

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

**APPLICATIONS NO. A/NE-TK/714-731&733**

| <b><u>Applications No.</u></b> | <b><u>Applicants</u></b><br>(all represented by Ms. LEE Fung Yee Vendra) | <b><u>Sites</u></b><br>(all in D.D. 26, Ting Kok, New Territories) | <b><u>Site Area</u></b>        |
|--------------------------------|--|--|--------------------------------|
| A/NE-TK/714                    | Ms KWOK Ka Ho Keiko  | Lots 298 S.AC (Part) and 298 RP (Part)                             | About 195.6 m <sup>2</sup>     |
| A/NE-TK/715                    | Mr HO Yiu Keung  | Lot 298 S.AA   | About 11.5 m <sup>2</sup> each |
| A/NE-TK/716                    | Mr IP Wai Kay  | Lot 298 S.AB   |                                |
| A/NE-TK/717                    | Ms AU Po Chu   | Lots 298 S.AE, 298 S.AF, 298 S.AG and 298 RP (Part)                | About 40.5 m <sup>2</sup>      |
| A/NE-TK/718                    | Mr CHU Wai Hung Johnnie  | Lot 298 S.AH   | About 11.5 m <sup>2</sup> each |
| A/NE-TK/719                    | Ms FUNG Shui Hing Sally  | Lot 298 S.AI   |                                |
| A/NE-TK/720                    | Ms MA Yee Man Daisy  | Lot 298 S.AJ   |                                |
| A/NE-TK/721                    | Ms LUM Mei King Doreen   | Lot 298 S.AK   |                                |
| A/NE-TK/722                    | Ms IP Wing Shi Wendy   | Lot 298 S.AL   |                                |
| A/NE-TK/723                    | Mr LAW King Hei  | Lot 298 S.AM   |                                |
| A/NE-TK/724                    | Ms CHIK Siu Lee  | Lot 298 S.AN   |                                |
| A/NE-TK/725                    | Mr TSUI Chi Sheung   | Lot 298 S.AO   |                                |
| A/NE-TK/726                    | Ms LEE Fung Yee Vendra   | Lots 298 S.R and 298 S.S   | About 23 m <sup>2</sup>        |
| A/NE-TK/727                    | Ms SIU Ka Yu   | Lot 298 S.T  | About 11.5 m <sup>2</sup> each |
| A/NE-TK/728                    | Mr LI Kwok Wing  | Lot 298 S.U  |                                |
| A/NE-TK/729                    | Ms LAM Hoi Yan   | Lot 298 S.V  | About 23 m <sup>2</sup>        |
| A/NE-TK/730                    | Mrs TANG Fung Yi   | Lots 298 S.X and 298 S.Y   |                                |
| A/NE-TK/731                    | Mrs LAM Choi Tung  | Lot 298 S.Z  | About 11.5 m <sup>2</sup>      |
| A/NE-TK/733                    | Mr LIN Kai Horng   | Lot 298 S.W  | About 11.5 m <sup>2</sup>      |
| Total area                     |  |  | About 448.6 m <sup>2</sup>     |

**Lease** Block Government Lease (demised for agricultural use)

**Plan** Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19

**Zoning** “Green Belt” (“GB”)

**Applications** Proposed Access Road for Connecting the Adjoining Temporary Private Car Parking Spaces for a Period of 3 Years (Application No. A/NE-TK/714)

Proposed Temporary Private Vehicle Park (Private Cars Only) for a Period of 3 Years (Applications No. A/NE-TK/715, 718-721, 723-728, 730 & 733)

Proposed Temporary Private Vehicle Park (Private Cars and Light Goods Vehicles Only) for a Period of 3 Years (Applications No. A/NE-TK/716-717, 722, 729 & 731)

## 1. **The Proposals**

- 1.1 The applicants seek planning permissions for proposed temporary private vehicle parks with totally 22 spaces for private cars and/or light goods vehicles and the connecting driveway for a period of 3 years (**Plan A-1**). The application sites (the Sites) adjoin together and cover an area of about 448.6 m<sup>2</sup> within “GB” zone on the OZP. 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. The Sites are currently used for the applied uses without planning permission.
- 1.2 The Sites are located adjacent to a development of village houses, Treasure Spot Garden, and are accessible to Ting Kok Road via a local track along the north of that development. The parking spaces under application are covered by movable canopies with a height of about 2.4m. According to the applicants, they are all owners/residents of houses in Treasure Spot Garden and the applied uses are for their private uses.
- 1.3 In support of the applications, the applicants submitted the following documents :
- (a) application forms with attachments received on (27.8.2021 and 2.9.2021) (**Appendices Ia-Is**)
  - (b) Further Information (FI) received on 24.9.2021<sup>^</sup> (**Appendix It**)
  - (c) FI received on 29.9.2021<sup>^</sup> (**Appendix Iu**)
  - (d) FI received on 4.10.2021<sup>^</sup> (**Appendix Iv**)
  - (e) FI received on 5.10.2021<sup>^</sup> (**Appendix Iw**)
  - (f) FI received on 6.10.2021<sup>^</sup> (**Appendix Ix**)
- <sup>^</sup>accepted and exempted from publication and recounting requirements*

## 2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed in Part 7 of the application forms and the FI at **Appendices Ia-Ix**. They can be summarised as follows:

- (a) the Sites applied for vehicle park uses were purchased by the applicants between 2002 and 2021 to satisfy their personal and/or family parking needs. They have been utilised as vehicle parks for years and no adverse traffic and environmental impact have been resulted;
- (b) there are no alternative vehicle parks in the vicinity to meet the applicants’ parking needs;
- (c) existing public transport services in the area are insufficient. It is necessary for the applicants to use their own vehicles for daily commute;
- (d) the access road to the Sites does not involve any Government land and has been in use for many years. The access road will be mainly used by local

residents. No additional traffic impact are anticipated. Consent from the concerned landowner has been obtained for the applicants to continue using the road;

- (e) there are existing drainage facilities for the applied use under maintenance by the applicants;
- (f) existing condition of the Sites will be maintained without making any further changes to the surrounding environment, drainage facilities, water supplies and slopes. It would be compatible with the rural character of the surrounding area; and
- (g) the applied uses will make better use of land in rural area. The applicants have broadly consulted views of local stakeholders and received no objection to the applications.

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

- 3.1 For Applications No. A/NE-TK/715, 716, 723, 724, 725, 727, 728 and 730, the applicants are the sole “current land owners” of the respective lots.
- 3.2 For Applications No. A/NE-TK/717, 718, 719, 720, 721, 722, 726, 731 and 733, the applicants are one of the “current land owners” of the respective lots and have 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 obtaining consent from the other owner/owners for the applied uses or posting notice on the Site and sending notice to Tai Po Rural Committee (TPRC).
- 3.3 For Applications No. A/NE-TK/714 and 729, the applicants are not the “current land owners” but have complied with the requirements as set out in the TPB PG-No. 31A by obtaining consent from the concerned land owners or posting notice on the Site and sending notice to TPRC respectively.
- 3.4 Detailed information would be deposited at the meeting for Members’ inspection.

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

The Sites are entirely within “GB” zone. The Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) are relevant to these applications. The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development (other than redevelopment) in a “GB” zone;
- (b) an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning

grounds. The scale and intensity of the proposed development including the plot ratio (PR), site coverage and building height should be compatible with the character of surrounding areas. With the exception of New Territories Exempted Houses, a PR up to 0.4 for residential development may be permitted;

- (c) the design and layout of any proposed development should be compatible with the surrounding areas. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape or cause any adverse visual impact on the surrounding environment;
- (d) the vehicular access road and parking provision should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposal should be provided;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (f) the proposed development should not overstrain the overall provision of G/IC facilities in the general area; and
- (g) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigation measures are provided, and it should not itself be the source of pollution.

## **5. Background**

- 5.1 The Sites had been cleared of vegetation and used for open storage when the Ting Kok Interim Development Permission Area (IDPA) Plan No. IDPA/NE-TK/1 was gazetted on 7.9.1990 (**Plan A-3a**). Around 2001, construction commenced at the land to the immediate east of the Sites for the development of a cluster of village houses, Treasure Spot Garden<sup>1</sup>. The Sites were also paved around 2002, with a car park first observed in 2003.
- 5.2 The Sites are currently part of the subject of a planning enforcement case (No. A/NE-TK/165) against unauthorized development (UD) for parking of vehicles. Enforcement Notice (EN) was issued on 9.7.2021 requiring discontinuation of the UD before 9.10.2021. Prosecution may be taken if the EN is not complied with.

## **6. Previous Application**

There is no previous application at the Sites.

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<sup>1</sup> Majority of the developments falls within “Village Type Development” zone with a minor portion zoned “GB” on the OZP. Planning approval was granted for the 4 Small Houses partly within the “GB” zone under Application No. A/NE-TK/72 on 24.10.1997.

**7. Similar Application**

There is no similar application for temporary vehicle park or access road within the same “GB” zone in the vicinity of the Sites.

**8. The Sites and Their Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3a, A-3b and A-4)**

8.1 The Sites are :

- (a) hard-paved and currently used for the applied uses;
- (b) adjoining a cluster of village houses, Treasure Spot Garden, to the east; and
- (c) accessible from Ting Kok Road via a local track running along the north of Treasure Spot Garden.

