

**APPLICATION FOR PERMISSION  
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-TK/690**

- Applicant** : New Creation Industrial Investment Limited
- Site** : Lot 298 S.B ss.3 in D.D. 23, San Tau Kok, Tai Po, New Territories
- Site Area** : About 62.8 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
- Zoning** : “Village Type Development” (“V”)
- Application** : Temporary Public Vehicle Park (Private Cars Only) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a temporary public vehicle park (private cars only) for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “V” on the approved Ting Kok OZP No. S/NE-TK/19. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use in the “V” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently used for car parking without planning permission.
- 1.2 According to the applicant, a total of four parking spaces for private cars will be provided within the Site to serve local residents and will operate 24 hours daily. No structure will be erected on the Site. The Site is situated at the junction of Tung Tsz Road and a local track. A plan submitted by the applicant showing the car park layout and vehicular access via Tung Tsz Road and the local track is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) application form with attachment on 21.9.2020 (**Appendix I**)
  - (b) further information (FI) received on 13.11.2020 (**Appendix Ia**)

providing responses to comments and revised car park layout  
*(accepted and exempted from publication and recounting requirement)*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the application form and FI at **Appendices I** and **Ia** respectively. They can be summarized as follows:

- (a) there is increasing demand for parking spaces due to the completion of many village houses in the area in recent years. As there is a lack of car parking spaces for local residents, the pavement of Tung Tsz Road has always been occupied by illegal parking. Part of Tung Tsz Road is sometimes also occupied by car parking, which results in traffic congestion and pedestrian safety problems;
- (b) Tung Tsz Road is the only access road for villagers living in the south of San Tau Kok Village. The illegal roadside parking problem has seriously affected villagers' normal access to Ting Kok Road. There is a need to review the current land use to cater for the parking needs of the villagers;
- (c) the Site has been used for car parking for many years and the application intends to regularise the parking use in an orderly manner. As there are already four vehicles parked on the Site, it should not have any problems on manoeuvring of vehicles and passageway of local villagers;
- (d) the Board should review the land use of the surrounding area in order to meet the increasing demand for parking spaces in the area; and
- (e) the public comments claim that the applied use would render the Site no longer available for use by emergency vehicles and local villagers etc. This is against relevant clauses under the Basic Law regarding the protection of private property.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is not the "current land owner", but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent of the "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

## **4. Previous Application**

There is no previous application at the Site.

**5. Similar Applications**

- 5.1 There are three similar applications (No. A/NE-TK/636, 637 and 650) for temporary car park within the same “V” zone in the vicinity of the Site (**Plan A-1**), two of which were approved and one was rejected.
- 5.2 Application No. A/NE-TK/636 (with 86% of the application site zoned “Agriculture” (“AGR”) and the remaining 14% zoned “V”) for a temporary vehicle park, providing parking spaces for 60 private cars and 20 light goods vehicles for a period of 3 years, was rejected by the Rural and New Town Planning Committee (the Committee) on 6.4.2018 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; failing to demonstrate that the development would not cause adverse landscape and traffic impacts; and setting an undesirable precedent.
- 5.3 Applications No. A/NE-TK/637 and 650, both falling entirely within the “V” zone for temporary private car park providing two and ten parking spaces for private cars for a period of 3 years, were approved on 6.7.2018 and 19.10.2018 respectively mainly on considerations that the applied use would not frustrate the long-term planning intention of the “V” zone; and would unlikely cause adverse traffic, environmental, drainage, landscape and sewage impacts on the surrounding area.
- 5.4 Details of the similar applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

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

- 6.1 The Site is:
- (a) flat, hard-paved and currently used for parking of vehicles without valid planning permission;
  - (b) located at the south-western fringe of the “V” zone for San Tau Kok Village; and
  - (c) abutting Tung Tsz Road to the south and accessible from a local track to the east.
- 6.2 The surrounding areas are predominantly rural in character with village houses, active agricultural land and tree groups. Village cluster of San Tau Kok is located to the immediate north, east and west of the Site. To the south of Tung Tsz Road is the Shuen Wan Tung Tsz Children’s Playground which is zoned “Government , Institution or Community” (“G/IC”) on the OZP.

**7. Planning Intention**

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

**8. Comments from Relevant Government Departments**

8.1 The following Government departments have been consulted and their views on the application are summarized as follows:

**Land Administration**

8.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the Site consists of a private lot which is held under Block Government Lease demised for agricultural purpose. No structure shall be erected thereon without prior approval from LandsD;
- (c) a recent inspection revealed that some vehicles were already parked on the Site;
- (d) the proposed ingress and egress are on unallocated government land. The maintenance and management responsibility of the said government land should be sorted out with the relevant government departments, prior to making use of them for proposed vehicular access purpose. Moreover, neither occupation nor works of any kind thereon is allowed without prior approval from LandsD;
- (e) should the application be approved by the Board, the lot owner is required to submit a short term waiver (STW) application to LandsD if he wishes to erect 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 may be imposed by LandsD including the payment of waiver fee and administrative fee as considered appropriate;
- (f) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access thereto; and

- (g) no Small House application has been received for the Site.

### **Traffic**

#### 8.1.2 Comments of the Commissioner for Transport (C for T):

- does not support the application as the applicant fails to demonstrate that there are sufficient spaces for vehicles to manoeuvre entering and leaving the Site, and it is doubtful that there is enough space for parking the number of private cars as proposed.

#### 8.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) no adverse comment on the application; and
- (b) the applicant is required to construct proper run-in/out for car park nos. 1 to 3 according to the latest HyD Standard Drawing Nos. 1113C and 114B and reinstate the run-in/out to its original state upon expiry of the approval.

