

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

**APPLICATION NO. A/NE-TKL/712**

- Applicants** : Mr CHOY Wai Hang and Mr CHOY Yuk Wah represented by Ms LEE Ha Yu, Venus
- Site** : Lot 365 S.C (Part) in D.D. 84, Tai Po Tin Village, Ping Che, New Territories
- Site Area** : About 370m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zonings** : (i) "Agriculture" ("AGR") (about 357m<sup>2</sup> or 96.4% of the Site)  
(ii) "Village Type Development" ("V") (about 13.4m<sup>2</sup> or 3.6% of the Site)
- Application** : Renewal of Planning Approval for Temporary Private Car Park for a Period of Three Years until 11.3.2026

**1. The Proposal**

- 1.1 The applicants seek renewal of planning permission to continue using the application site (the Site) for a temporary private car park for a period of three years until 11.3.2026 (**Plan A-1**). The Site falls mostly within an area zoned "AGR" (about 96.4%) with minor portion falling within "V" (about 3.6%) zone on the OZP. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the "AGR" and "V" zones requires planning permission from the Town Planning Board (the Board). The Site is hard-paved with three existing temporary structures, and currently used for the applied use with valid planning permission until 11.3.2023.
- 1.2 According to the information submitted by the applicants, the temporary car park under the renewal application is only for private use of the applicants and their family for parking of five private cars. The private car parking spaces are covered by a movable canopy with an area of about 136m<sup>2</sup>. There are three existing single-storey temporary structures (of not more than 2.75m high) with a total floor area of about 140.12m<sup>2</sup> at the Site for the applied use. Landscape planting, drainage facilities and fire service installations (FSIs) are provided within the Site and the Site is accessible via a village track leading to Ping Che Road (**Plan A-1**). A layout plan submitted by the applicants is shown in **Drawing A-1**.
- 1.3 The Site is the subject of six previous applications (No. A/NE-TKL/263, 301, 340, 461, 557 and 631) approved between March 2005 and January 2020. The development scheme

submitted under the current renewal application is largely the same as the last application (No. A/NE-TKL/631) in terms of applied use and site area except for the proposed increase in the number of private car parking spaces from four to five. All the approval conditions of the last application have been complied with.

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

- |     |  |               |
|-----|--|---------------|
| (a) | Application Form with attachments received on 23.11.2022 | (Appendix I)  |
| (b) | Supplementary Information (SI) received on 23.11.2022    | (Appendix Ia) |
| (c) | SI received on 28.11.2022                                | (Appendix Ib) |
| (d) | Further Information (FI) received on 20.12.2022          | (Appendix Ic) |
| (e) | FI received on 16.1.2023                                 | (Appendix Id) |

1.5 On 13.1.2023, the Committee agreed to the applicant's requests to defer making a decision on the application for two months to allow more time for the applicant 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, SI and FI submissions at **Appendices I to Id**, and are summarized as follows:

- (a) the applicants and their family need to use the Site to park five private cars for private use as there are no public parking spaces available. No other vehicles will be parked on the Site and it has not been used for other purposes since the Site was first approved by the Board for the same use in 2005;
- (b) the car park is not for commercial purpose, and is properly fenced and locked. No vehicles other than that of the applicants and their family members can gain access to it;
- (c) the private vehicles parked within the Site will not cause obstruction to other villagers or vehicles. The applicants have also set back the main entrance of the Site for lay-by purpose;
- (d) landscape, drainage and FSIs proposals were implemented as required by the Committee. Trees are trimmed, drains are cleared and fire-fighting and fire service equipment are examined on a regular basis. There has been no change in the Site circumstances since the Site was first approved for the applied use in 2005; and
- (e) the applicants will liaise with Lands Department (LandsD) to rectify/regularize the lease issues regarding the three existing temporary structures.

## **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.

#### **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 34D (TPB PG-No. 34D) on 'Renewal of Planning Approval and Extension of time for Compliance with Planning Conditions for Temporary Use or Development' are relevant to this application. The relevant extracts of the Guidelines are attached at **Appendix II**.

#### **5. Previous Applications**

- 5.1 The Site is the subject of six previous approved applications (No. A/NE-TKL/263, 301, 340, 461, 557 and 631) submitted by one of the applicants as the current renewal application for the same use. Application No. A/NE-TKL/263 was approved by the Board on review on 11.3.2005 for a period of three years mainly on sympathetic grounds that there was not enough space for parking in Tai Po Tin Village and the applicant used his land for parking of their own cars; and the approval of the application would unlikely set a precedent case.
- 5.2 The other five applications (No. A/NE-TKL/301, 340, 461, 557 and 631) for renewal of the planning approval for private car park use for three years, were approved with conditions by the Committee between 2007 and 2020 mainly on the grounds that there was no material change in planning circumstances and land uses of surrounding areas since the previous temporary approval was granted; the use was not incompatible with surrounding rural land uses; the approval conditions under the previous planning approvals were complied with by the applicants; the use would unlikely cause any significant adverse impacts on traffic, environmental, drainage and landscape of the area; and the renewal applications complied with the then TPB-PG No. 34C.
- 5.3 The development scheme submitted under the current renewal application is largely the same as the last application (No. A/NE-TKL 631) in terms of applied use and site area except for the proposed increase in the number of private car parking spaces from four to five. All approval conditions have been complied with and the planning permission is valid until 11.3.2023.
- 5.4 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

#### **6. Similar Application**

- 6.1 There is one similar application in the "AGR" zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area. Application No. A/NE-TKL/700 for proposed temporary private vehicle park for a period of three years was approved by the Committee on 12.8.2022 mainly on the grounds that the private vehicle park could serve the local village/residents in meeting their car parking need of the area; temporary approval would not frustrate the long-term planning intention of the "AGR" zone; the development was not incompatible with the surrounding land uses; and no major adverse departmental comments or concerns of relevant government departments could be addressed through implementation of approval conditions.
- 6.2 Details of the similar application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

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

**7.1 The Site is:**

- (a) flat, hard paved, fenced off and currently used for the applied use with a valid planning permission;
- (b) located to the east of the village proper of Tai Po Tin Village (**Plan A-2**); and
- (c) accessible via a village rack leading to Ping Che Road (**Plan A-1**).

