

**TPB Paper No. 10848**

**For Consideration by  
the Town Planning Board on 8.7.2022**

**REVIEW OF APPLICATION NO. A/NE-TK/711  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Temporary Car Park (Private Cars only) for a Period of 3 Years  
in “Agriculture” Zone  
Lot 725 RP (Part) in D.D. 29 and Adjoining Government Land, Ting Kok, Tai Po**

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**1. Background**

- 1.1 On 26.7.2021, the applicant, Mr. LEUNG Pak Keung, sought planning permission for a proposed temporary car park (private cars only) 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 “Agriculture” (“AGR”) on the approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19 (**Plan R-1**).
- 1.2 On 14.1.2022, 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 proposed development was 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 was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis; and
  - (b) the applicant failed to demonstrate in the submission that the proposed development would not result in adverse landscape impact on the area.
- 1.3 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/NE-TK/711A (Annex A)
  - (b) Extract of minutes of the RNTPC Meeting held on 14.1.2022 (Annex B)
  - (c) Secretary of the Board’s letter dated 28.1.2022 (Annex C)

**2. Application for Review**

On 16.2.2022, the applicant applied, under section 17(1) of the Ordinance, for a review of the RNTPC’s decision to reject the application (**Annex D1**). On 22.4.2022, the applicant, represented by Mr. LAU Chee Sing, submitted written representation in support of the review application (**Annex D2**).

### 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 D2** as summarized below:

- (a) the applicant has submitted 3 applications in the last 4 years in order to address the shortage of parking spaces in the area and alleviate the blockage of Shan Liu Road by illegal parking;
- (b) the land within the “Village Type Development” (“V”) zone to the west of Shan Liu Road has been largely used for Small House development and is not available for car parking;
- (c) the area to the east of Shan Liu Road is zoned “AGR” and “Green Belt” (“GB”) and comprises mainly steep slopes. The Site is the only large piece of flatland available and considered suitable for parking of vehicles;
- (d) other parking facilities available in the vicinity such as those provided in the temporary barbecue sites to the south of Ting Kok Road have also been utilized by the villagers. It demonstrates a high demand for parking spaces; and
- (e) the proposed car park could make better use of vacant land to address the local parking need and alleviate the illegal parking along Shan Liu Road.

### 4. **The Section 16 Application**

#### **Background**

- 4.1 The Site is part of the subject of a planning enforcement case (No. E/NE-TK/154) against unauthorized development (UD) involving storage of construction materials (**Plan R-2**). Enforcement Notice (EN) was issued on 24.9.2020 and the UD was discontinued with Compliance Notice (CN) issued on 6.5.2021. Reinstatement Notice (RN) was subsequently issued on 7.5.2021. Except for the part under the current application, the rest of the enforcement site has been reinstated with CN issued on 12.1.2022. As the Site has not been reinstated upon expiry of the notice, prosecution action may be taken.

#### **The Site and Its Surrounding Areas (Plans R-1 to R-4)**

- 4.2 The situation of the Site and its surrounding areas at the time of the consideration of the s.16 application by the RNTPC was described in paragraph 7 of **Annex A**. The latest situation is set out as follows.
- 4.3 The Site is:
- (a) currently vacant and partly covered with overgrown;
  - (b) situated near the northern fringe of Ting Kok Village; and
  - (c) accessible via a local track connecting with Shan Liu Road.

- 4.4 The surrounding areas are predominantly rural in character with village houses, scattered tree groups and woodland. The village proper of Ting Kok is situated at about 35m to the south of the Site across Shan Liu Road.

#### Planning Intention

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

#### Previous Applications

- 4.6 The Site is part of the subject of three previous applications (No. A/NE-TK/629, 674 and 689) for temporary car park use for a period of 3 years, with the latter two cases submitted by the same applicant of current application. Applications No. A/NE-TK/629 and 674 were rejected by the RNTPC on 9.2.2018 and the Board upon review on 22.5.2020 respectively for reasons of being not in line with the planning intention of the “AGR” zone; causing adverse landscape impact to the area; and setting undesirable precedent for similar applications. Application No. A/NE-TK/689 was rejected by the RNTPC on 6.11.2020 on similar grounds and an additional reason of failing to demonstrate that the proposed car park layout was feasible from traffic engineering point of view.
- 4.7 Compared with the latest previous application No. A/NE-TK/689, the proposed use under the current application involves a slightly larger site (increased from 937m<sup>2</sup> to 1,008m<sup>2</sup> with incorporation of a piece of government land and exclusion of a private lot), reduced number of parking spaces (from 34 to 28) with a change in parking layout, and submission of a landscape proposal.
- 4.8 Details of the above applications are summarized at **Annex E** and their locations are shown on **Plans R-1** and **R-2**.

