

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/740

<u>Applicant</u>	Mr. CHOW Chiu Hang
<u>Site</u>	Lots 474 S.BB, 474 S.BI, 474 S.BK, 474 S.BR, 474 S.BT, 474 S.BV, 474 S.BX, 474 S.BY, 474 S.BZ, 474 S.CA, 474 S.CB, 475 S.B, 475 S.D, 475 S.G, 475 S.I, 475 S.L, 475 S.M, 475 S.N, 475 S.P, 475 S.Q, 475 S.R and 475 S.S in D.D. 23, Po Sam Pai, Ting Kok, Tai Po
<u>Area</u>	About 306 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>	“Agriculture” (“AGR”)
<u>Application</u>	Proposed Temporary Private Vehicle Park (Private Cars and Light Goods Vehicles Only) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary private vehicle park (private cars and light goods vehicles 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 largely vacant with several canopies erected.
- 1.2 According to the applicant, the proposed temporary private vehicle park will provide totally 17 parking spaces for private cars and light goods vehicles for use by the concerned land owners. The Site is accessible via a local track connecting with Tung Tsz Road and Ting Kok Road, with ingress/egress located at the southern boundary. The parking layout submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the application form with attachments and supplementary information (**Appendix I**) received on 13.12.2021 and 15.12.2021 respectively.

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 supplementary information at **Appendix I**. They can be summarised as follows:

- (a) the Site was purchased by the respective landowners in 2018 to satisfy their personal parking needs. It has been utilised as vehicle park for years and no adverse traffic and environmental impacts have been resulted;
- (b) existing public transport services in the area are insufficient. Local residents have to use their own vehicles for daily commute;
- (c) there are no alternative vehicle parks in the vicinity to meet residents' parking needs;
- (d) the access road to the Site does not involve any Government land and has been in use for years. The access road will be mainly used by local residents. No additional traffic impact are anticipated;
- (e) existing condition of the Site 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
- (f) the proposed use will make better use of land in rural area.

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

The applicant is one of the “current land owners”. He 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 obtaining consent from the remaining land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is part of the subject of a planning enforcement case (No. E/NE-TK/149) against unauthorized development (UD) involving parking of vehicles (**Plan A-2**). Enforcement Notice (EN) was issued on 11.10.2021 requiring the discontinuance of the UD by 11.12.2021. Prosecution may be taken if the EN is not complied with.

5. Previous Application

There is no previous application at the Site.

6. **Similar Applications**

- 6.1 There is a similar application No. A/NE-TK/636 for temporary vehicle park (private car and light goods vehicle) within the same “AGR” zone in the vicinity of the Site. The application, proposing 60 parking spaces for private cars and 20 parking spaces for light goods vehicles for a period of 3 years, was rejected by the Rural and New Town Planning Committee (the Committee) on 6.4.2018 for the reasons of being not in line with the planning intention of the “AGR” zone; failing to demonstrate no adverse landscape and traffic impacts; and setting of undesirable precedent for similar applications.
- 6.2 Details of the application are shown in **Appendix II** and the location is shown on **Plans A-1** and **A-2**.
- 6.3 There is another application for a temporary private vehicle park (private cars only) with pedestrian and vehicular access (No. A/NE-TK/739) in the vicinity of the Site, which will be considered by the Committee at the same meeting with the current application.

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) currently covered by wild grass with some canopies;
 - (b) accessible via a local track connecting with Tung Tsz Road and Ting Kok Road; and
 - (c) part of a wider area comprising a number of sub-divided private lots each of a size similar to a standard private car parking space. The said area is subject of planning enforcement action against unauthorised car parking use as mentioned in paragraph 4.
- 7.2 The surrounding areas are predominantly rural in character with vacant land, vegetated areas, village houses and temporary structures. Dense woodland with burial grounds is found about 10m to the west of the Site within the “Green Belt” (“GB”) zone on the same OZP. Another vehicle park with no planning permission (under Application No. A/NE-TK/739 mentioned at paragraph 6.3) is found at about 45m to the south of the Site. About 85m and 130m to the south and southeast of the Site are the village proper of San Tau Kok and Po Sam Pai respectively. Active and fallow agricultural land are found about 80m to the northeast and southeast.

