

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/699

<u>Applicant</u>	Mr. LI Phillip Kee-fong
<u>Site</u>	Lot 1604 S.G RP in D.D. 17, Lo Tsz Tin Village, Tai Po, New Territories
<u>Area</u>	About 113.5 m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	“Recreation” (“REC”)
<u>Application</u>	Proposed Temporary Private Car Park for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary private car park at the application site (the Site) for a period of three years. The Site falls within an area zoned “REC” on the approved Ting Kok OZP No. S/NE-TK/19 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.2 According to the applicant, a total of five parking spaces for private cars (5m x 2.5m) will be provided within the Site. The proposed temporary private car park will operate 24 hours daily. The Site is accessible from Ting Kok Road via a local track. A plan showing the proposed parking layout and vehicular ingress/egress is at **Drawing A-1**. The Site is currently vacant.
- 1.3 In support of the application, the applicant submitted the following documents :
 - (a) an application form with attachments received on (**Appendix I**) 25.1.2021
 - (b) Further Information (FI) received on 23.2.2021 (**Appendix Ia**) clarifying the justification and layout of the car park (*accepted and exempted from the publication and recounting requirements*)

2. **Justifications from the Applicant**

The justification put forth by the applicant in support of the application is given in Part 7 of the application form at **Appendix I** and FI at **Appendices Ia**. He claims that the proposed private car park will serve the neighbouring residents on a 24-hour basis.

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. **Background**

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is subject of a planning enforcement action (No. E/NE-TK/159) against unauthorized development involving parking of vehicles. Enforcement Notice was issued on 8.10.2020 requiring the discontinuation of the unauthorized development. Recent site inspection revealed no car park operation on the Site. Further inspection would be conducted to confirm whether the use has been discontinued.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Applications**

6.1 There are three similar applications (No. A/NE-TK/670, 684 and 688) for temporary public vehicle park (private cars only) in the vicinity of the Site within the same “REC” zone. Application No. A/NE-TK/670 was rejected by the Committee on 5.7.2019 for reason of adverse geotechnical impact on the application site and its surrounding area. Applications No. A/NE-TK/684 and 688 were approved with conditions by the Committee on 1.9.2020 and 6.11.2020 respectively, each for a temporary period of three years, mainly on considerations that the approval of the applications on a temporary basis would not frustrate the planning intention of the “REC” zone and no adverse impacts will be caused on the surrounding areas.

6.2 Details of the applications are shown in **Appendix II** and their locations are shown on **Plan A-2**.

7. **The Site and Its Surrounding Areas** (Plans A-1, A-2 and photos on Plans A-3, A-4)

7.1 The Site is :

- (a) vacant, hard-paved and fenced along the eastern and southern boundaries; and
- (b) located to the south of Lo Tsz Tin Village and is accessible via a track branching off Ting Kok Road.

7.2 The surrounding areas are predominantly rural in character with village houses, barbecue sites, car park, vacant land and tree groups. To the south on the opposite site of Ting Kok Road is the Lung Mei Bathing Beach.

8. **Planning Intention**

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9. **Comments from Relevant Government Departments**

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application:
- (b) the Site is held under the Block Government lease demised for agricultural purpose, no structures shall be erected without prior approval from LandsD;
- (c) the village road leading to the Site at its north is on unallocated Government Land. There is no guarantee to the grant of a right of way to the Site. As such, no trees thereon shall be interfered with unless prior approval is obtained from LandsD. The maintenance and management responsibility of any Government land leading to the Site should be sorted out with the relevant Government departments, prior to making use of them for proposed vehicular access purpose. Furthermore, neither occupation nor works of any kind thereon is allowed without the prior approval from LandsD; and

- (d) should the application be approved by the Board, the lot owner is required to submit a Short Term Waiver (“STW”) application to LandsD if he wishes to erect any structures on the lot. However, there is no guarantee at this stage that the STW application would be approved. If the STW application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of waiver fee and administrative fee as considered appropriate.

Traffic

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

- (a) no in-principle objection to the application from traffic engineering viewpoint; and
- (b) for the village access road, it is not under Transport Department’s management. It is suggested that the land status, management and maintenance responsibility of the village access should be clarified with relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

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

- the vehicular access branching from Ting Kok Road to the Site seems encroaching on some private lots. It is the applicant’s responsibility to secure his own vehicular access with the private lot owners concerned.

Landscape

9.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is located in an area of rural coastal plains landscape character comprising village houses to its immediate north, temporary structures and clusters of trees. The Site is hard paved with no significant landscape resource observed; hence, significant adverse impact on existing landscape resources arising from the proposed development is not anticipated;

- (c) there are two planning applications in close proximity to the Site within the same “REC” zone for car park approved by the Committee in 2020. The proposed temporary private car park under the current application is considered not entirely incompatible with its surrounding environment; and
- (d) there is limited space within the Site for meaningful landscaping and no major public frontage along the site boundary. Should the Board approve this application, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) there is no existing DSD maintained public drains available for connection in the vicinity of this area. The applicant should have his own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (b) there is existing public sewer in the vicinity of the Site;
- (c) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought; and
- (d) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas.

Building Matter

9.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) there is no proposed building/structure in the application, his advisory comments under the Building Ordinance (BO) are at paragraph (f) of **Appendix IV**.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to the fire service installations (FSIs) being provided to his satisfaction;
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to him for approval, and that:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans;
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

9.2 The following Government departments have no objection to/comment on the application:

- (a) Director of Environmental Protection (DEP);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (f) Project Manager/New Territories East, Civil Engineering and Development Department (PM/N, CEDD); and
- (g) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

10. Public Comments Received During Statutory Publication Period (Appendix III)

On 29.1.2021, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application on the ground that the proposed use will cause adverse environmental impacts on the surrounding areas.

11. Planning Considerations and Assessments

- 11.1 The application is for a temporary private car park within an area zoned “REC” on the OZP (**Plan A-1**). The applied use is not in line with the planning intention of the “REC” zone which is primarily for recreational developments for the use of the general public. Nevertheless, the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention.
- 11.2 The Site is accessible from Ting Kok Road via a local track. According to the applicant, five private car parking spaces will be provided to serve the neighbouring residents. C for T has no in-principle objection to the application from traffic engineering point of view. Furthermore, the Site is currently vacant and hard-paved. The surrounding areas are predominantly rural in character with village houses, barbecue sites, car park, vacant land and tree groups. CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective as no significant adverse impact on existing landscape resources arising from the applied use is anticipated. Other relevant government departments consulted, including DEP, CHE/NTE of HyD, DAFC, DEMS, CE/C of WSD, H(GEO) of CEDD, PM/N of CEDD and DO/TP of HAD have no objection to/no adverse comment on the application.
- 11.3 There are three similar applications (No. A/NE-TK/670, 684 and 688) for temporary public vehicle park (private cars only) in the vicinity of the Site within the same “REC” zone. Application No. A/NE-TK/670 was rejected by the Committee on 5.7.2019 for reason of adverse geotechnical impact on the application site and its surrounding area. Applications No. A/NE-TK/684 and 688 were approved with conditions by the Committee on 1.9.2020 and 6.11.2020 respectively, each for a temporary period of three years, mainly on considerations that the approval of the applications on a temporary basis would not frustrate the planning intention of the “REC” zone and no adverse impacts will be caused on the surrounding areas. The circumstances for the approval of these two applications are applicable to the current one.
- 11.4 Regarding the public comment as detailed in paragraph 10 above, Government departments’ comments and the planning assessments in the above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department considers that the proposed 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 on a temporary basis for a period of three years until 12.3.2024. The following conditions of approval 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 car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) a notice should be posted at a prominent location of the Site to indicate that only private car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) the provision of peripheral fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 12.9.2021;
- (e) 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 12.9.2021;
- (f) in relation to (e) above, the implementation 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 12.12.2021;
- (g) the submission of fire service installations (FSIs) and water supplies for fire-fighting 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 12.9.2021;
- (h) in relation to (g) above, the implementation of FSIs and water supplies for fire-fighting 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 12.12.2021;
- (i) 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
- (j) if any of the above planning conditions (d), (e), (f), (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 IV**.

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

- the proposed development is not in line with the planning intention of the "REC" zone which is primarily for the recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the planning permission.

13.2 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.

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 applicant.

14. Attachments

Appendix I	Application form and attachments
Appendix Ia	Further information submitted by the applicant received on 23.2.2021
Appendix II	Similar applications
Appendix III	Public comment
Appendix IV	Recommended advisory clauses
Drawing A-1	Parking layout plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MARCH 2021**