the existing drainage facilities and fire service installations under the previous application are being properly maintained;
- (c) there are no substantial changes to the planning circumstances when compared with the last approved application and no adverse planning implication is anticipated. Also, the proposed uses are not incompatible with the surrounding area and no adverse landscape impact is expected;
- (d) the proposed uses are temporary in nature for a period of three years and would not jeopardise the long-term planning intention of the "V" zone; and

- (e) no adverse traffic, drainage and environmental impacts are expected. No heavy goods vehicles and container vehicles will be allowed to be parked at the Site. Also, the applicant will strictly follow the 'Code of Practices on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (COP) and comply with all environmental protection/pollution control ordinances during construction and operation stages. The applicant also undertakes to apply for Short Term Wavier (STW) to the Lands Department (LandsD) upon obtaining planning permission.

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. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 15A for Application for Eating Place within “Village Type Development” Zone in Rural Areas under section 16 of the Town Planning Ordinance (TPB PG-No. 15A) promulgated by the Board in June 2003 is relevant to the application. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

According to recent site inspection, parking of vehicles was observed. A warning letter was posted on site and sent to landowners on 7.11.2024 and 3.12.2024 respectively. The Site will be subject to planning enforcement action as appropriate.

6. Previous Application

- 6.1 The western part of the Site is the subject of a previous application (No. A/NE-TKLN/35) for proposed temporary eating place and shop and services with ancillary office/store room for a period of three years submitted by the same applicant as the current application. It was approved with conditions by the Committee on 8.1.2021 mainly on the considerations that the proposed use was generally in line with the relevant TPB Guidelines and no adverse departmental comments were received. All approval conditions have been complied with and the planning permission lapsed on 8.1.2024. As compared with the previous application, while the development parameters and layout of the eating place and local provision store with ancillary office and store room largely remain the same, there is an increase in site area from about 1,116.05m² to about 3,053m² (+1,936.95m²) and addition of temporary public vehicle park use under the current application.
- 6.2 Details of the previous application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are eight similar applications for temporary public vehicle park and/or shop and services uses falling entirely within the same “V” zone or straddling the same “V” zone and adjoining “Agriculture” or “Recreation” zones.

- 7.2 Seven applications involving four sites for temporary public vehicle park with/without shop and services (No. A/NE-TKLN/33, 37, 53, 57, 75 and 80) and temporary shop and services (No. A/NE-TKLN/40) were approved with conditions by the Committee between 2020 and 2024 mainly on the considerations that C for T had no objection to/supported the applications from the cross-boundary parking demand point of view; and no major adverse departmental comments were received.
- 7.3 One application (No. A/NE-TKLN/45) for temporary public vehicle park for parking of light goods vehicles only was rejected by the Committee in 2022 mainly on the grounds that the proposed use was not in line with the planning intention of “V” zone and the applicant failed to demonstrate that the proposed use would not cause adverse traffic impact on the surrounding areas. The application site was subsequently covered by an approved application (No. A/NE-TKLN/80) as detailed in paragraph 7.2 above.
- 7.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) partly vacant and partly occupied by a vacant structure; and
- (b) accessible via a local track leading to Lin Ma Hang Road.

8.2 The surrounding areas are of rural character mainly comprising public vehicle parks, village cluster of Tsung Yuen Ha and vacant land. Two watercourses are located to the north and south of the Site. HYW BCP is located to the northwest of the Site.

9. 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 and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 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 at **Appendices V** and **VI** respectively.

10.2 The following departments provide views/comments on the application.

Traffic

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

- (a) with the commissioning of passenger clearance in HYW BCP since February 2023, the demand for cross-boundary parking has kept increasing, especially during the weekends and holidays, when the existing carpark 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;
- (b) notwithstanding the above, the applicant is required to submit detailed design of the proposed road improvement scheme and proposal for traffic management measures;
- (c) should the Committee approve the application, approval conditions on submission and implementation of road improvement scheme and traffic management measures before the commencement of any operation to her satisfaction should be imposed. Also, the implemented traffic management measures should be maintained during the planning approval period;
- (d) the applicant should be advised that provision of parking information including the availability of parking spaces at the Site should be included as one of the traffic management measures. The applicant should make reference to the “Guidelines for Provision of Parking Information” issued by the Transport Department (TD) when providing parking information; and
- (e) the vehicular access between Lin Ma Hang Road and the Site is not managed by TD. The applicant should seek comments from the responsible party.

10.2.2 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) the proposed road improvement scheme involves modification works to slope feature No. 3NW-B/R1. The applicant should submit the necessary geotechnical design report to the Geotechnical Engineering Office of Civil Engineering and Development Department through relevant government department for checking;
- (b) the detailed design of the road improvement scheme should be submitted to TD and HyD for review and comment;
- (c) the road improvement scheme should be designed and constructed in accordance with Transport Planning and Design Manual, relevant highway standard drawings, guidance notes, road notes, etc. to the satisfaction of TD and HyD; and
- (d) it is noted that two traffic aids will be affected due to the proposed road improvement scheme, TD’s comments should be sought;

- (e) since the modification works to the said slope form part of the proposed road improvement scheme, should the Committee approve the application, approval conditions on submission and implementation of road improvement scheme before the commencement of any operation to the satisfaction of the Director of Highways should be imposed. In fulfilling the approval conditions, the modification works to the said slope should be taken into account; and
- (f) his advisory comments are at **Appendix VI**.

