

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/758

<u>Applicant</u>	: Mr. LAM Hang Kwong
<u>Site</u>	: Lots 255 S.R ss.1 (Part), 255 S.R ss.9 S.A, 255 S.R ss.9 S.B and 255 S.R ss.9 S.C in D.D. 26, Wong Yue Tan, Tai Po, New Territories
<u>Site Area</u>	: About 87.5m 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>	: “Green Belt” (“GB”)
<u>Application</u>	: Temporary Private Vehicle Park (Private Cars Only) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary private vehicle park (private cars only) for a period of 3 years at the application site (the Site), which falls within an area zoned “GB” on the OZP (**Plan A-1**). According to the covering 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 paved and used for the applied use without valid planning permission.
- 1.2 According to the applicant, the temporary private vehicle park provides 7 parking spaces (2.5m X 5m) for private cars for use by himself and his family, who are residents of Houses No. 366 and 367 Shuen Wan Chim Uk adjacent to the Site (**Plan A-2**). The parking spaces under application are covered by a canopy with a height of about 2m and solar panels installed atop for private use only. The Site is accessible via a local track connecting to Ting Kok Road (**Plans A-1 and A-2**). Parking layout and access plan submitted by the applicant is at **Drawings A-1 to A-2**.
- 1.3 In support of the application, the applicant submitted the following documents:
 - (a) Application form received on 18.7.2022 **(Appendix I)**

(b) Supplementary information (SI) received on (**Appendix Ia**)
20.7.2022 and 22.7.2022

(c) Further Information (FI) received on 24.8.2022[^] (**Appendix Ib**)

[^]accepted but not exempted from publication and recounting requirements

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are set out in Part 7 of the application form, SI and FI at **Appendices I to Ib**, as summarized below:

- (a) Houses No. 366 and 367 Shuen Wan Chim Uk adjacent to the Site are owned by the applicant's family (**Plan A-2**). The applied use is to meet the applicant's personal and family parking needs; and
- (b) the applied use does not involve filling/excavation of land nor filling of pond. No adverse environmental and ecological impacts will be resulted.

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. **Town Planning Board Guidelines**

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) is relevant to the application. Relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

- 5.1 The Site was covered with vegetation when the Ting Kok Interim Development Permission Area (IDPA) Plan No. IDPA/NE-TK/1 was gazetted on 7.9.1990 (**Plan A-3**). During 2013 to 2015, construction of a cluster of village houses¹ to the east of the Site commenced. Vegetation within the Site and in the surrounding areas was cleared and the Site was subsequently paved.
- 5.2 The Site was part of the subject of a planning enforcement case (No. E/NE-TK/82) against unauthorized development (UD) for filling of land (**Plan A-2**). Enforcement Notice (EN) was issued on 25.8.2015. Reinstatement Notice (RN) was subsequently issued on 7.8.2017 requiring the owner to remove the leftover, debris and fill materials (including all hard paved surfaces), and to grass the Site and the surrounding areas by 7.11.2017. The Site had been reinstated to grassland with Compliance Notice (CN) issued on 29.3.2018.

¹ These village houses fall within the “GB” zone, with planning approvals granted under Applications No. A/NE-TK/242, 246-251, 254-256, 268 and 374 between 2008 and 2011 respectively. Houses No. 366 and 367 are the subject of Application No. A/NE-TK/268 for development of two Small Houses, which was approved with conditions on 23.1.2009.

- 5.3 The Site is currently not subject to any active planning enforcement action. However, parking of vehicles was observed within the Site. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken.

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

- 7.1 There are 19 similar applications (No. A/NE-TK/714-731 and 733²) for temporary private vehicle park and access road for connecting the adjoining temporary private car parking spaces within the same “GB” zone (**Plans A-1 and A-2**). The application sites of these 19 applications adjoin together and provide a total of 22 parking spaces for private cars and/or light goods vehicles and a connecting driveway for a period of 3 years. These application 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. Subsequently, these application sites were occupied for parking of vehicles in 2003. These applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 15.10.2021 mainly on sympathetic considerations that these application sites had been cleared of vegetation and hard-paved for years; adverse landscape impact arising from the applied uses were not envisaged; and approving the applications would unlikely set an undesirable precedent for similar applications in the area given the land use history of these sites and the merits of regularizing the applied uses.
- 7.2 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1 and A-2**.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 8.1 The Site is:
- (a) hard-paved, covered by a canopy with solar panels installed atop and currently used for the applied use;
 - (b) located adjacent to a cluster of village houses to the east; and
 - (c) accessible via a local track connecting to Ting Kok Road.
- 8.2 The surrounding areas are predominantly rural in character with village houses, temporary structures, scattered tree groups and vacant lands. To its immediate east is the cluster of village houses of Shuen Wan Chim Uk. Its immediate south, north and west is surrounded by Wong Yue Tan transitional

² Application No. A/NE-TK/714 is for a temporary access road for connecting the adjoining temporary private car parking spaces while Applications No. A/NE-TK/715-731 and 733 are for temporary private vehicle park with one parking space under each application.

housing development under an approved application No. A/NE-TK/702 which is under construction (**Plan A-2**). To its further south and west are the village houses of Wong Yue Tan and the ponds/marsh area within “Conservation Area” 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

All departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices IV** and **V** respectively.

11. Public Comments Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory public inspection periods, a total of 4 comments were received from local residents and individuals objecting to the applications mainly on the grounds of being not in line with the planning intention of the “GB” zone; being a “destroy first, build later” case; and causing traffic congestion, fire risks, safety concerns, environmental and ecological impacts on the surrounding areas.

12. Planning Considerations and Assessments

12.1 This application is for a temporary private vehicle park (private cars only) for a period of 3 years at the Site zoned “GB” on the OZP (**Plan A-1**). The applied use 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. There is no strong planning justification in the submission to justify a departure from the planning intention of “GB” zone, even on a temporary basis.

12.2 The Site involves 7 parking spaces for private cars and is accessible via a local track connecting to Ting Kok Road. The applied use is considered not incompatible with the surrounding areas which is predominately rural in character, comprising village houses, temporary structures, scattered tree groups and vacant lands. C for T has no in-principle objection on the application from traffic engineering point of view. Other relevant government departments consulted, including DAFC, CTP/UD&L of PlanD, CE/MN of DSD, DEP and D of FS, have no objection to/no adverse comment on the application from technical aspects.

- 12.3 According to TPB PG-No.10, an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The development should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. In this regard, the Site had been part of the subject of planning enforcement action (No. E/NE-TK/82) against unauthorized filling of land. Although the Site and its immediate surroundings were subsequently reinstated to grassland in 2018, the aerial photo taken in 2021 reveals that vegetation on the concerned area were cleared and the Site has been formed and occupied for the applied use without valid planning permission (**Plan A-3**). In addition, the applicant claims that the applied use is for his personal and family’s use. There is no other strong planning ground in the submission to merit an exceptional consideration for the current application. In view of the above, the application is considered not in line with TPB PG-No.10.
- 12.4 There are 19 similar applications No. A/NE-TK/714-731 and 733 for temporary vehicle park (private cars and/or light goods vehicles) and access road for connecting adjoining temporary private car parking spaces within the same “GB” zone. These applications were approved by the Committee on 15.10.2021 mainly on sympathetic considerations that these application sites had been cleared of vegetation at the time when the Ting Kok IDPA Plan No. IDPA/NE-TK/1 gazetted in 1990 and adverse landscape impact arising from the applications are not envisaged. For the subject application, the Site was covered with vegetation when the IDPA plan was gazetted (**Plan A-3**), and was subsequently cleared of vegetation and hard-paved for the applied use. Approval of the application would set an undesirable precedent encouraging similar applications to proliferate within the same “GB” zone, the cumulative impact of which would result in the general degradation of the natural environment and frustrate the planning intention of the “GB” zone. The planning circumstances of the current application are different from those approved similar applications.
- 12.5 Regarding the public comments on the application as detailed in paragraph 11, government departments’ comments and the planning assessments above are relevant.

13. **Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments in paragraph 11 above, Planning Department does not support the application for the following reasons:
- (a) the applied use 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 this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
 - (b) the applied use is not in line with 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) in that there are no strong planning grounds in the submission to merit an exceptional consideration and the applicant fails to demonstrate that the applied use does not involve extensive clearance of natural vegetation.

- 13.2 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 14.10.2025. The following approval conditions 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) 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 14.4.2023;
- (d) in relation to (c) above, the implementation of drainage proposal 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 14.7.2023;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 14.4.2023;
- (g) in relation to (f) 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 14.7.2023;
- (h) if any of the above planning conditions (a), (b) or (e) 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;
- (i) if any of the above planning conditions (c), (d), (f) or (g) 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

- (j) 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**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application form received on 18.7.2022
Appendix Ia	SI received on 20.7.2022 and 22.7.2022
Appendix Ib	FI received on 24.8.2022
Appendix II	Relevant extracts of Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10)
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Parking layout submitted by the applicant
Drawing A-2	Access plan 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
OCTOBER 2022**