

TOWN PLANNING BOARD

TPB Paper No. 10747

**For Consideration by
the Town Planning Board on 16.7.2021**

**REVIEW OF APPLICATION NO. A/NE-TK/699
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Temporary Private Car Park for a Period of 3 Years
in “Recreation” Zone
Lot 1604 S.G RP in D.D. 17, Lo Tsz Tin Village, Tai Po, New Territories**

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1. Background

- 1.1 On 25.1.2021, the applicant, Mr. LI Phillip Kee-fong, sought planning permission for a temporary private car park at the application site (the Site) for a period of 3 years under s.16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area zoned “Recreation” (“REC”) on the approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19 (**Plan R-1**).
- 1.2 On 12.3.2021, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to approve the application on a temporary basis for a period of 3 years up to 12.3.2024 subject to a set of approval conditions, including conditions (e) and (f) on the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services (DDS) or of the Board within **6 months and 9 months** respectively from the date of planning approval.
- 1.3 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/NE-TK/699 (**Annex A**)
 - (b) Extract of minutes of the RNTPC Meeting held on 12.3.2021 (**Annex B**)
 - (c) Secretary of the Board’s letter dated 26.3.2021 (**Annex C**)

2. Application for Review

On 16.4.2021, the applicant applied, under section 17(1) of the Ordinance, for a review of the RNTPC’s decision on imposing approval conditions (e) and (f) relating to the submission of a drainage proposal and the implementation of drainage facilities to the satisfaction of the Director of Drainage Services or of the Board (**Annex D**).

3. Justifications from the Applicant

The justifications put forth by the applicant in support of the review application are detailed in his written representation at **Annex D**. They can be summarized as follows:

- (a) the proposed temporary private car park will operate on a small piece of hard-paved flat land and will not result in drainage or siltation issues; and
- (b) site inspection was conducted by Drainage Services Department (DSD) between February and March 2021, during which drainage and sewerage works at the Site were completed.

4. The Section 16 Application

The Site and Its Surrounding Areas (Plans R-1, R-2, and photos on Plans R-3 and R-4)

- 4.1 The situation of the Site and its surrounding areas at the time of the consideration of the s.16 application by the RNTPC were described in paragraph 7 of **Annex A**. There has been no material change of the situations since then.
- 4.2 The Site is:
 - (a) vacant, hard-paved and fenced along the eastern and southern boundaries; and
 - (b) located to the south of Lo Tsz Tin Village and is accessible via a track branching off Ting Kok Road.
- 4.3 The surrounding areas are predominantly rural in character with village houses, barbecue sites, car park, vacant land and tree groups. To the south on the opposite side of Ting Kok Road is the Lung Mei Bathing Beach (**Plan R-2**).

Planning Intention

- 4.4 There has been no change of planning intention of the “REC” zone as mentioned in paragraph 8 of **Annex A**, which 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.

Background

- 4.5 The Site is currently not subject to planning enforcement action.

Previous Application

- 4.6 There is no previous application at the Site.

Similar Applications

- 4.7 There are three similar applications (Nos. A/NE-TK/670, 684 and 688) for temporary public vehicle park (private cars only) in the vicinity of the Site within the same “REC” zone (**Plan R-1**). Application No. A/NE-TK/670 was rejected by the RNTPC on 5.7.2019 for reason of adverse geotechnical impact on the application site and its surrounding area. Applications No. A/NE-

TK/684 and 688 were approved with conditions by the RNTPC on 1.9.2020 and 6.11.2020 respectively, each for a temporary period of 3 years, mainly on considerations that the approval of the applications on a temporary basis would not frustrate the planning intention of the “REC” zone and no adverse impacts will be caused on the surrounding areas. Details of the applications are summarised at Appendix II of **Annex A** and their locations are shown on **Plans R-1** and **R-2**.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant Government departments are stated in paragraph 9 of **Annex A**.
- 5.2 For the review application, DSD has been further consulted and their views on the review application are summarized as follows:

Drainage

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

- (a) his previous comments on the s.16 application as stated in paragraph 9.1.5 of **Annex A** are still valid and are recapitulated below:
- (i) there is no existing DSD maintained public drains available for connection in the vicinity of this area. The applicant should have his own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
 - (ii) there is existing public sewer in the vicinity of the Site;
 - (iii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought; and

- (iv) 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.
- (b) for the review application, his additional comments are as follows:
 - (i) similar to the majority of village areas, comprehensive public stormwater drainage network is not available in the vicinity of the Site;
 - (ii) the Site is surrounded by premises and is only accessible via a short track connected with a local road leading to Ting Kok Road. The said short track, local road and Ting Kok Road are all located at an appreciable lower elevation than the Site. As no gullies nor equivalent runoff discharge facilities found at the Site and the adjoining short track, all runoff from the Site, if not properly collected within it, will drain away freely and may cause flooding at the short track, the local road, its junction with Ting Kok Road, and the adjacent areas. Adverse drainage impacts to the nearby residents, pedestrians and road users will be resulted from the applicant's failure/negligence to convey the runoff safely and properly from the Site;
 - (iii) in view of the above, the applicant should submit and implement drainage proposal unless he could provide proof of existence of drainage facilities to demonstrate that runoff from the Site can be conveyed to the nearby recognized streamcourse or public stormwater drainage system without causing flood risk or adverse drainage impact to the adjacent areas. As the applicant has not provided any proof of existence of adequate existing drainage facilities, the approval condition requiring the submission and implementation of drainage proposal for the Site as imposed in the s.16 approval should be maintained to ensure the concern on adverse drainage impact will be duly addressed; and
 - (iv) DSD has promulgated a Technical Note to provide step-by-step guideline to help the applicants to prepare drainage submissions. This Technical Note, which can also be found at the DSD's website (https://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_Guidelines/Drainage_Submission.pdf) has also been provided to the applicant on 8.4.2021 for reference. DSD stands ready to provide further assistance to the applicant in preparing the drainage submission and implementation of the drainage measures if necessary.

5.3 The following Government departments have no further views/comments on the review application:

- (a) District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD);
- (b) Commissioner for Transport (C for T);
- (c) Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Director of Environmental Protection (DEP);
- (e) Director of Agriculture, Fisheries and Conservation (DAFC);
- (f) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (g) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (h) Director of Fire Services (D of FS);
- (i) Director of Electrical and Mechanical Services (DEMS);
- (j) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (k) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (l) Project Manager/New Territories East, Civil Engineering and Development Department (PM/N, CEDD); and
- (m) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

6. Public Comment Received During Statutory Publication Period (Annex E)

On 30.4.2021, the review application was published for public inspection. During the statutory public inspection period, which ended on 21.5.2021, one public comment was received from an individual objecting to the application mainly on the ground that adequate drainage facilities are essential conditions to preserve the quality of the Site under “REC” zoning.

7. Planning Considerations and Assessments

- 7.1 The subject s.16 application for a temporary private car park for a period of 3 years was approved by the RNTPC on 12.3.2021 mainly on the considerations that the approval of the application on a temporary basis would not frustrate the planning intention of the “REC” zone and no adverse impacts will be caused on the surrounding areas upon the implementation of necessary mitigation measures. Since the consideration of the s.16 application, there is no major change in the planning circumstances. The planning considerations and assessments as set out in paragraph 11 of **Annex A** remain valid.
- 7.2 The applicant requests for a review of the RNTPC’s decision on imposing approval conditions (e) and (f) relating to the submission of a drainage proposal and the implementation of drainage facilities to the satisfaction of the DDS or of the Board. He claims that the proposed temporary private car park will operate on a small piece of hard-paved flat land and will not result in drainage or siltation issues. He also states that DSD has completed drainage and sewerage works in the area. In response to his claims, CE/MN, DSD states that comprehensive public stormwater drainage network is not available in the vicinity of the Site. The Site is only accessible via a short track connected with a local road leading to Ting Kok Road. The said short track, local road and Ting Kok Road are all located at an appreciable lower elevation than the Site. As no gullies nor equivalent runoff discharge facilities are found at the Site

and the adjoining short track, all runoff from the Site, if not properly collected, will drain away freely, and may cause flooding at the short track, the local road, its junction with Ting Kok Road, and the adjacent areas. To address the concern, the applicant should submit and implement drainage proposal unless he could provide proof of existence of drainage facilities to demonstrate that runoff from the Site can be duly conveyed without adverse drainage impact to the adjacent areas. As the applicant has not provided any proof of existence of adequate existing drainage facilities, the imposition of approval condition requiring the submission of drainage proposal and implementation of drainage facilities should be maintained. CE/MN, DSD also indicates that a Technical Note issued by DSD with step-by-step guideline for preparation of drainage submission has been provided to the applicant on 8.4.2021 for reference. DSD also stands ready to provide further assistance to the applicant in preparing the drainage submission and implementation of the drainage measures if necessary. All other Government departments have no comment on the review application.

- 7.3 There are three similar applications (No. A/NE-TK/670, 684 and 688) for temporary vehicle park in the vicinity of the Site within the same “REC” zone, with approvals given to the latter two in 2019 and 2020. Both applications were approved with conditions including those requiring the submission of a drainage proposal and implementation of drainage facilities.
- 7.4 Regarding the public comment objecting to the review application as mentioned in paragraph 6 above, Government departments’ comments and the planning assessments above are relevant.

8. Planning Department’s Views

- 8.1 Based on the assessments made in paragraph 7 and having taken into account the public comment in paragraph 6, Planning Department does not support the review application for the following reason:
- the applicant fails to demonstrate in the submission that the imposition of approval conditions (e) and (f) are not necessary to ensure that no adverse drainage impact on the surrounding areas will be caused by the proposed development.
- 8.2 Should the Board decide to reject the review application, the original conditions of approval and advisory clauses should be maintained, and the permission shall be valid on a temporary basis for 3 years until **12.3.2024** as approved by the RNTPC.
- 8.3 Alternatively, should the Board decide to approve the review application, conditions (e) and (f) shall be deleted. The permission shall be valid on a temporary basis for 3 years until **12.3.2024** as approved by the RNTPC. Other approval conditions and advisory clauses should also remain unchanged, which are set out below (as re-numbered) 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) a notice should be posted at a prominent location of the Site to indicate that 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;
- (d) the provision of peripheral fencing on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 12.9.2021;
- (e) the submission of fire service installations (FSIs) and water supplies for fire-fighting 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 12.9.2021;
- (f) in relation to (e) above, the implementation of FSIs and water supplies for fire-fighting 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 12.12.2021;
- (g) 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; and
- (h) if any of the above planning conditions (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 **Annex F**, which are same as those adopted by the RNTPC in approving the s.16 application.

9. Decision Sought

- 9.1 The Board is invited to consider the application for a 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.

10. Attachments

Plan R-1	Location Plan
Plan R-2	Site Plan
Plan R-3	Aerial Photo
Plan R-4	Site Photo
Annex A	RNTPC Paper No. A/NE-TK/699
Annex B	Extract of Minutes of the RNTPC Meeting Held on 12.3.2021
Annex C	Secretary of the Board's Letter dated 26.3.2021
Annex D	Applicant's Letter dated 16.4.2021
Annex E	Public Comment on the Review Application
Annex F	Recommended Advisory Clauses

**PLANNING DEPARTMENT
JULY 2021**