

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

**APPLICATION NO. A/NE-TK/711**

|                           |   |
|---------------------------|---|
| <b><u>Applicant</u></b>   | Mr. LEUNG Pak Keung   |
| <b><u>Site</u></b>        | Lot 725 RP (Part) in D.D. 29 and Adjoining Government Land, Ting Kok, Tai Po, New Territories |
| <b><u>Area</u></b>        | About 1,008 m <sup>2</sup> (including Government land of about 153 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>      | “Agriculture” (“AGR”)   |
| <b><u>Application</u></b> | Proposed Temporary Car Park (Private Cars only) for a Period of 3 Years                       |

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary car park (private cars only) for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building 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. The Site is currently vacant.
- 1.2 According to the applicant, the proposed temporary car park will provide a total of 28 parking spaces for private cars to serve the local residents. Each of the parking spaces will be 5m (length) x 2.5m (width), except one of 5m (length) x 3.5m (width). The government land included will be used as part of the driveway within the Site. The proposed temporary car park will operate 24 hours daily. The Site is accessible to Shan Liu Road via a local track routed through the adjoining Lot 762 in D.D.29 with owner’s consent obtained. The proposed parking layout is at **Drawing A-1**.
- 1.3 The Site is part of the subject of three previous applications (No. A/NE-TK/629, 674 and 689) for the same use, which were all rejected by the Rural and New Town Planning Committee (the Committee) and/or the Board upon review on 9.2.2018, 22.5.2020 and 6.11.2020 respectively. Compared with the latest previous application No. A/NE-TK/689, the proposed use under the current application involves a slightly larger site (increased from 937 m<sup>2</sup> to

1,008 m<sup>2</sup> with incorporation of a piece of government land and omission of a private lot), reduced number of parking spaces (from 34 to 28), and submission of a landscape proposal (**Drawing A-2**).

1.4 In support of the application, the applicant submitted the following documents :

- (a) an application form with attachments received on (**Appendix I**) 26.7.2021
- (b) Further Information (FI) received on 1.9.2021 and (**Appendix Ia**) 2.9.2021<sup>^</sup>
- (c) FI received on 24.11.2021<sup>^</sup> (**Appendix Ib**)

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

1.5 On 24.9.2021, the Board agreed to the applicant's request to defer making a decision on the application for two months to allow time for the preparation of FI to address departmental comments. The applicant submitted the FI subsequently as detailed in paragraph 1.4 above. The application is scheduled for consideration by the Committee at this meeting.

## **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) Shan Liu Road, as the only access to Shan Liu Village and the area to the east of Ting Kok Village, is often blocked by roadside parking, which has led to serious traffic and safety issues;
- (b) the applicant and land owners of the Site has reached agreement to provide land for car parking for the local residents to address the roadside parking problem. Planning permission is sought as the Site is zoned as "AGR";
- (c) the proposed use will operate 24 hours daily for parking of private cars only;
- (d) there has been significant increase in population and private cars using Shan Liu Road over the past two decades. However, no proper parking area is provided to meet the local needs. It is time for the Board to address the illegal parking problem; and
- (e) a landscape proposal including vertical greening and tree plantings along the site boundary is submitted to enhance the landscape setting of the Site. Maximum opportunity for landscape enhancement has been taken without obstructing the sightline for vehicles nor reducing the number of parking spaces to be provided. Chain link fence is also proposed along the site boundary to protect the nearby Ficus microcarpa from damaging by vehicular and pedestrian movement.

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by notifying the land owners through registered mails. Detailed information would be deposited at the meeting for Members’ inspection. As for the Government land, the “owner’s consent/notification” requirements are not applicable.

### **4. Background**

The Site is part of the subject of a planning enforcement case (No. E/NE-TK/154) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notice (EN) was issued on 24.9.2020 and the UD was discontinued with Compliance Notice (CN) issued on 6.5.2021. Reinstatement Notice (RN) was subsequently issued on 7.5.2021. The case is under monitoring, and prosecution may be taken if the RN is not complied with.

### **5. Previous Applications**

5.1 The Site is part of the subject of three previous applications (No. A/NE-TK/629, 674 and 689) for temporary car park use for a period of 3 years, with the latter two cases submitted by the same applicant of current application. Applications No. A/NE-TK/629 and 674 were rejected by the Committee on 9.2.2018 and the Board upon review on 6.11.2020 respectively, for the reasons of being not in line with the planning intention of the “AGR” zone; causing adverse landscape impact to the area; and setting undesirable precedent for similar applications. Application No. A/NE-TK/689 was rejected by the Committee on 6.11.2020 on similar grounds and an additional reason of failing to demonstrate that the proposed car park layout was feasible from traffic engineering point of view. Compared with the latest previous application No. A/NE-TK/689, the proposed use under the current application involves a slightly larger site (increased from 937 m<sup>2</sup> to 1,008 m<sup>2</sup> with incorporation of a piece of government land and omission of a private lot), reduced number of parking spaces (from 34 to 28), and submission of a landscape proposal.