8.2 The surrounding areas are rural in character with clusters of village houses and vacant land. To its immediate east are the village houses of Treasure Spot Garden. To its west and north are a vegetated area and the ponds/marsh of Shuen Wan respectively.

**9. Planning Intention**

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

**10. Comments from Relevant Government Departments**

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

Land Administration

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

- (a) no objection to the applications;
- (b) the Sites involve 24 private lots in D.D.26 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 canopies were found erected on some of the Sites without LandsD’s approval. The

applicants are required to clear any unauthorized structures on the Sites immediately unless they are covered by valid approval. Otherwise, appropriate enforcement action would be taken in due course;

- (d) should the applications be approved, the lots owners are required to submit applications for Short Term Waiver (STW) to LandsD if they wish to erect structures on the lots. However, there is no guarantee at this stage that the STW applications would be approved. If the STW applications are 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) the ingress/egress of the access road to the Sites falls on unallocated Government land. As such, no trees thereon shall be interfered with unless prior approval is obtained from LandsD. The maintenance and management responsibility of the said Government land and any other Government land leading to the Sites should be sorted out with the relevant Government departments, prior to making use of them for ingress/egress purpose. Neither occupation nor works of any kind thereon is allowed without the prior approval from LandsD. Moreover, the access road will fall on adjoining private lots. The applicants should sort out the relevant issues with the lots owners concerned; and
- (f) there is no guarantee to the grant of a right of way to the Sites or approval of the emergency vehicular access (EVA) thereto.

#### Traffic

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

- (a) no in-principle objection to the applications from traffic engineering point of view; and
- (b) the village access road connecting the Sites with Ting Kok Road is not under management by Transport Department (TD). It is suggested that the applicant shall make their own arrangement with the concerned landowners for using the road, and the land status, management, maintenance responsibilities of it should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

### Nature Conservation

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

- it is understood that the applications serve to regularise the current uses, which have been in existence for many years. In view of the above, he has no strong view on the applications from nature conservation point of view.

### Environment

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

- (a) no in-principle objection to the applications;
- (b) no environmental complaint has been received in relation to the Sites in the past 3 years; and
- (c) the applicants are 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

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

- (a) the Sites are located in an area of rural coastal plains landscape character surrounded by village houses and woodland. With reference to aerial photos between 2002 and 2021, the Sites had already been paved since 2002. Recent site record indicates that the Sites are hard paved and in operation for the applied uses. No landscape resource is observed within the Sites, hence adverse landscape impact within the Sites arising from the applications is not anticipated;
- (b) the Sites are located adjacent to a cluster of village houses. The applied uses under the current applications are considered not entirely incompatible with the surrounding environment; and
- (c) there is insufficient space for meaningful landscaping within the Sites. Should the applications be approved, 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

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

- (a) there is no existing DSD maintained public drain available for connection in the vicinity of the Sites. The applicant(s) should have his/their own stormwater collection and discharge system to convey the runoff generated within the Site(s) and overland flow from area surrounding the Site(s);
- (b) with reference to the FI received on 5.10.2021, only a small size underground drainage pipe with a metal grating at ground surface are present within the Sites, which appears to serve the Sites as a whole. He has no adverse comments on such drainage arrangement provided that such existing drainage arrangement can adequately serve the Sites and on the basis that there is no flooding occurrence at the Sites in the past rainstorms; and
- (c) the applicant(s) is/are required to ensure that the existing drainage facilities in the Sites are maintained properly and shall undertake to upgrade, improve and modify the existing drainage if they are found to be inadequate, ineffective or blocked during the approval period. The applicant(s) shall be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure or blockage of the facilities, and shall not claim the Government for not providing drainage connection to the Sites throughout the approval period.

### Fire Safety

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

- (a) no objection to the applications subject to the fire service installations (FSIs) being provided to his satisfaction; and
- (b) the applicants are 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.

#### 10.2 The following Government departments have no objection to/comment on the applications:

- (a) Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Chief Engineer/Construction Division, Water Supplies Department (CE/C, WSD);
- (c) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);



- (d) Commissioner of Police (C of P); and
- (e) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

## **11. Public Comments Received During Statutory Publication Period (Appendix II)**

On 7.9.2021, the applications were published for public inspection. During the statutory public inspection period, a total of 37 comments were received from two individuals (one comment on Application No. A/NE-TK/729 and two comments on each of the remaining 18 applications) objecting to the applications mainly on the grounds of being not in line with the planning intention of the “GB” zone; and causing fire risks, traffic congestion and environmental impact on the surrounding area.

