

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/747

<u>Applicant</u>	: Mr. LI Phillip Kee-fong represented by Mr. LAU Chee Sing
<u>Site</u>	: Lot 1604 S.G RP in D.D. 17, Lo Tsz Tin Village, Tai Po, New Territories
<u>Site Area</u>	: About 113.5 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	: “Recreation” (“REC”)
<u>Application</u>	: Proposed Public Vehicle Park (Private Cars Only)

1. The Proposal

- 1.1 The applicant seeks planning permission for a public vehicle park (private cars only) use at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ use in “REC” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 According to the applicant, a total of four public parking spaces for private cars (5m x 2.5m) will be provided within the Site. The Site is accessible via a track branching off Ting Kok Road. A plan showing the parking layout and vehicular access is at **Drawing A-1**.
- 1.3 The Site is the subject of a previous application No. A/NE-TK/699 submitted by the same applicant of the current application for a temporary private car park, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 12.3.2021 for a period of 3 years until 12.3.2024. The planning permission was subsequently revoked on 12.9.2021 due to non-compliance with approval conditions. Compared to the previous application, the current proposal is for a public vehicle park on a permanent basis and involves fewer parking spaces (from five to four).
- 1.4 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**) received on 16.2.2022.

2. Justification from the Applicant

The justification put forth by the applicant in support of the application is set out in Part 10 of the application form at **Appendix I**. He claims that there is a shortage of car parking spaces at Lo Tsz Tin Village and the proposed use will serve the parking needs of the village residents.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is part of the subject of a previous planning enforcement case (No. E/NE-TK/159) against unauthorized development (UD) involving place for parking of vehicles (**Plan A-2**). Enforcement Notice was issued on 8.10.2020 requiring discontinuation of the UD. The UD has been discontinued, and Compliance Notice was issued on 11.5.2021.

5. Previous Application

5.1 The Site is the subject of a previous application No. A/NE-TK/699 submitted by the same applicant of current application for temporary private car park use. The previous application was approved with conditions by the Committee on 12.3.2021 for a period of 3 years until 12.3.2024, mainly on consideration that the proposal would not frustrate the long-term planning intention of the “REC” zone, and no adverse impacts on the surrounding areas. The applicant had sought a review of the Committee’s decision on imposing approval conditions relating to the submission of a drainage proposal and the implementation of drainage facilities. The review application was rejected by the Board on 16.7.2021. The planning permission was subsequently revoked on 12.9.2021 due to non-compliance with approval conditions on the provision of peripheral fencing and the submission of drainage and fire service installations (FSIs) proposals. Compared to the previous application, the current proposal is for a public vehicle park on a permanent basis and involves fewer parking spaces (from five to four).

5.2 Details of the previous application is shown in **Appendix II** and its location is shown on **Plans A-1** and **A-2**.

6. Similar Applications

6.1 There are four similar applications for temporary vehicle park within the same “REC” zone in the vicinity of the Site (**Plan A-1**), of which three were approved and one was rejected.

- 6.2 Applications No. A/NE-TK/684, 688 and 741 for temporary public vehicle parks, providing 40, 22 and 12 parking spaces for private cars respectively, were approved by the Committee for a period of 3 years on 1.9.2020, 6.11.2020 and 18.2.2022 on similar consideration for approving Application No. A/NE-TK/699 as mentioned in paragraph 5.1 above.
- 6.3 Application No. A/NE-TK/670 for temporary public vehicle park with 61 parking spaces was rejected by the Committee on 5.7.2019 for failing to demonstrate that the proposal would not result in adverse geotechnical impact on the site and its surrounding areas.
- 6.4 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

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

- 7.1 The Site is:
- (a) currently vacant and hard-paved; and
 - (b) accessible via a track branching off Ting Kok Road.
- 7.2 The surrounding areas are predominantly rural in character with vehicle parks, village houses, eating place, barbecue sites, vacant land and scattered tree groups. To the north of the Site is the village proper of Lo Tsz Tin. To the south on the opposite side of Ting Kok Road is Lung Mei Bathing Beach.