5.2 Details of the above applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

### **6. Similar Application**

6.1 There is a similar application No. A/NE-TK/693 for temporary public vehicle park (private cars only) within the same “AGR” zone in the vicinity of the Site. The application, providing parking spaces for 12 private cars for a period of 3 years, was rejected by the Committee on 20.11.2020 on similar grounds for rejecting the previous application No. A/NE-TK/689 as mentioned in paragraph 5.1 above.

6.2 Details of the application are shown in **Appendix III** and its location is shown on **Plans A-1** and **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) mainly hard-paved and currently vacant;
- (b) situated near the northern fringe of Ting Kok Village; and
- (c) accessible to Shan Liu Road via a local track.

7.2 The surrounding areas are predominantly rural in character with village houses, scattered tree groups and woodland. The village proper of Ting Kok is situated at about 35m to the south of the Site across Shan Liu Road. About 15m to the southeast of the Site abutting Shan Liu Road is a site used for car parking, which is a UD under planning enforcement action.

**8. Planning Intention**

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.

**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 consists of Lot 725 RP in D.D. 29 and a piece of adjoining unallocated government land. The private lot is held under the Block Government Lease demised for agricultural purpose. No structure shall be erected on the lot without the prior approval from LandsD. Neither occupation nor works of any kind is allowed on the government land without the prior approval from LandsD;
- (c) a recent site inspection revealed that the Site was vacant;

- (d) the proposed ingress/egress is partly on unallocated government land. The maintenance and management responsibility of the said government land should be sorted out with the relevant government departments, prior to making use of it for the proposed ingress/egress. It is also noted that the proposed ingress/egress falls on the adjoining Lot 762. The applicant should sort out the relevant issues with the lot owner concerned;
- (e) the applicant is required to submit an application for short term tenancy (STT) in respect of the piece of government land included under the planning application. Should the Board approve the application, LandsD will consider the STT application. However, there is no guarantee at this stage that the STT application would be approved. If the STT 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 rental fee and administrative fee as considered appropriate;
- (f) should the application be approved by the Board, the lot owner is also 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; and
- (g) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access (EVA) thereto.

#### 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) illegal parking is observed along Shan Liu Road, with part of the road occupied by vehicles. At some locations, only one vehicle is allowed to pass through the road, which may cause conflicts for opposite traffic flows and potential danger. It is desirable from traffic engineering point of view if parking spaces are provided at the Site to alleviate illegal parking along Shan Liu Road and release the occupied road space.

##### 9.1.3 Comments of the Commissioner of Police (C of P):

- (a) no objection to the application; and

- (b) there were 503, 218 and 3 cases of traffic enforcement, traffic complaints on illegal parking and traffic accidents on Shan Liu Road between June 2020 to July 2021 respectively (i.e. on average of 42 enforcement cases and 18 complaints monthly), which indicated the seriousness of illegal parking in the area.

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

- (a) no comment on the application; and
- (b) the section of Shan Liu Road adjacent to the Site is under HyD's maintenance purview.

Agriculture

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- the Site falls within an "AGR" zone and is currently paved. There are active agricultural activities in the vicinity, and agricultural infrastructure such as road access and water source is available. The Site can be used for agricultural activities such as greenhouses, plant nurseries etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

Environment

9.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) no in-principle objection to the application; and
- (b) the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the DEP to minimize any potential environmental nuisance.

Landscape

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

- (a) the Site is located in an area of rural coastal plains landscape character surrounded by dense vegetation within the subject "AGR" zone and village houses to its south within the "Village Type Development" zone on the same OZP. The proposed temporary car park is considered not entirely compatible with the densely vegetated area to the north. It is noted that the applicant has submitted a landscape proposal to enhance the

landscape setting of the Site. The applicant is reminded that the proposed plantings should be planted at-grade with enough space to facilitate sustainable tree growth. Tree protection measure to mitigate potential impact on the proposed trees should be provided;

- (b) a mature *Ficus microcarpa* in poor health condition is observed in close proximity to the proposed car parking space along the southeastern site boundary (**Plan A-2**). It is noted that the applicant has proposed to minimise potential adverse impact on the tree by fencing it off from vehicular and pedestrian movement in the Site;
- (c) no similar development has previously been approved by the Board within the same “AGR” zone. Should the application be approved, consideration should be given as to whether it would encourage more similar developments within the “AGR” zone, and whether the cumulative impact of such approval would degrade the landscape quality of the surrounding environment;
- (d) there is no major public frontage along the site boundary, should the application be approved by the Board, it is considered unnecessary to impose landscape condition as its effect on enhancing the quality of public realm is not apparent; and
- (e) the applicant should be advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to commencement of the works.

#### Drainage

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

- (a) he has no adverse comment on the application from public drainage viewpoint;
- (b) 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; and
- (c) advisory comments are provided at paragraph (d) of **Appendix V**.

#### Fire Safety

##### 9.1.9 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; and
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed 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.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (c) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);and
- (d) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

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

On 3.8.2021, the application was published for public inspection. During the statutory public inspection period, three public comments were received from The Hong Kong Bird Watching Society and two individuals objecting to the application mainly on the grounds of being not in line with the planning intention of the “AGR” zone, the subject of an unauthorized development, and a “destroy first, build later” case; causing traffic congestion and adverse environmental impact; and setting of undesirable precedent.

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

- 11.1 This application is for a proposed temporary car park (private cars only) for a period of 3 years in an area zoned “AGR” on the OZP (**Plan A-1**). The proposed use is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purpose. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. The applicant has not provided any strong planning justifications in the submission to justify a departure from the planning intention of “AGR” zone, even on a temporary basis.
- 11.2 The Site is situated at the northern fringe of Ting Kok Village. It is mainly hard-paved and currently vacant, and is surrounded by dense vegetation to the north and village cluster to the south. A mature Ficus microcarpa is observed in close proximity to the proposed car parking space along the southeastern site boundary (**Plan A-2**). To enhance the landscape setting of the Site, the

applicant has submitted a landscape proposal with vertical greening and tree plantings along the site boundary. He will also fence off the Site to protect the nearby *Ficus microcarpa* from damaging by vehicular and pedestrian movement. CTP/UD&L of PlanD advises that the proposed use is not entirely compatible with the surrounding densely vegetated area. Approval of the application may encourage similar use in the “AGR” zone, the cumulative impact of which would degrade the landscape quality of the surrounding environment.

- 11.3 The proposed use involves 28 parking spaces for private cars. The Site is accessible via a local track connecting with Shan Liu Road. According to the applicant, the proposed use is to provide proper parking area for local residents and address the illegal parking problem on Shan Liu Road. C for T has no in-principle objection to the application and advises that it is desirable from traffic engineering point of view if parking spaces are provided at the Site to release the road space occupied by illegal parking along Shan Liu Road. C of P also has no objection to the application as illegal parking in the area is serious. Other relevant government departments consulted have no objection to/no adverse comment on the application on technical aspects.
- 11.4 The Site is part of the subject of three previous applications (No. A/NE-TK/629, 674 and 689) for temporary car park uses for a period of 3 years, with the latter two cases submitted by the same applicant of current application. Applications No. A/NE-TK/629 and 674 were rejected by the Committee on 9.2.2018 and the Board upon review on 6.11.2020 respectively, for the reasons of being not in line with the planning intention of the “AGR” zone; causing adverse landscape impact to the area; and setting undesirable precedent for other similar applications. Application No. A/NE-TK/689 was rejected by the Committee on 6.11.2020 on similar grounds and an additional reason of failing to demonstrate that the proposed car park layout was feasible from traffic engineering point of view. Compared with the latest previous application No. A/NE-TK/689, the proposed use under the current application involves a slightly larger site (increased from 937 m<sup>2</sup> to 1,008 m<sup>2</sup>), reduced number of parking spaces (from 34 to 28), and submission of a landscape proposal. While a revised parking layout is submitted in the current application, there is no material change in planning circumstances since the rejection of the latest previous application.
- 11.5 There is a similar application No. A/NE-TK/693 for temporary public vehicle park (private cars only) within the same “AGR” zone in the vicinity of the Site. The application, providing parking spaces for 12 private cars for a period of 3 years, was rejected by the Committee on 20.11.2020 for the same reasons for rejecting Application No. A/NE-TK/689 as mentioned in paragraph 11.4 above. The circumstances for rejecting this application are largely applicable to the current one.
- 11.6 Regarding the public comments on the application as detailed in paragraph 10, Government departments’ comments and the planning assessments in above paragraphs 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 above, Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “AGR” zone which 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. There is no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate in the submission that the proposed development would not result in adverse landscape impact to the area.

12.2 Alternatively, 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 14.1.2025. 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) 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 14.7.2022;
- (d) in relation to (c) 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 14.10.2022;
- (e) the submission of a proposal for fire service installations (FSIs) and water supplies for fire-fighting 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 14.7.2022;
- (f) in relation to (e) above, the implementation of FSIs and water supplies for fire-fighting 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 14.10.2022;
- (g) 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;

- (h) if any of the above planning conditions (c), (d), (e) or (f) 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
- (i) 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 attached at **Appendix V**.

### **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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

### **14. Attachments**

|                     |   |
|---------------------|---|
| <b>Appendix I</b>   | Application form and attachments dated 26.7.2021                |
| <b>Appendix Ia</b>  | FI submitted by the applicant received on 1.9.2021 and 2.9.2021 |
| <b>Appendix Ib</b>  | FI submitted by the applicant received on 24.11.2021            |
| <b>Appendix II</b>  | Previous applications   |
| <b>Appendix III</b> | Similar application   |
| <b>Appendix IV</b>  | Public comments   |
| <b>Appendix V</b>   | Recommended advisory clauses                                    |
| <b>Drawing A-1</b>  | Parking layout submitted by the applicant                       |
| <b>Drawing A-2</b>  | Landscape proposal 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   |