

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

**APPLICATION NO. A/NE-TK/693**

- Applicant** : New Creation Industrial Investment Limited
- Site** : Lots 687 S.E, 687 S.F ss.4, 687 S.G RP and 688 in D.D. 29, Ting Kok, Tai Po, New Territories
- Site Area** : About 318.8m<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** : “Agriculture” (“AGR”)
- Application** : Proposed 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 proposed temporary public vehicle park (private cars only) for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three 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 vacant.
- 1.2 According to the applicant, a total of 12 parking spaces for private cars will be provided within the Site to serve the local residents and will operate 24 hours daily. No structure will be erected on the Site. The Site is accessible from Shan Liu Road via a local track to the east. A plan submitted by the applicant showing the car park layout and vehicular access to the temporary car park is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the application form with attachments on 25.9.2020 (**Appendix I**).

**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 at **Appendix I**. 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 in Ting Kok and Shan Liu Villages, many of the vehicles are parked along Shan Liu Road resulting in serious traffic obstruction;
- (b) Shan Liu Road is the only access road for villagers living in the east of Ting Kok Village and Shan Liu Village. In order to resolve the illegal roadside parking problem, the applicant has liaised with owners of vacant land to use their land to provide parking spaces to local residents; and
- (c) the proposed temporary public vehicle park will operate 24 hours daily, and is for private cars only.

### **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not the “current land owners” 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 from the “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Previous Application**

There is no previous application at the Site.

### **5. Similar Application**

5.1 There are three similar applications (No. A/NE-TK/629, 674 and 689) for temporary car park for a period of three years within the same “AGR” zone in the vicinity of the Site (**Plan A-1**).

5.2 All the three applications mainly involving the same site were rejected by the Committee or the Board on review on 9.2.2018, 22.5.2020 and 6.11.2020 respectively mainly for the reasons of being not in line with the planning intention of the “AGR” zone; adverse landscape impact to the area; and setting of undesirable precedent. Application No. A/NE-TK/689 was also rejected as the applicant failed to demonstrate that the proposed car park layout was feasible from traffic engineering point of view.

5.3 Details of the above application are summarized at Appendix **II** and their locations are shown on **Plans A-1** and **A-2**.

### **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) mainly flat, hard-paved and currently vacant; and
  - (b) accessible from Shan Liu Road via a local track to the east.
- 6.2 The surrounding areas are predominantly rural in character with village houses, scattered tree groups, woodland, and fallow/active agricultural land. Village cluster of Ting Kok Village is found to the south and east of the Site.

## **7. Planning Intention**

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.

## **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 4 private lots in D.D. 29, Ting Kok with different ownership. The private lots are 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 the Site was vacant;
- (d) the village road leading to the Site at its east and south as well as the proposed ingress/ egress are on unallocated government land. No trees thereon shall be interfered with unless prior approval is obtained from LandsD. The maintenance and management responsibility of the said government land and any other government land leading to the Site (including a footbridge near Lot No. 685 S.J in D.D. 29) 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 owners are required to submit a short term waiver (STW) application to LandsD if they wish to erect structures on the lots. 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; and
- (f) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access thereto.

### **Traffic**

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

- (a) does not support the application from traffic engineering point of view as the applicant fails to demonstrate how the vehicles can enter into these parking spaces as access to some of the parking spaces are blocked by other parking spaces as shown in the applicant's submission; and it is doubtful that there is enough space for parking the number of private cars as proposed; and
- (b) the village access is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

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

- (a) no comment on the application; and
- (b) the section of Shan Liu Road adjacent to the Site is under HyD's maintenance purview but the village road leading to the Site at its north as well as the proposed ingress/egress are not.

#### 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 91 records related to vehicle obstruction' and traffic complaints in Shan Liu Road between September 2019 and September 2020, i.e. on average of 8 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 Shan Liu 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):

- (a) has some reservations on the application from landscape planning point of view;
- (b) according to the aerial photo in 2019, the Site is located in an area of rural coastal plains landscape character surrounded by dense vegetation within the subject “AGR” zone; village houses are observed in close proximity to its south in an area zoned “Village Type Development”;
- (c) the Site is hard paved and site formation works had been conducted within and surrounding the Site. One existing tree of common species is observed near the south-western portion of the Site;
- (d) based on the layout plan provided by the applicant, direct conflict between the proposed car parking spaces and the existing tree within the Site is observed. According to the record, no similar development has previously been approved by the Board within the same “AGR” zone. Although the proposed development which is located to the immediate north of existing village houses is considered not entirely incompatible with the landscape character of the area, there is concern that approval of the application would set an undesirable precedent of such development in the “AGR” zone, and would encourage more similar developments within the area. The cumulative impact of such approval would degrade the landscape quality of the environment in “AGR” zone; and

- (e) approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted to DLO/TP, LandsD for approval.

### **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 on the adjacent areas;
- (c) there is no existing DSD maintained public drain available for connection 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 the 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 lot owners should be sought.

### **Agriculture**

8.1.8 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- the Site is vacant. Nevertheless, agricultural infrastructure such as road access and water source is available. The Site possesses potential for agricultural rehabilitation. As such, the application is not supported from agricultural development point of view.

### **Fire Safety**

8.1.9 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) Project Manager/North, Civil Engineering and Development Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Director of Electrical and Mechanical Services; and
- (e) 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 Hong Kong Bird Watching Society and an individual objecting to the application mainly on the grounds of being not in line with the planning intention of the “AGR” zone; being the subject of an unauthorised development; being a “destroy first, build later” case; causing adverse environmental impact; and setting of undesirable precedent.

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

- 10.1 The application is for a proposed temporary public vehicle park (private cars only) with 12 parking spaces for a period of 3 years in an area zoned “AGR” on the OZP. 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation. The applicant has not provided any strong planning justifications in the submission to justify a departure from the planning intention of “AGR” zone, even on a temporary basis.
- 10.2 The Site is situated to the north of village cluster of Ting Kok Village and accessible from Shan Liu Road via a local track to its east. The surrounding areas are predominantly rural in character with village houses, scattered tree groups and woodland. There is no similar application approved within the same “AGR” zone. CTP/UD&L of PlanD advises that direct conflict between the proposed car parking spaces and the existing tree within the Site is observed. Although the proposed development is considered not entirely incompatible

with its landscape character, there is concern that approval of the current application would set an undesirable precedent in the “AGR” zone; and the cumulative impact of such approval would degrade the landscape quality of the environment in the “AGR” zone. Therefore, she has some reservations on the application from the landscape planning point of view.

- 10.3 As shown on the car park layout plan submitted by the applicant (**Drawing A-1**), access to some of the parking spaces are blocked by other parking spaces. 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 the number of private cars as proposed. Other relevant Government departments consulted including DEP, H(GEO) of CEDD, CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD, D of FS and C of P have no objection to or adverse comment on the application.
- 10.4 There are three similar applications for the same use within the same “AGR” zone in the vicinity of the Site. All of them were rejected by the Committee or the Board on review between 2018 and 2020 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; causing adverse landscape impact to the area; setting of undesirable precedent; and failing to demonstrate that the proposed car park layout was feasible. The circumstances of the current application are similar to these rejected applications.
- 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 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, 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 of “AGR” zone, even on a temporary basis;
  - (b) the applicant fails to demonstrate in the submission that the proposed car park layout is feasible from traffic engineering point of view;
  - (c) the applicant fails to demonstrate in the submission that the proposed development would not result in adverse landscape impact to the area; and



- (d) the approval of the application would set an undesirable precedent for other similar applications in the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the landscape character of the area.

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 or 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;

- (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; 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 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 25.9.2020
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 Photos

**PLANNING DEPARTMENT  
NOVEMBER 2020**