11. Public Comments Received During Statutory Publication Periods

On 17.9.2024 and 17.1.2025, the application and the FI were published for public inspection. During the statutory public inspection periods, 21 public comments were received (**Appendix VII**). 18 public comments from 12 villagers of Tsung Yuen Ha, Vice village representative and a villager of Lin Ma Hang, three individuals and one business operator of a holiday camp object to the application mainly on the grounds that the proposed uses would induce adverse impacts on traffic and pedestrian safety, flooding, noise as well as affecting living quality; there is insufficient road capacity to support additional traffic flow in Lin Ma Hang Road and Tsung Yuen Ha and the existing road should be widened first; the proposed road improvement scheme at the junction at Lin Ma Hang Road is not feasible; there is a lack of pedestrian footpath; the traffic congestion at Lin Ma Hang Road has affected public transport to access Lin Ma Hang village; and there is a need to make better use of the existing vehicle parks instead of creating new vehicle park; and emergency vehicles may not be able to enter Tsung Yuen Ha village due to the limited road capacity. A comment from an individual raises concerns over the compliance of approval conditions regarding drainage facilities and fire service installations under the previously approved application and the impact caused by the additional large area for parking. The remaining two comments from a member of the North District Council indicate no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary public vehicle park (excluding container vehicle), eating place and shop and services (local provision store) with ancillary office and store room for a period of three years at the Site zoned “V” on the OZP. The proposed uses are not entirely in line with the planning intention of the “V” zone which is primarily for development of Small House by indigenous villagers. Nevertheless, according to the applicant, the proposed uses could provide car parking spaces and services for meeting the need of the villages and cross-boundary travellers using HYW BCP. Also, the District Lands Officer/North of Lands Department (DLO/N, LandsD) advises that there is no Small House application at the Site. In view of the above, it is considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The Site is located in an area of rural character mainly comprising public vehicle parks, village cluster of Tsung Yuen Ha and vacant land with HYW BCP located to the northwest. The proposed uses are considered not incompatible with the surrounding area.
- 12.3 The Site is accessible via a local track leading to Lin Ma Hang Road. The applicant proposes traffic management measures and road improvement works to ensure traffic and pedestrian safety. While C for T considers that the demand for cross-boundary parking has kept increasing with the commissioning of HYW BCP and the proposed public vehicle park can alleviate the demand for parking spaces in the area, it is recommended to impose approval

conditions on the submission and implementation of the applicant's proposed road improvement scheme and traffic management measures before commencement of any operation of the proposed uses. Other relevant government departments consulted, including the CHE/NTE, HyD, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Chief Engineer/Construction of Water Supplies Department have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 13.2 below. The applicant will be advised to follow the COP to minimise the possible environmental impacts caused by the proposed uses on the surrounding areas. Regarding DLO/N, LandsD's concern on the unauthorised structure erected within the Site, the applicant will be advised to liaise with LandsD on this land administration matter should the Committee approve the application.

- 12.4 Regarding the proposed eating place at the Site, the application is generally in line with the TPB PG-No. 15A in that the Site is located at the fringe of Tsung Yuen Ha and is accessible via a local track leading to Lin Ma Hang Road without passing through the nearby village houses. The proposed uses on a temporary basis of three years will not affect the land availability for Small House developments. Also, concerned government departments have no adverse comments on the environmental, traffic, drainage and fire safety aspects.
- 12.5 The western part of the Site is the subject of a previously approved application (No. A/NE-TKLN/35) for proposed temporary eating place and shop and services with ancillary office/store room for a period of three years. The application was approved with conditions by the Committee on 8.1.2021 mainly on the considerations as detailed in paragraph 6.1 above. All approval conditions of the previous application have been complied with and the planning permission lapsed on 8.1.2024. As compared with the previous application, while the development parameters and layout of the eating place and local provision store with ancillary office and store room largely remain the same, there is an increase in site area from about 1,116.05m² to about 3,053m² (+1,936.95m²) and addition of temporary public vehicle park use under the current application.
- 12.6 There were eight similar applications falling entirely within the same "V" zone or straddling the same "V" zone and adjoining "AGR" or "REC" zones in the past five years, seven of which were approved with conditions by the Committee between 2020 and 2024 mainly on the considerations as detailed in paragraph 7.2 above. The remaining rejected application was subsequently covered by an approved application. The planning circumstances of the current application are similar to those of the approved applications. As such, approval of the current application is in line with the Committee's previous decisions.
- 12.7 Regarding the public comments on the application as detailed in paragraph 11, the government departments' comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 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 28.2.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) 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 28.8.2025;
- (b) in relation to (a) 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 28.11.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the submission of a fire service installations 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 28.8.2025;
- (e) in relation to (d) above, the implementation of the fire service installations 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 28.11.2025;
- (f) the submission of a road improvement scheme and traffic management measures before the commencement of any operation to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board;
- (g) in relation to (f) above, the implementation of the road improvement scheme and traffic management measures before the commencement of any operation to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board;
- (h) in relation to (g) above, the implemented traffic management measures shall be maintained at all times during the planning approval period;
- (i) if any of the above planning condition (f) or (g) 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;
- (j) if any of the above planning condition (c) 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
- (k) if any of the above planning condition (a), (b), (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.

Advisory Clauses

The Recommended Advisory Clauses are at **Appendix VI**.

- 13.3 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 “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. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with Attachments received on 9.9.2024
Appendix Ia	FI received on 13.12.2024
Appendix Ib	FI received on 7.1.2025
Appendix II	Relevant Extracts of TPB PG-No. 15A
Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Government Departments’ General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Proposed Road Improvement Scheme
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2025**