#### Similar Application

- 4.9 There is a similar application (No. A/NE-TK/693) for temporary public vehicle park (private cars only) within the same “AGR” zone in the vicinity of the Site. The application, providing parking spaces for 12 private cars for a period of 3 years, was rejected by the RNTPC on 20.11.2020 on similar grounds for rejecting the latest previous application No. A/NE-TK/689 as set out in paragraph 4.6 above.
- 4.10 Details of the above application is summarized at **Annex F** and its location is 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, the relevant government departments have been further consulted. All maintain their previous views on the s.16 application and have no further comments on the review application. In relation to the reasons for rejection of the s.16 application, the views of the Director of Agriculture, Fisheries and Conservation (DAFC) and the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) are recapitulated as follows:

Agriculture

5.2.1 Comments of the DAFC:

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

Landscape

5.2.2 Comments of the CTP/UD&L, PlanD:

- (a) it is noted that no new information on landscape aspect of the Site is provided in the review application; and
- (b) her previous comments on the s.16 application are still valid and are recapitulated below:
  - (i) the Site is located in an area of rural coastal plains landscape character surrounded by dense vegetation within the subject “AGR” zone and village houses to its south within the “V” zone on the same OZP. The proposed temporary car park is considered not entirely compatible with the densely vegetated area to the north. It is noted that the applicant has submitted a landscape proposal to enhance the landscape setting of the Site. The applicant is reminded that the proposed plantings should be planted at-grade with enough space to facilitate sustainable tree growth. Tree protection measure to mitigate potential impact on the proposed trees should be provided;
  - (ii) a mature *Ficus microcarpa* is observed in close proximity to the proposed car parking space along the southeastern site boundary (**Plan R-2**). It is noted that the applicant has proposed to minimise potential adverse impact on the tree by fencing it off from vehicular and pedestrian movement in the Site;
  - (iii) no similar development has previously been approved by the Board within the same “AGR” zone. Should the application be approved, consideration should be given as

to whether it would encourage more similar developments within the “AGR” zone, and whether the cumulative impact of such approval would degrade the landscape quality of the surrounding environment;

- (iv) there is no major public frontage along the site boundary. Should the application be approved by the Board, it is considered unnecessary to impose landscape condition as its effect on enhancing the quality of public realm is not apparent; and
- (v) the applicant should be advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to commencement of the works.

## **6. Public Comments Received During Statutory Publication Period (Annex G)**

- 6.1 On 25.2.2022 and 29.4.2022, the review application was published for public inspection. During the statutory public inspection periods, four public comments were received from the Hong Kong Bird Watching Society and two individuals objecting to the application mainly on the grounds of being not in line with the planning intention of the “AGR” zone, the subject of an UD and a “destroy first, build later” case; causing adverse traffic, environmental and fire safety concerns; and setting of undesirable precedent.
- 6.2 Three public comments raising objection to the application were received at the s.16 application stage, which are set out in paragraph 10 of **Annex A**.

## **7. Planning Considerations and Assessments**

- 7.1 The subject s.16 application was rejected by the RNTPC on 14.1.2022 for reasons that the development was not in line with the planning intention of the “AGR” zone and would result in adverse landscape impact on the area. To support the review application, the applicant has submitted written representation claiming that the proposed use could address the shortage of car parking spaces in the area and alleviate the blockage of Shan Liu Road due to illegal parking. The applicant also claims that the Site is the only large piece of flatland available which is suitable for car parking use. Nevertheless, there has been no material change in the planning circumstances since the s.16 application was rejected. The planning considerations and assessments as set out in paragraph 11 of **Annex A** remain valid.
- 7.2 The application is for a proposed temporary car park for a period of 3 years, involving 28 parking spaces for private cars for use by village residents. In respect of the applicant’s claim that the proposed car park could address the local parking demand and alleviate the problem of illegal parking of Shan Liu Road, it is acknowledged that C for T has maintained her view of having no in-principle objection to the application as it is desirable from traffic