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 22 private lots in D.D. 29. The private lots are held under the Block Government Lease demised for agricultural purpose. No structure shall be erected on the lots without the prior approval from LandsD;
- (c) a recent site inspection revealed that there are five canopies and a retractable canopy found on the Site without prior approval from LandsD. The lots owners are required to clear any unauthorised structures on the Site immediately unless they are covered by valid approval. Otherwise, appropriate enforcement action would be taken in due course;
- (d) should the application be approved by the Board, the lot owners are required to submit an application for short term waiver (STW) to LandsD if they wish 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) the applicant will likely make use of the adjoining government land for access 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 the said government land and any other government land connecting to the Site 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 ingress/egress may fall on adjoining private lots. The applicant 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 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 point of view; and
- (b) the village access road connecting the Site with Tung Tsz Road is not under management by Transport Department (TD). Its land status, management, maintenance responsibilities should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

Agriculture

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

- the Site falls within an “AGR” zone and is currently a piece of formed land. 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 open-field cultivation, greenhouses, plant nurseries etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

Environment

9.1.4 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

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

- (a) some reservations to the application from landscape planning perspective;
- (b) the Site is currently covered by wild grass with some temporary structures. No existing tree is observed within the Site. Based on the aerial photos taken in 2017 to 2021, vegetation within the Site and its immediate surroundings were gradually cleared and

site formation works had been carried out since 2017 (**Plan A-3**);

- (c) the Site is located in an area of rural inland plains landscape character comprising mainly of vacant land, vegetated areas, village houses and temporary structures, with dense woodland found at its west within the “GB” zone on the same OZP. The proposed use is considered not entirely incompatible with the surrounding environment. Nevertheless, there is concern that approval of the application may encourage similar applications within the area. The cumulative impact of approval of such applications may further alter the landscape character and degrade the landscape quality of the “AGR” zone; and
- (d) given that the Site is not bounded by prominent public frontage, should the application be approved by the Board, it is considered unnecessary to impose landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) no in-principle objection to 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 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; 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/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (d) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (e) Commissioner of Police (C of P); and
- (f) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

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

On 21.12.2021, the application was published for public inspection. During the statutory public inspection period, a total of nine public comments were received. Amongst them, seven from individuals support the application mainly on the grounds of addressing parking demand in a proper way; and making better use of vacant land. The remaining two public comments from individuals object to the application mainly for concerns on traffic congestion, environmental pollution and fire risk; and being a “destroy first, build later” case.

11. Planning Considerations and Assessments

- 11.1 This application is for a proposed temporary private vehicle park (private cars and light goods vehicles only) for a period of 3 years in an area zoned “AGR” on the OZP (**Plan A-1**). The proposed use involves 17 parking spaces for private cars and light goods vehicles for use by the concerned land owners. 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. There is no strong planning justification in the submission to justify a departure from the planning intention of “AGR” zone, even on a temporary basis.
- 11.2 The Site is currently covered by wild grass with some canopies. It is part of a wider area comprising a number of sub-divided private lots each of a size similar to a standard private car parking space. It is also subject of planning enforcement action against unauthorised car parking use. Past aerial photos reveal that vegetation within the Site and its immediate surroundings was cleared and site formation works had been carried out since 2017 (**Plan A-3**). CTP/UD&L of PlanD advises that the proposed use is not entirely incompatible with the surrounding environment which are predominantly vegetated areas, dense woodland and village houses. Nevertheless, she has some reservations on the application from landscape planning perspective as approval of the application may encourage similar applications, the cumulative

impact of which would further alter the landscape character and degrade the landscape quality of the “AGR” zone. Other relevant government departments consulted have no objection to/no adverse comment on the application from technical aspects.

- 11.3 The Site is not subject of any previous planning application. There is a similar application No. A/NE-TK/636 for temporary vehicle park (private car and light goods vehicle) within the same “AGR” zone in the vicinity of the Site. The application, proposing 60 parking spaces for private cars and 20 parking spaces for light goods vehicles for a period of 3 years, was rejected by the Committee on 6.4.2018 for the reasons of being not in line with the planning intention of the “AGR” zone; failing to demonstrate no adverse landscape and traffic impacts; and setting of undesirable precedent for similar applications. The circumstances for rejecting this application are largely applicable to the current one.
- 11.4 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 impacts on 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 28.1.2025. 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) 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 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 28.7.2022;
- (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 28.10.2022;
- (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 28.7.2022;
- (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 28.10.2022;
- (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 IV**.

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

Appendix I	Application form and attachments received on 13.12.2021 and supplementary information received on 15.12.2021
Appendix II	Similar application
Appendix III	Public comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Parking layout submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photos
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**