**7.2 The surrounding areas have the following characteristics:**

- (a) to the east is a mix of active and fallow agricultural land and temporary domestic structures; and
- (b) to the west and north are existing village houses within the “V” zone and village ‘environs’ (‘VE’) of Tai Po Tin village and some active/fallow agricultural land.

**8. Planning Intentions**

8.1 The planning intention of the “AGR” zone in the Ping Che and Ta Kwu Ling area 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 The planning intention of the “V” zone in the Ping Che and Ta Kwu Ling area is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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 department as set out in paragraph 9.2 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.

**District Lands Officer’s Comments (DLO/N):**

9.2 District Lands Officer/North, Lands Department (DLO/N, LandsD) has reviewed the subject application and provided the following comments:

- the application site comprises Old Schedule Agricultural Lot 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 government land is granted to the application site;

- she has reservation on the planning application since there are unauthorized building works on the private lot which are already subject to lease enforcement actions according to the case priority. The owners should immediately rectify the lease breaches and this office reserves the rights to take necessary lease enforcement action against the breaches without separate notice; and
- the owners of the application lot has submitted an application for a Short Term Waiver (STW), which is being processed and will be considered by the LandsD acting in the capacity of the lessor at its sole discretion and there is no guarantee that such application will be approved. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. If the STW application is approved, its commencement date would be the first date of the occupation and it will be subject to such terms and conditions, including among others the payment of fee and administrative fee, as may be imposed by the LandsD.

#### **10. Public Comments Received During Statutory Publication Period (Appendix VI)**

On 2.12.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. One individual objects to the proposal mainly on the grounds that the approval of the application would cause adverse traffic and environmental impacts to the surrounding areas and increase fire risk, thereby affecting the quality of life and safety of nearby residents.

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

- 11.1 The application is for renewal of planning permission for temporary private car park for a further period of three years at the Site mostly zoned “AGR” and partly zoned “V” on the OZP. DAFC has no comment on the renewal of the planning permission as the Site has been largely formed and occupied for the applied use since 2005. Given that the development is only on a temporary basis, approval of the application for another three years would not jeopardize the long-term planning intentions of the “AGR” and “V” zones.
- 11.2 The applied use is considered not incompatible with the surrounding land uses which are mixed uses comprising mainly vegetated areas, farmlands, clusters of trees and Small Houses within or in close proximity to the “V” zone to the west. Significant adverse landscape impact arising from the development is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the renewal application from landscape planning perspective. C for T also has no objection to the renewal application from traffic engineering perspective. Although DLO/N of LandsD has reservation on the application for the reason of presence of unauthorized building works within the Site, which are subject to lease enforcement actions, the applicants indicate that they will liaise with LandsD to rectify/regularize the lease breaches (**Appendix Id**). Other relevant government departments, including DAFC, CHE/NTE of HyD, D of FS, DEP and CE/C of WSD, have no objection to or no adverse comment on the renewal application.

- 11.3 The renewal application generally complies with TPB PG-No. 34D in that there has not been any material change in planning circumstances since the approval of the last application; there are no major adverse departmental comments against the renewal application; all the approval conditions for the last application have been complied with; and the approval period sought which is for the same as the last approval granted by the Board is not unreasonable.
- 11.4 The Site is the subject of six previous applications as set out in paragraph 5.1 above for the same use by the same applicants/ one of the applicants as the current application. All approval conditions of the last application have been complied with and the planning permission will lapse on 12.3.2023. There has not been major change in planning circumstances since the approval of the last application.
- 11.5 There is one similar application No. A/NE-TKL/700 for proposed temporary private vehicle park within the “AGR” zone in the vicinity of the Site. The application was approved by the Committee in 2022 mainly on the grounds that the private vehicle park could serve the local village/residents for meeting their car parking need of the area; temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; and no major adverse departmental comments or concerns of relevant government departments could be addressed through implementation of approval conditions. The planning circumstances of the approved application is similar to the current application.
- 11.6 Regarding the public comments concerning traffic, environmental impacts and fire safety issues as detailed in paragraph 10 above, the government departments’ comments and the 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 mentioned in paragraph 10, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 years.
- 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 3 years and **be renewed from 12.3.2023 to 11.3.2026**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) the car park should be restricted for parking of private cars only and should not be opened to the public on a commercial basis;
- (b) the existing fire service installations implemented should be maintained in efficient working order at all times;
- (c) the existing drainage facilities on the Site shall be maintained properly at all times during the planning approval period and rectified if they are found inadequate / ineffective during operation;

- (d) if any of the above planning conditions (a), (b) or (c) 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
- (e) upon expiry of the planning permission, the reinstatement of the Site 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 V**.

12.3 There is no strong reason to recommend rejection of the application.

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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**

<b>Appendix I</b>	Application form with attachments received on 23.11.2022
<b>Appendix Ia</b>	SI received on 23.11.2022
<b>Appendix Ib</b>	SI received on 28.11.2022
<b>Appendix Ic</b>	FI received on 20.12.2022
<b>Appendix Id</b>	FI received on 16.1.2023
<b>Appendix II</b>	Relevant extracts of TPB PG-No. 34D
<b>Appendix III</b>	Previous and similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comments
<b>Drawing A-1</b>	Layout plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos