

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-PK/136

<u>Applicants</u>	Messrs. Hau Chi Chung, Hau Kim Fung and Hau Chun Sing represented by Chuo Wang Development Consultant Limited
<u>Site</u>	Lot 2338 RP in D.D. 91, Ping Kong, Sheung Shui, New Territories
<u>Site Area</u>	About 1,091.52 m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
<u>Zoning</u>	“Village Type Development” (“V”)
<u>Application</u>	Temporary Private Vehicle Park (Private Car and Light Goods Vehicle only) for a Period of 3 Years

1. The Proposal

- 1.1 On 14.8.2019, the applicants sought planning permission for temporary private vehicle park (private car and light goods vehicle only) for a period of three years at the application site (the Site) (**Plan A-1**). The Site is zoned “V” on the approved Ping Kong OZP No. S/NE-PK/11. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ use is a column 2 use in “V” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently used for a vehicle park without valid planning permission.
- 1.2 The Site is situated at the western fringe of Ping Kong Village and accessible via a local track connecting to Ping Kong Road (**Plan A-2 and Drawing A-3**). The car park comprises 25 parking spaces (5m x 2.5m each) for private cars/light goods vehicles (**Drawing A-1**) and an open shed of 224.49 m² in area and 2m in height will be erected on the Site to provide shelter for some parking spaces (**Drawing A-2**). The proposed open shed will be made of stainless steel sheets and its roof will be painted or covered with materials in dark colour to reduce glare. According to the applicants’ submission, the Site will operate 24 hours daily and serve the villagers and residents of Ping Kong Village only. It is estimated that the daily trips to/from the Site will be about 15 to 20.
- 1.3 The Site is the subject of a previous application (No. A/NE-PK/81) submitted by the same applicants for the same use which was approved with conditions by the Committee on 24.6.2016. The development scheme submitted under the current application is largely the same as compared to the previous application No. A/NE-PK/81, including site area,

parking layout and number of parking spaces provided, except for erection of the open shed which is proposed to provide shelter for some parking spaces (**Drawings A-1 and A-2**). The planning permission was subsequently revoked on 24.5.2017 due to non-compliance with approval conditions in relation to the provision of boundary fence, submission and implementation of tree preservation and landscape proposals and provision of drainage facilities. In support of the current application, the applicants submitted landscape and drainage proposals (**Drawings A-4 and A-5**) to demonstrate efforts to comply with relevant requirements under the previous approval.

1.4 In support of the application, the applicants have submitted the following documents:

- (a) Application form with attachments received on 14.8.2019 (**Appendix I**)
- (b) Supplementary information received on 21.8.2019 (**Appendix Ia**)
- (c) Further information received on 16.9.2019 providing responses to departmental comments (**Appendix Ib**)
(accepted and exempted from publication and recounting requirements)
- (d) Further information received on 26.9.2019 providing response to public comments (**Appendix Ic**)
(accepted and exempted from publication and recounting requirements)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in Part 9 of the application form at **Appendices I and Ia**. They can be summarised as follows:

- (a) the Site is located in Ping Kong Village where there are no adequate car parking spaces to meet the increasing demand of the villagers and residents;
- (b) the Site has been used for car park for years. A previous planning application for the same use was approved with conditions. However, due to conflicts within the applicants' family, the approved application was not followed up and subsequently revoked. The applicants would endeavour to comply with all requirements;
- (c) the Site is connected with existing road and has sufficient space for vehicle manoeuvring and the use of emergency vehicles; and
- (d) the Site would not involve excavation/filling of land and felling of tree and hence the applied use would not generate adverse environmental impact.

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

The applicants are the sole "current land owner" of the Site. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department, parking of vehicles on the Site will be subject to enforcement action.

5. Previous Application

- 5.1 The Site is the subject of a previous application No. A/NE-PK/81 for the same use and submitted by the same applicants, which was approved with conditions by the Committee on 24.6.2016 for a period of three years mainly on the considerations that the applied use could serve the parking need of the local villages and was not incompatible with the surrounding rural developments; concerned departments had no adverse comments on the application; and approval conditions were recommended to address technical concerns of relevant departments. Nevertheless, the previous planning permission was subsequently revoked on 24.5.2017 due to non-compliance with approval conditions within specified time limit on the provision of boundary fencing, the submission and implementation of tree preservation and landscape proposals, and the provision of drainage facilities.
- 5.2 The development scheme submitted under the current application is largely the same as compared to the previous application No. A/NE-PK/81, including site area, parking layout and number of parking spaces provided, except for erection of the open shed of 224.49m² in area, which is proposed to provide shelter for some parking spaces (**Drawings A-1 and A-2**).
- 5.3 Details of the previous application are at **Appendix II** and its location is shown on **Plans A-1 and A-2**.

6. Similar Application

There is no similar application for temporary car park in the “V” zone in the vicinity of the Site in Ping Kong area.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Site is:
- (a) situated at the western fringe of Ping Kong Village;
 - (b) mainly flat and paved for parking of vehicles without valid planning permission; and
 - (c) accessible from a local track connecting Ping Kong Road.
- 7.2 The surrounding areas are mainly rural in landscape character dominated by village houses, temporary structures for domestic uses and vacant land.

8. Planning Intention

The planning intention of the “V” zone in the Ping Kong area 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House.

Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises a private lot which is an Old Schedule lot held under Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicants should make their own arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the applied use;
- (b) there is no Small House application regarding the Site; and
- (c) should the application be approved, the applicants shall apply to his office for a Short Term Waiver (STW) to cover all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he considers that the application can be tolerated from traffic engineering viewpoint; and
- (b) based on the applicants' submission (**Appendix Ib**) on the daily vehicular trip rate, dimension of vehicular access, parking and maneuvering arrangement, the applicants have demonstrated that there are sufficient internal vehicular maneuvering spaces to prevent their vehicles from reversing onto the local access road.

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

- (a) he has no comment on the application; and
- (b) the vehicular access leading from Ping Kong Road to the Site is not under his department's maintenance purview.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) it is noted that the Site will have no parking of heavy goods vehicle nor container truck. The applicants are advised to follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” issued by DEP; and
- (b) no environmental complaint related to the Site was received in the past three years.

Landscape

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

- (a) as the Site falls within a non-landscape sensitive zone and no significant landscape impact arising from the applied use is identified, she has no comment on the application; and
- (b) since there is no major public frontage along the site boundary, should the application be approved, it is considered not necessary to impose landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) he has no objection in principle to the application from the public drainage viewpoint;
- (b) he has the following comments on the submitted drainage proposal:
 - (i) a surface channel at the peripheral of the Site should be constructed to intercept all rain water falling onto or through the Site and surface channel at the south-east edge of the Site is missing;
 - (ii) sandtrap shall be provided in appropriate catchpits;
 - (iii) the drainage connection to the existing drainage system should be via a catchpit/manhole;
 - (iv) the size of connection pipe connecting to public drainage system should be indicated on plan;
 - (v) the existing U-channel at the south-east of the Site is 525mm according to his record and the applicants shall review it on-site; and
- (c) should the application be approved, a condition should be included to request the applicants to submit and implement a drainage proposal for the Site to

ensure that it will not cause adverse drainage impact to the adjacent area.

Water Supply

9.1.7 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) existing water mains inside the Site will be affected. The applicants are required to either divert or protect the water mains found on the Site.

Building Matters

9.1.8 Comments of the Chief Building Surveyors/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) before any new building works are to be carried out on the Site, the prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
- (b) the proposed shelter is considered as temporary building subject to the control under Building (Planning) Regulations (B(P)R) Pt. VII;
- (c) the Site shall be provided with means of obtaining access thereto from a street under the B(P)R 5 and emergency vehicular access shall be provided under the B(P)R 41D;
- (d) if the Site is not abutting on a specified street having a width of not less than 4.5m, the development intensity shall be determined by the BA under B(P)R 19(3) at building plan submission stage; and
- (e) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at the building plan submission stage.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations being provided to the satisfaction of his department; and
- (b) the applicants are reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

9.1.10 Comments of the District Officer (North), Home Affairs Department (DO(N)),

HAD):

he has consulted the locals regarding the application. The incumbent North District Council (NDC) Member has no comment on the application and the Chairman of “Association of Ping Kong Area Residents” (丙崗居民福利會) supports the application. The Chairman of Sheung Shui District Rural Committee (SSDRC), the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Ping Kong Village object to the application mainly for concerns on adverse impacts on glare, air quality, pedestrian safety, drainage and fung shui aspects arising from the applied use, proposed tree planting on Government land, and continuous operation of the vehicle park use after revocation of the previous planning approval.

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

- (a) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (b) Director of Agriculture, Fisheries and Conservation (DAFC).

10. Public Comments Received During Statutory Publication Period

On 23.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, five public comments from individuals were received (**Appendix III**). Except one expressing no comment on the application, the remaining four public comments object to the application mainly on the grounds that the development comprising a 2m high shelter would generate glare, air quality, air ventilation and fung shui impacts on nearby Small House developments; the Site is the subject of a revoked approval and continues to operate for vehicle park use after revocation; the local access road connecting to the Site is narrow which would pose risk to pedestrians; the proposed tree planting falls on the Government land; there is no existing drain within the Site; and there is no such demand for parking spaces as another vehicle park is located across the local access road.

11. Planning Considerations and Assessments

11.1 The application is for a temporary private vehicle park (private car and light goods vehicle only) for a period of three years at the Site zoned “V” on the approved Ping Kong OZP No. S/NE-PK/11. The planning intention of “V” zone is mainly to designate both existing recognized villages and areas of land considered suitable for village expansion, and land within this zone is primarily intended for development of Small Houses by indigenous villagers. Although the temporary private vehicle park under application is not entirely in line with the planning intention of the “V” zone, it could serve the local villagers/residents for meeting their car parking needs. Besides, as advised by DLO/N, LandsD, no Small House application has been received for the Site. Approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the area.

11.2 The Site is located at the western fringe of Ping Kong Village and accessible via a local track from Ping Kong Road. It is mainly formed and paved and being used as car park (**Plans A-1 and A-2**). The temporary use under application is considered not incompatible with the surrounding rural developments where village houses and

temporary domestic structures are found. The applicants have also demonstrated that there is sufficient internal vehicular manoeuvring space to prevent vehicles from reversing onto the local access road. C for T considers that the application can be tolerated.

- 11.3 DEP has no adverse comment on the application and advises that there was no substantiated environmental complaint case in the past three years. To minimize any potential environmental nuisance to the nearby residents, the applicants would be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”. Other relevant departments consulted including CTP/UD&L, PlanD; CE/MN,DSD; CE/C, WSD and D of FS have no adverse comment on or no objection to the application.
- 11.4 The Site is the subject of a previous application (No. A/NE-PK/81) for the same use submitted by the same applicants, which was approved with conditions on a temporary basis for a period of three years on 24.6.2016. It was approved mainly on the considerations that the applied use could serve the parking need of the local villages and was not incompatible with the surrounding rural developments, and the technical concerns of relevant departments could be addressed by imposing approval conditions. For compliance with approval conditions under the previous application, the applicants submitted a landscape proposal and a drainage proposal to relevant Government departments on 3.1.2017. CE/MN, DSD accepted the drainage proposal as a compliance with the concerned condition, while CTP/UD&L, PlanD offered comments on the landscape proposal to the applicants to follow up. However, no further submission was made by the applicants on the landscape proposal and the provision of drainage facilities within the time limit for compliance with the concerned conditions. The planning permission was then revoked on 24.5.2017.
- 11.5 For the current application, the applicants submit a proposal which is largely the same as the previous application in terms of the site area, parking layout and number of parking spaces. A minor difference is that an open shed is proposed under current application to provide shelter for some parking spaces. To address the departmental concerns raised previously, the applicants have also submitted a drainage proposal and a landscape proposal with the current application. CE/MN, DSD has no in-principle objection to the application. CTP/UD&L, PlanD has no comment on the application and advises that as the effect of additional landscaping on the Site to enhance the quality of public realm is not apparent. It is not necessary to impose landscape condition on this application. Having regard to the above and taking into account that there is no significant change in planning circumstances, it is considered that the current application could be given sympathetic consideration. Should the application be approved by the Committee, shorter compliance periods are recommended with a view to closely monitoring the progress on compliance with approval conditions. Furthermore, the applicants should be advised that if there is further non-compliance with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.6 In response to the concern on potential glare impact arising from the proposed open shed raised by public comments and local objection, the applicants indicate that the roof of the open shed will be painted or covered with materials in dark colour. As for other public/local concerns including narrow access road, potential air impact, revocation background and landscape and drainage issues of the Site, departmental comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the temporary private vehicle park (private car and light goods vehicle only) for a period of 3 years.
- 12.2 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 4.10.2022. The following conditions of approval with shorter compliance periods and advisory clauses are 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 or enter/exit the Site at any time during the planning approval period;
- (b) only private car and light goods vehicle not exceeding 3.3 tonnes, as proposed by the applicants, 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 and light goods vehicle not exceeding 3.3 tonnes, as proposed by the applicants, is allowed to be parked/stored on or enter/exit the Site at any times during the planning approval period;
- (d) no vehicle dismantling, inspection, maintenance, repairing, cleansing, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (e) the provision of periphery fencing on the Site within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.1.2020;
- (f) the submission of drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.1.2020;
- (g) in relation to (f) above, the provision of drainage facilities 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 4.4.2020;
- (h) the submission of fire service installations proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.1.2020;
- (i) in relation to (h) above, the implementation of the 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 4.4.2020;
- (j) if any of the above planning conditions (a), (b), (c) or (d) 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

- (k) if any of the above planning conditions (e), (f), (g), (h) or (i) 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 at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "Village Type Development" zone in the Ping Kong area which 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. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to approve the 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendix I	Application Form with Attachments received on 14.8.2019
Appendix Ia	Supplementary Information received on 21.8.2019
Appendix Ib	Further Information received on 16.9.2019
Appendix Ic	Further Information received on 26.9.2019
Appendix II	Previous s.16 Application
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Location of Covered Place
Drawing A-3	Existing Access Plan
Drawing A-4	Drainage Proposal
Drawing A-5	Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos