

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

**APPLICATION NO. A/NE-TK/710**

<b><u>Applicant</u></b>	Mr. TO Shu Wing
<b><u>Site</u></b>	Lot 1055 RP in D.D. 23, Po Sam Pai Village, Tai Po, New Territories
<b><u>Area</u></b>	About 46 m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<b><u>Zoning</u></b>	“Village Type Development” (“V”)
<b><u>Application</u></b>	Temporary Private Car Park for a Period of 3 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 3 years (**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, two parking spaces each of 5m (length) x 2.5m (width) for private cars not exceeding 5.5 tonnes will be provided within the Site. The Site is accessible from Ting Kok Road via a local track. The plans submitted by the applicant showing the vehicular access and car parking layout are at **Drawings A-1** and **A-2** respectively. As the car park is only for private use, no operation hour is specified under the application.
- 1.3 The Site is the subject of a previous application (No. A/NE-TK/637) submitted by the same applicant for the same use, which was approved by the Rural and New Town Planning Committee (the Committee) on a temporary basis for a period of 3 years on 6.7.2018. The permission has lapsed on 7.7.2021. Compared with the previous application, the applied use under the current application involves a slightly smaller site with the same number and dimension of parking spaces.
- 1.4 In support of the application, the applicant submitted the following documents :

- (a) an application form with attachments received on (**Appendix I**) 15.7.2021
- (b) Further Information (FI) received on 20.8.2021 (**Appendix Ia**) providing response to departmental comments and clarification on the locations of premises relating to the applied use and the applicant's permission for pedestrian passage through the Site<sup>^</sup>
- (c) FI received on 30.8.2021 providing response to (**Appendix Ib**) departmental comments<sup>^</sup>

*<sup>^</sup>accepted and exempted from publication and recounting requirements*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the application form and the FI at **Appendices I, Ia** and **Ib**. They can be summarised as follows:

- (a) the Site is relatively small in area and located at the dead end of the existing track road between two rows of New Territories Exempted Houses (NTEHs). The applied use would not affect the internal village traffic flow;
- (b) the applied use only involves parking of two private vehicles for daily use and holiday use respectively. No structures nor covers will be erected, and no visual impact or nuisance is expected;
- (c) stormwater discharge system is already in existence;
- (d) fire service installations are readily available from village houses adjoining the Site;
- (e) there is a critical demand for parking spaces in San Tau Kok and Po Sam Pai Villages. No alternatives are available to meet the applicant's parking need;
- (f) the applied use is temporary in nature. By the time public transport is more convenient in the area, the applicant might give up the use of the Site for car parking;
- (g) the applicant would maintain his permission for pedestrians to pass through the Site; and
- (h) the car parking spaces are used by the applicant and the other land owner of the Site, both of them live in Po Sam Pai Village.

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

The applicant is one of the two “current land owners” of the lot and has obtained the consent from the other owner for the applied use. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Previous Application**

- 4.1 The Site is the subject of a previous application (No. A/NE-TK/637) submitted by the same applicant for the same use. The application was approved by the Committee on a temporary basis for a period of 3 years on 6.7.2018, mainly on the considerations of being not incompatible with the surrounding areas and no jeopardization of the long-term planning intention of the “V” zone. The permission has lapsed on 7.7.2021. Compared with the previous application, the applied use under the current application involve a slightly smaller site (from previously 46.5 m<sup>2</sup> to 46 m<sup>2</sup>) with the same number and dimension of parking spaces.
- 4.2 Details of the application are shown in **Appendix II** and its location is shown on **Plan A-2**.

### 5. **Similar Applications**

- 5.1 There are four similar applications (No. A/NE-TK/636, 650, 690 and 691) for temporary car park within the same “V” zone in the vicinity of the Site (**Plan A-1**), of which one was approved and three were rejected.
- 5.2 Application No. A/NE-TK/650 for a temporary private car park, providing 10 parking spaces for private cars for a period of 3 years, was approved with conditions by the Committee on 19.10.2018, mainly on the considerations that the applied use would not frustrate the long-term planning intention of the “V” zone and would unlikely cause adverse traffic, environmental, drainage, landscape and sewage impacts on the surrounding areas.
- 5.3 Application No. A/NE-TK/636 (with 86% of the application site zoned “Agriculture” (“AGR”) and the remaining 14% zoned “V”) for a temporary vehicle park, providing parking spaces for 60 private cars and 20 light goods vehicles for a period of 3 years, was rejected by the Committee on 6.4.2018 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; failing to demonstrate that the development would not cause adverse landscape and traffic impacts; and setting an undesirable precedent for other similar applications in the “AGR” zone. Application No. A/NE-TK/690 and 691 for temporary public vehicle park, providing 4 and 8 parking spaces for private cars respectively, were rejected by the Committee on 20.11.2020, mainly on the grounds of failing to demonstrate that the proposed car park layout is feasible from traffic engineering point of view.
- 5.4 Details of the applications are shown in **Appendix III** and their locations are shown on **Plans A-1 and A-2**.

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

6.1 The Site is :

- (a) hard-paved and currently used for the applied use;
- (b) located at the south-west of Po Sam Pai Village; and
- (c) accessible from Ting Kok Road via a local track.

6.2 The surrounding areas are predominantly rural in character with clusters of village houses nearby.

**7. Planning Intention**

The planning intention of the “V” zone is to designate both existing recognised 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.

**8. Comments from Relevant Government Departments**

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

Land Administration

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

- (a) no objection to the application;
- (b) the Site consists of an Old Schedule lot held under the Block Government lease demised for agricultural purpose. No structure shall be erected on the lot without the prior approval from LandsD;
- (c) a recent site inspection revealed that the Site was being used for open parking of 2 private cars with no structure thereon;
- (d) should the application be approved, the lot owner is required to submit an application for Short Term Waiver (STW) 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;

- (e) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access (EVA) thereto; and
- (f) no Small House application has been received in respect of the Site.

### Traffic

#### 8.1.2 Comments of the Commissioner for Transport (C for T):

- (a) no in-principle objection to the application from traffic engineering point of view; and
- (b) the existing village access connecting to the Site is not managed by Transport Department (TD) and would need to pass through various private lots. The applicant should ensure that he has made suitable arrangement with the private lot owners for vehicular access along the existing village access. The maintenance and management departments of the village access on government land should also be sought.

### Environment

#### 8.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) no in-principle objection to the application;
- (b) no environmental complaint has been received in relation to the Site in the past 3 years; and
- (c) the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Use and Open Storage Sites” issued by the DEP to minimize any potential environmental nuisance.

### Landscape

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

- as the Site falls within “V” zone, which is a non-landscape sensitive zoning, no significant landscape impact arising from the applied use is anticipated.

### Drainage

#### 8.1.5 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 around the Site to allow surface runoff to be properly intercepted;
- (b) with reference to the FI received on 30.8.2021, existing drainage facilities are present within the Site. Therefore, he has no adverse comments on the application provided there is no modification to the paving and the drainage facilities throughout the approval period; and
- (c) the applicant is required to ensure that the existing facilities in the Site are maintained properly and undertake rectification if they are found to be inadequate, ineffective or blocked during the approval period. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure/blockage of the facilities.

### Fire Safety

#### 8.1.6 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application; and
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of the proposed FSIs to be installed should be clearly marked. A full set of valid certificate(s) of FSIs and Equipment (FS 251(s)) covering all the FSIs implemented on site should be provided for records.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Chief Engineer/Construction Division, Water Supplies Department (CE/C, WSD);

- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (f) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (g) Commissioner of Police (C of P); and
- (h) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

**9. Public Comments Received During Statutory Publication Period (Appendix IV)**

On 23.7.2021, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals objecting to the application mainly on the grounds that the applied use will cause adverse air and noise pollution on the surrounding environment; impose pedestrian and fire safety risks to villagers; and that an existing car park for villagers' use is already available in the vicinity of the Site.

**10. Planning Considerations and Assessments**

- 10.1 This application is for a temporary private car park for a period of 3 years in an area zoned "V" on the OZP. According to the applicant, two private car parking spaces will be provided to serve the applicant and the other land owner of the Site, whose residences are not next to Site but within Po Sam Pai Village. While the applied 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, DLO/TP of LandsD has no objection to the application and advises that there is no Small House application received for the Site. Given the temporary nature of the applied use, the approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the "V" zone.
- 10.2 The Site is situated at the south-west of Po Sam Pai Village. It is hard-paved and currently used for the applied use (**Plan A-4**). The applied use is not incompatible with the surrounding areas which are predominantly rural in character with clusters of village houses. CTP/UD&L of PlanD advises that no significant landscape impact arising from the applied use is anticipated.
- 10.3 The applied use involves only two parking spaces for vehicles not exceeding 5.5 tonnes. The Site is accessible via a paved local track connecting with Ting Kok Road. According to the applicant's submission (**Drawing A-2**), pedestrian passage through the non-parking portion of the Site will be maintained. C for T has no in-principle objection to the application from traffic engineering point of view. DEP also has no in-principle objection to the application and advises that no environmental complaint related to the Site has been received in the past 3 years. Other relevant Government departments consulted including DAFC, DEMS, CHE/NTE of HyD, CE/MN of DSD, CE/C of WSD, H(GEO) of CEDD, PM/N of CEDD, D of FS, C of P and DO/TP of HAD have no objection to/ no comment on the application.
- 10.4 The Site is the subject of a previous application no. A/NE-TK/637 submitted by the same applicant for the same use, which was approved by the Committee

for a period of 3 years on 6.7.2018 mainly on considerations as set out in paragraph 4.1 above. Compared with the previous application, there is no change in the development parameters except minor reduction in site area from 46.5 m<sup>2</sup> to 46 m<sup>2</sup>. There is no major change in planning circumstances since the approval of the previous application.

- 10.5 There are four similar applications (No. A/NE-TK/636, 650, 690 and 691) for temporary car park for a period of 3 years within the same “V” zone. Application No. A/NE-TK/650 was approved by the Committee on 19.10.2018 mainly on the considerations that the applied use would not frustrate the long-term planning intention of the “V” zone and would unlikely cause adverse traffic, environmental, drainage, landscape and sewage impacts on the surrounding area. The circumstances for the approval of the application are applicable to the current one. The remaining applications were rejected by the Committee between 2018 and 2020 on considerations of involving a site falling mainly within the “AGR” zone and failing to demonstrate no adverse landscape and traffic impacts (No. A/NE-TK/636); or failing to demonstrate that the proposed car park layout was feasible from traffic engineering point of view (No. A/NE-TK/690 and 691).
- 10.6 Regarding the public comments as detailed in paragraph 9 above, Government departments’ comments and the planning assessments above are relevant.

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

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, Planning Department considers that the applied use could be tolerated for a temporary period of 3 years.
- 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 10.9.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### **Approval Conditions**

- (a) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, 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; and
- (c) if any of the above planning conditions (a) or (b) 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.



### Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

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

## **12. Decision Sought**

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

## **13. Attachments**

<b>Appendix I</b>	Application form and attachments dated 15.7.2021
<b>Appendix Ia</b>	Further information submitted by the applicant received on 20.8.2021
<b>Appendix Ib</b>	Further information submitted by the applicant received on 30.8.2021
<b>Appendix II</b>	Previous application
<b>Appendix III</b>	Similar applications
<b>Appendix IV</b>	Public comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Vehicular access plan submitted by the applicant
<b>Drawing A-2</b>	Car parking layout submitted by the applicant
<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