engineering point of view to provide parking spaces at the Site so as to release the road space occupied by illegal parking along Shan Liu Road. However, it is considered that provision of car park should better be confined to areas intended for development purposes such as those within the “V” zone. Illegal parking on public road should be tackled by traffic enforcement action instead of undesirable proliferation of rural car park. Local parking need should be addressed separately in suitable area. The applicant’s claim that the Site is suitable for car parking use is also not justified having regard to the impacts on agricultural rehabilitation and natural landscape as advised by DAFC and UD&L in paragraphs 7.3 and 7.4 below.

- 7.3 The Site falls within an area zoned “AGR” on the approved Ting Kok OZP No. S/NE-TK/19 (**Plan R-1**). The proposed use is not in line with the planning intention of the “AGR” zone. DAFC maintains his view of not supporting the application from agricultural point of view as there are active agricultural activities in the vicinity, and agricultural infrastructure such as road access and water sources is available. The Site possesses potential for agricultural rehabilitation. The applicant has not provided strong planning justifications in the submission to justify a departure from the planning intention of “AGR” zone, even on a temporary basis.
- 7.4 The Site is situated at the northern fringe of Ting Kok Village. It is currently vacant and partly covered with overgrown. It is also surrounded by dense vegetation to the north and village cluster to the south. CTP/UD&L of PlanD maintains her view that the proposed use is not entirely compatible with the surrounding densely vegetated area. Approval of the application may encourage similar use in the “AGR” zone, the cumulative impact of which would degrade the landscape quality of the surrounding environment.
- 7.5 The Site is part of the subject of three previous applications (No. A/NE-TK/629, 674 and 689), which were all rejected by the RNTPC for reasons summarized in paragraph 4.6 above. Compared with the latest previous application No. A/NE-TK/689, the proposed development under the current application involves a slightly larger site, reduced number of parking spaces with a change in parking layout and submission of a landscape proposal as detailed in paragraph 4.7 above. Nonetheless, there has been no material change in planning circumstances since the rejection of the latest previous application.
- 7.6 There is a similar application No. A/NE-TK/693 within the same “AGR” zone in the vicinity of the Site, which was rejected by the RNTPC for reasons summarized in paragraph 4.9 above. The circumstances for rejecting this application are largely applicable to the current one.
- 7.7 Regarding the public comments objecting to the review application as detailed in paragraph 6.1 above, government departments’ comments and planning assessments above are relevant.

## **8. Planning Department’s Views**

- 8.1 Based on the assessments made in paragraph 7, having taken into account the public comments in paragraph 6.1 and given that there has been no material

change in the planning circumstances since the consideration of the subject application by the RNTPC, Planning Department maintains its previous view of not supporting the review 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 impact to the area.

8.2 Alternatively, should the Board decide to approve the review application, it is suggested that the permission shall be valid on a temporary basis for 3 years until 8.7.2025. 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) 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 8.1.2023;
- (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 8.4.2023;
- (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 8.1.2023;
- (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 8.4.2023;
- (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 **Annex H**.

### **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, and the period of which the permission should be valid on a temporary basis.

### **10. Attachments**

<b>Plan R-1</b>	Location Plan
<b>Plan R-2</b>	Site Plan
<b>Plan R-3</b>	Aerial Photo
<b>Plan R-4</b>	Site Photos
<b>Annex A</b>	RNTPC Paper No. A/NE-TK/711A
<b>Annex B</b>	Extract of Minutes of the RNTPC Meeting Held on 14.1.2022
<b>Annex C</b>	Secretary of the Board's Letter dated 28.1.2022
<b>Annex D1</b>	Applicant's Letter dated 16.2.2022
<b>Annex D2</b>	Written Representation from the Applicant's Representative Received on 22.4.2022
<b>Annex E</b>	Previous Applications
<b>Annex F</b>	Similar Application
<b>Annex G</b>	Public Comments on the Review Application
<b>Annex H</b>	Recommended Advisory Clauses

**PLANNING DEPARTMENT  
JULY 2022**