#### 8.1.4 Comments of the Commissioner of Police (C of P):

- (a) no comment on the application;
- (b) record check revealed that there were 56 records related to vehicle obstruction and traffic complaints in Tung Tsz Road between September 2019 and September 2020, i.e. on average of 5 complaints received per month; and
- (c) a site visit revealed that illegal parking existed in the area but vehicular traffic flow was low in general. The illegal parking situation is not particularly alarming. Apart from complaint of illegal parking, he had also received complaints from members of the public regarding illegal occupation of government land near Tung Tsz Road area and these complaints were referred to LandsD for action.

### **Environment**

#### 8.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) no comment on the application; and
- (b) the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.

### **Landscape**

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

- the Site falls within “V” zone, which is a non-landscape sensitive zoning and no significant landscape impact arising from the applied use is anticipated.

### **Drainage**

8.1.7 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;
- (c) while there are DSD’s public stormwater drains in the 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. 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 the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems; and
- (d) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought.

### **Fire Safety**

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

- (a) no in-principle objection to the application subject to fire service installations (FSIs) being provided to his satisfaction; and
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs for his approval. The layout plans should be drawn to scale and depicted with dimensions and

nature of occupancy; and the locations of the proposed FSIs to be installed should be clearly marked on the layout plans.

8.2 The following Government departments have no objection to/ no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Project Manager/North, Civil Engineering and Development Department;
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (e) Director of Electrical and Mechanical Services; and
- (f) District Officer/Tai Po, Home Affairs Department.

## **9. Public Comments Received During Statutory Publication Period (Appendix III)**

The application was published for public inspection. During the statutory public inspection period, two public comments were received from two village representatives of San Tau Kok Village together with 31 signatures and an individual objecting to the application mainly on the grounds that the applied use will encroach onto the access path adjacent to the Site causing inconvenience to the disabled persons, elderly villagers and children's strollers; insufficient area for emergency vehicles, school buses and public mini-buses; potential hazard to small children for their access to Tung Tsz Road Children's Playground on the opposite side of the Site; and land within "V" zone should be used to meet Small House demand.

## **10. Planning Considerations and Assessments**

10.1 The application is for a temporary public vehicle park (private cars only) with four private car parking spaces for a period of 3 years in an area zoned "V" on the OZP. Whilst the proposal is not entirely in line with the planning intention of the "V" zone which is primarily intended for development of Small Houses by indigenous villagers, DLO/TP of LandsD has no objection to the application and advises that there is no Small House application received for the Site. Given the temporary nature of the applied use, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the "V" zone.

10.2 The Site is situated at the south-western fringe of San Tau Kok Village and adjoins Tung Tsz Road. It is flat, hard-paved and currently used for parking of vehicles without valid planning permission (**Plan A-4**). The surrounding areas are predominately rural in character with village houses, active agricultural land and tree groups. CTP/UD&L of PlanD advises that no significant landscape impact arising from the applied use is anticipated.

10.3 As shown on the car park layout plan submitted by the applicant (**Drawing A-1**), the proposed vehicular access to parking spaces No. 1 to 3 will be directly from Tung Tsz Road crossing the existing footpath whereas No. 4 will be via

the local access to the east of the Site. C for T does not support the application from traffic engineering point of view as the applicant fails to demonstrate that there are sufficient spaces for vehicles to manoeuvre entering and leaving the Site, and it is doubtful that there is enough space for the parking of four private cars as proposed. Other relevant government departments consulted including DEP, CE/MN of DSD, CE/C of WSD, D of FS, CHE/NTE of HyD, C of P, DAFC, and H(GEO) of CEDD have no objection to or no adverse comment on the application.

- 10.4 There are three similar applications (No. A/NE-TK/636, 637 and 650) for temporary car park for a period of 3 years within the same “V” zone. Application No. A/NE-TK/636, which was mainly zoned “AGR” (about 86% of the site area) providing parking spaces for 60 private cars and 20 light goods vehicles, was rejected by the Committee in 2018 mainly on the grounds of failing to demonstrate that the development would not cause adverse landscape and traffic impacts; and setting an undesirable precedent. The other two applications (No. A/NE-TK/637 and 650), with the application site entirely falling within the “V” zone providing parking spaces for two and ten private cars respectively, were approved by the Committee in 2018 mainly on the grounds that the applied use would not frustrate the long-term planning intention of the “V” zone; and would unlikely cause adverse traffic, environmental, drainage, landscape and sewage impacts on the surrounding area. The planning circumstances under the current application are not similar to these approved applications as it would have adverse traffic impact.
- 10.5 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 9, government departments’ comments and the planning assessments above are relevant.

## **11. Planning Department’s Views**

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department does not support the application for the following reason:
- the applicant fails to demonstrate in the submission that the proposed car park layout is feasible from traffic engineering point of view.
- 11.2 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 20.11.2023. 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) 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 enter/exit the Site at any time during the planning approval period;
- (d) 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 20.5.2021;
- (e) in relation to (d) 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 20.8.2021;
- (f) the submission of proposals 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 20.5.2021;
- (g) in relation to (f) above, the implementation of proposals for 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 20.8.2021;
- (h) 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
- (i) if any of the above planning conditions (d), (e), (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.

#### Advisory Clauses

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

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

12.3 Alternatively, 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, if any, and the period of which the permission should be valid on a temporary basis.

**13. Attachments**

Appendix I	Application form and attachments received on 21.9.2020
Appendix Ia	Further information received on 13.11.2020
Appendix II	Similar applications
Appendix III	Public comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site layout plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT  
NOVEMBER 2020**