8. Planning Intention

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

9. Comments from Relevant Government Departments

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

Land Administration

- 9.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):
- (a) no objection to the application;
 - (b) the Site falls on Lot 1604 S.G RP in D.D.17 which 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;

- (c) a recent site inspection revealed that the Site was vacant;
- (d) should the application be approved by the Board, 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 imposed by LandsD where appropriate, including payment of waiver fee and administrative fee;
- (e) the village road leading to the Site at its north is 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 Site should be sorted out with the relevant government departments, prior to making use of them for the proposed vehicular access purpose. Neither occupation nor works of any kind thereon is allowed without the prior approval from LandsD; 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 viewpoint; and
- (b) the village access connecting Ting Kok Road is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

Environment

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

- (a) no objection to the application;
- (b) in view of the small scale of the proposed use, it is unlikely to cause major pollution; and

- (c) should the application be approved on a temporary basis, 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” to minimize any potential environmental nuisance.

Landscape

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

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising vacant land, carparks, temporary structures, village houses, scattered tree groups and a dense woodland within the “Green Belt” zone about 105 m to the northeast of the Site. The Site is hard paved with no existing tree within the Site. Significant adverse landscape impact arising from the proposed use is not anticipated;
- (c) there are three similar planning applications (No. A/NE-TK/684, 688 and 741) for temporary public vehicle park near the Site within the same “REC” zone approved by the Committee in 2020 and 2022. The proposed use is considered not incompatible with the surrounding landscape character; and
- (d) should the application 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

9.1.5 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. The applicant is advised to refer to the “Technical Note to Prepare a Drainage Submission Relating to Applications for Temporary Change of Land Use under S.16 of the Town Planning Ordinance” promulgated by DSD in preparing the drainage proposal; and
- (c) advisory comments are provided at paragraph (e) of **Appendix V**.

Fire Safety

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

- (a) no in-principle objection to the application subject to the 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/no 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); and
- (e) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD).

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

On 25.2.2022, 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 for concerns on fire risks, adverse traffic and environmental impacts, and on the ground of being not in line with the planning intention of the “REC” zone.

11. Planning Considerations and Assessments

- 11.1 This application is for a public vehicle park (private cars only) within an area zoned “REC” on the OZP (**Plan A-1**). The proposed use is not in line with the planning intention of the “REC” zone which is primarily for recreational developments for the use of the general public. Nevertheless, consideration could be given to allowing temporary use on the Site to avoid frustrating the planning intention in the long term.
- 11.2 The Site is currently vacant, hard-paved and accessible via a track branching off Ting Kok Road. The proposed use involving four public parking spaces for private cars are not incompatible with the surrounding landscape character, which is predominantly rural with vehicle parks, village houses, eating place, barbecue sites, vacant land and scattered tree groups. CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective. C for T and other relevant government departments consulted also have no objection

to/no adverse comment on the application on technical aspects.

- 11.3 The Site is the subject of a previous planning application (No. A/NE-TK/699) submitted by the same applicant for temporary private car park use, which was approved by the Committee on 12.3.2021 for a period of 3 years, mainly on consideration that the proposal would not frustrate the long-term planning intention of the “REC” zone, and no adverse impacts on the surrounding areas. The planning permission was subsequently revoked on 12.9.2021 due to non-compliance with approval conditions. Compared to the previous application, the current proposal is for a public vehicle park on a permanent basis and involves fewer parking spaces (reduced from five to four).
- 11.4 There are three similar applications for temporary public vehicle park use approved in the vicinity of the Site, which were approved based on similar consideration mentioned in paragraph 11.3 above. The circumstances for approving the previous application and these similar applications are largely applicable to the current application. Should the application be approved, it is recommended that a temporary approval for a period of 5 years, instead of a permanent approval as sought by the applicant, should be allowed in order not to frustrate the planning intention of the “REC” zone in the long term.
- 11.5 As the Site was subject of a previous approval revoked due to non-compliance of approval conditions, should the current application be approved, shorter compliance periods for approval conditions are recommended to closely monitor the progress on compliance with conditions. Furthermore, the applicant should be advised that if there is further non-compliance with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would not be given to any further application.
- 11.6 Regarding the public comments as mentioned in paragraph 10 above, government departments’ comments and the planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, Planning Department has no objection to the application on a temporary basis for a period of 5 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 1.4.2027. The following approval conditions 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 **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.7.2022;
- (d) in relation to (c) above, the implementation of 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 1.10.2022;
- (e) the submission of a proposal for fire service installations (FSIs) and water supplies for fire-fighting within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.7.2022;
- (f) in relation to (e) above, the implementation of 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 1.10.2022;
- (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; and
- (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.

Advisory Clauses

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

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

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

13. Decision Sought

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

- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form and attachments received on 16.2.2022
Appendix II	Previous application
Appendix III	Similar applications
Appendix IV	Public comments
Appendix V	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 photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
APRIL 2022**