

REVIEW OF APPLICATION NO. A/NE-LT/757
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Temporary Private Vehicle Park (Private Cars Only)
for a Period of Three Years and Filling of Land**

Lots 1055 S.B ss.5 RP and 1055 S.B ss.4 in D.D. 8, San Tong, Lam Tsuen, Tai Po

1. Background

- 1.1 On 30.3.2023, the applicants, Mr. CHUNG Chi Wing, Mr. CHUNG Chi Hung, Mr. CHUNG Brian Chi Wah, Mr. CHUNG Duncan Chi Tong and Ms. LEUNG Chiu Kwan all represented by Mr. LEE Ting Yau, sought planning permission for a temporary private vehicle park (private cars only) for a period of three years and filling of land at the application site (the Site) under s.16 of the Town Planning Ordinance (the Ordinance). The Site falls within “Agriculture” (“AGR”) zone (about 97%) and area shown as ‘Road’ (about 3%)¹ on the approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11 (**Plan R-1**).
- 1.2 On 19.5.2023, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
- (a) the development was not in line with the planning intention of the “AGR” zone which was 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 purposes. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
 - (b) the applicants failed to demonstrate that the development located within the water gathering ground (WGG) would not cause adverse impact on the water quality in the area.
- 1.3 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/NE-LT/757 (Annex A)
 - (b) Extract of minutes of the RNTPC meeting held on 19.5.2023 (Annex B)
 - (c) Secretary of the Board’s letter dated 9.6.2023 (Annex C)

¹ A minor portion of the Site (about 10m² or 3%) falls within an area shown as ‘Road’, which can be considered as minor boundary adjustment and will not be included in the planning assessments.

2. **Application for Review**

On 30.6.2023, the applicants' representative applied under section 17(1) of the Ordinance for a review of the RNTPC's decision to reject the application with written representation in support of the review application (**Annex D**).

3. **Justifications from the Applicants**

The justifications put forth by the applicants' representative in support of the review application are detailed in his submission at **Annex D**, as summarised below:

- (a) the surrounding areas within village 'environs' have been developed into Small Houses and therefore water source is not available for the Site. As such, the Site is not suitable for cultivation;
- (b) there are similar vehicle parking areas in Lam Tsuen; and
- (c) the application is supported by the village representative of San Tong and an ex-District Council member.

4. **The Section 16 Application**

The Site and its Surrounding Areas (Plans R-1 to R-4)

- 4.1 The situation of the Site and its surrounding areas at the time of consideration of the s.16 application by RNTPC were described in paragraphs 7.1 and 7.2 of **Annex A**. There has been no material change of the situation since then.
- 4.2 The Site is:
 - (a) hard-paved with concrete;
 - (b) situated at the northwestern fringe of San Tong Tsuen;
 - (c) accessible via a local track connecting Lam Kam Road; and
 - (d) within the upper indirect WGG.
- 4.3 The surrounding areas are predominantly rural in character comprising small houses, farmland, vegetated areas and tree clusters. To its immediate southeast is the village proper of San Tong Tsuen. To its immediate north is Lam Kam Road.
- 4.4 The Site is part of an area subject to two planning enforcement cases (**Plan R-2**). For enforcement case no. E/NE-LT/79 against unauthorized development (UD) involving parking of vehicles and storage use, Enforcement Notice (EN) and Reinstatement Notice (RN) were issued to the owners of the respective private lots on 17.11.2021 and 9.8.2022 respectively by the Planning Authority. As the Site has not been reinstated upon expiry of the RN on 9.11.2022,

prosecution action may be undertaken. For enforcement case no. E/NE-LT/82 against UD involving parking of vehicles, EN was issued to the owners of the respective private lots on 20.7.2023.

Planning Intention

- 4.5 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.
- 4.6 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities in the “AGR” zone.

Previous Application

- 4.7 The Site is the subject of a previous application (No. A/NE-LT/746) submitted by the same applicants for the same applied use. It was rejected by RNTPC in December 2022 based on the same grounds as the current application. As compared with the last previous application, there is no change to the major development parameters of the applied use under the current application.
- 4.8 Details of the previous application are summarized at **Annex E** and its location is shown on **Plans R-1** and **R-2a**.

Similar Application

- 4.9 There is no similar application for the same use within the same “AGR” zone.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant government departments are stated in paragraph 9 and Appendix III of **Annex A**.
- 5.2 For the review application, the relevant government departments have been further consulted. They all maintain their previous views on the s.16 application. The views of Director of Agriculture, Fisheries and Conservation (DAFC) and Chief Engineer/Construction of Water Supplies Department (CE/C of WSD) are recapitulated as follows:

Agriculture

5.2.1 Comments of the DAFC:

- (a) the Site is a piece of vacant 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; and

- (b) as the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural development point of view.

Water Supply

5.2.2 Comments of the CE/C of WSD:

- (a) the Site is within upper indirect WGG. It is considered that there are risks of contamination to the WGG due to the operation and management of the private vehicle park; and
- (b) having reviewed the submission, it is considered that the information is insufficient to prove and demonstrate that there would be no material increase in pollution effect to the WGG resulting from the applied use. Therefore, he has reservation on the application.

6. Public Comment Received During Statutory Publication Period

- 6.1 On 14.7.2023, the review application was published for public inspection. During the statutory public inspection period, no public comment was received.
- 6.2 One public comment objecting to the application was received at the s.16 application stage as set out in paragraph 10 of **Annex A**.

7. Planning Considerations and Assessments

- 7.1 The subject s.16 application was rejected by RNTPC on 19.5.2023 mainly on the grounds that the applied use was not in line with the planning intention of the “AGR” zone; and the applicants failed to demonstrate that the development located within the WGG would not cause adverse impact on the water quality in the area. There has been no material change in the planning circumstances since the consideration of the subject application by RNTPC in May 2023. The planning considerations and assessments as set out in paragraph 11 of **Annex A** remain valid. In response to the applicants’ justifications for the review application that the Site is not suitable for cultivation and there are similar vehicle parking areas in Lam Tsuen, the planning considerations and assessments are provided below.
- 7.2 The applicants claim that the Site is not accessible to water source and not suitable for agricultural activities, it should be noted that DAFC maintains his view of not supporting the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation and there are active agricultural activities in the vicinity and agricultural infrastructure such as road access and water source is available. The applied 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. There is no strong justification in the submission for a departure

from the planning intention of “AGR” zone, even on a temporary basis.

- 7.3 The applicants also claim that there are similar vehicle parking areas in Lam Tsuen. It should be noted that there is no similar application for the same use within the same “AGR” zone. Approval of the application would encourage similar applications within the “AGR” zone, resulting in more vegetated areas being turned into hard paved areas. It would set an undesirable precedent for similar applications within the “AGR” zone and encourage similar site/vegetation clearance prior to obtaining planning permission. The cumulative effect of approving such similar applications would result in a general degradation of the rural environment of the area.
- 7.4 For the approved applications for vehicle park use in other areas of Lam Tsuen, it should also be noted that they mainly fall within “Village Type Development” (“V”) zone which is subject to different planning circumstances and considerations, e.g. the applied use would not jeopardize the long-term planning intention of the “V” zone, was not incompatible with surrounding village setting, and no Small House application record received by the Lands Department. For parking of vehicles without valid planning approval from the Board, it may be subject to planning enforcement action.

8. Planning Department’s Views

- 8.1 Based on the assessments made in paragraph 7, given that there is no material change in the planning circumstances since the consideration of the subject application by the RNTPC, PlanD maintains its previous view of not supporting the review application for the following reasons:
- (a) the 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
 - (b) the applicants failed to demonstrate that the development located within the WGG would not cause adverse impact on the water quality in the area.
- 8.2 Alternatively, should the Board decide to approve the application, it is suggested that the permission shall be valid until 15.9.2026, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition 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 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 15.3.2024;
- (d) in relation to (c) above, the implementation of the 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 15.6.2024;
- (e) the submission of a proposal on grease trap and petrol interceptor within **6** months from the date of planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 15.3.2024;
- (f) in relation to (e) above, the implementation of the proposal on grease trap and petrol interceptor within **9** months from the date of planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 15.6.2024;
- (g) the submission of a fire service installations proposal 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 15.3.2024;
- (h) in relation to (g) above, the implementation of the fire service installations proposal 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 15.6.2024;
- (i) if any of the above planning condition (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;
- (j) if any of the above planning condition (c), (d), (e), (f), (g) or (h) 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
- (k) upon expiry of the planning permission, the reinstatement of the “AGR” portion of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

8.3 The recommended advisory clauses are attached at **Annex F**.

9. Decision Sought

- 9.1 The Board is invited to consider the application for review of the RNTPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the review application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

10. Attachments

Plan R-1	Location plan
Plan R-2	Site plan
Plan R-3	Aerial photos
Plan R-4	Site photos
Annex A	RNTPC Paper No. A/NE-LT/757
Annex B	Extract of minutes of the RNTPC meeting held on 19.5.2023
Annex C	Secretary of the Board's letter dated 9.6.2023
Annex D	Letter received by the Board on 30.6.2023 from the applicants' representative applying for a review of the RNTPC's decision
Annex E	Previous application
Annex F	Recommended advisory clauses

**PLANNING DEPARTMENT
SEPTEMBER 2023**