## **12. Planning Considerations and Assessments**

- 12.1 The applications are for proposed temporary private vehicle parks with totally 22 spaces for private cars and/or light goods vehicles and a connecting driveway for a period of 3 years. The Sites adjoin together and cover an overall area of about 448.6 m<sup>2</sup> within the “GB” zone on the OZP (**Plan A-1**). The development is not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the “GB” zone. However, it is noted that the Sites had been cleared of vegetation and used for open storage when the Ting Kok IDPA Plan No. IDPA/NE-TK/1 was gazetted on 7.9.1990 (**Plan A-3a**). Around 2001, construction commenced at the land to the immediate east of the Sites for the development of a cluster of village houses, Treasure Spot Garden. The Sites were also paved around 2002, with a car park first observed in 2003 (**Plan A-3b**). Having regard to the fact that the Sites and the area in its immediate neighbourhood had been cleared of vegetation and hard-paved for years, DAFC has no strong view on the applications from nature conservation point of view.
- 12.2 According to the TPB PG-No. 10, the design and layout of any proposed development within “GB” zone should be compatible with the surrounding areas, and should not involve extensive clearance of natural vegetation nor affect the existing natural landscape. In these applications, the Sites are situated in an area of rural coastal plains landscape character surrounded by village houses and woodland (**Plan A-3b**). Given that the Sites had already been paved since 2002, CTP/UD&L, PlanD advises that adverse landscape impact arising from the applications are not envisaged. In this regard, the applied uses are considered not entirely incompatible with the surrounding environment.
- 12.3 The development involves totally 22 spaces for private cars and/or light goods vehicles covered by movable canopies with a height of about 2.4m and the connecting driveway. The Sites are accessible via a local track connecting with Ting Kok Road, and the applicants have obtained the consent of land owner of the track to use it to access to the Sites. According to the applicants,

they are all owners/residents of houses in the adjoining development Treasure Spot Garden and the vehicle parks under current applications are for their self uses. C for T has no in-principle objection to the applications from traffic engineering point of view. Other relevant Government departments consulted including DLO/TP of LandsD, CHE/NTE of HyD, DEP, CE/MN of DSD, CE/C of WSD and DO/TP of HAD have no objection to/no adverse comment on the applications.

- 12.4 The Sites have been occupied for the applied uses for years. Approving these applications would facilitate regularization of the uses and put them under proper control and monitoring through imposition of planning conditions to ensure no adverse impact would be caused in the locality. It would also help addressing the parking need in a coordinated manner thus relieving the risk of illegal parking in the area. Taking into account the land use history of the Sites and the merits of regularizing the uses, approving these applications will unlikely set an undesirable precedent for similar applications in the area. There are special circumstances that warrant sympathetic considerations to the applications.
- 12.5 Regarding the public comments as detailed in paragraph 11 above, Government departments' comments and the planning assessments above are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, Planning Department considers that the applied uses could be tolerated for a temporary period of 3 years.
- 13.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid on a temporary basis for a period of 3 years until 15.10.2024. 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;
- (c) the existing drainage facilities shall be maintained properly at all times and these facilities if found inadequate/ineffective should be rectified during the planning approval period ;
- (d) 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 15.4.2022;

- (e) in relation to (d) 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 15.7.2022;
- (f) 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;
- (g) if any of the above planning conditions (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; and
- (h) 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 III**.

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

- the development is not in line with the planning intention of the "Green Belt" zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. 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 applications and decide whether to grant or refuse to grant the planning permissions.
- 14.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permissions, and the period of which the permissions should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

**15. Attachments**

|                          |   |
|--------------------------|---|
| <b>Appendices Ia-Is</b>  | Application forms and attachments dated 15.7.2021   |
| <b>Appendix It</b>       | Further information received on 24.9.2021<br>(Applications No. A/NE-TK/717, 726, 729 and 730) |
| <b>Appendix Iu</b>       | Further information received on 29.9.2021<br>(Applications No. A/NE-TK/714 and 733)           |
| <b>Appendix Iv</b>       | Further information received on 4.10.2021<br>(Applications No. A/NE-TK/714-731)               |
| <b>Appendix Iw</b>       | Further information received on 5.10.2021<br>(Applications No. A/NE-TK/714-731 and 733)       |
| <b>Appendix Ix</b>       | Further information received on 6.10.2021<br>(Applications No. A/NE-TK/714-731 and 733)       |
| <b>Appendix II</b>       | Public comments   |
| <b>Appendix III</b>      | Recommended advisory clauses  |
| <b>Plan A-1</b>          | Location Plan   |
| <b>Plan A-2</b>          | Site Plan   |
| <b>Plan A-3a to A-3b</b> | Aerial Photos   |
| <b>Plan A-4</b>          | Site Photos   |

**PLANNING DEPARTMENT  
OCTOBER 2021**