

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-PK/141

<u>Applicants</u>	Messrs. Hau Chi Chung, Hau Kim Fung and Hau Chun Sing represented by Mr. Pang Hing Yeun
<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 The applicants seek planning permission for a 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 as the applied use without valid planning permission.
- 1.2 The Site is situated at the western fringe of Ping Kong Village and is accessible via a local track connecting to Ping Kong Road (**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**). According to the applicants’ submission, the Site will operate 24 hours daily and serve the villagers and residents of Ping Kong Village only. No hourly parking for non-villagers/residents will be provided. 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 two previous applications (No. A/NE-PK/81 and 136) submitted by the same applicants for the same use which were approved with conditions by the Committee on 24.6.2016 and 4.10.2019 respectively. Both planning permissions were subsequently revoked, on 24.5.2017 and 4.1.2020 respectively, due to non-compliance

with approval conditions. The development scheme submitted under the current application is largely the same as compared to the previous applications in terms of site area, parking layout and number of parking spaces provided. In support of the current application, the applicants submitted preliminary drainage and fire service installations (FSIs) proposals (**Drawings A-4 and A-5**).

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

- (a) Application form with attachments received on 3.8.2020 (**Appendix I**)
- (b) Supplementary information received on 7.8.2020 (**Appendix Ia**)
- (c) Further information (FI) received on 3.9.2020 providing explanations for not complying with the approval conditions of the previous planning permission^ (**Appendix Ib**)
- (d) FI received on 19.11.2020 providing responses to Transport Department (TD)'s comments and an updated layout plan of proposed FSIs^ (**Appendix Ic**)

^ Accepted and exempted from publication and recounting requirements

1.5 On 18.9.2020, the Committee decided to defer a decision on the application for a period of two months as requested by the applicants pending their submission of FI to address departmental comments. The applicants subsequently submitted FI as detailed in paragraph 1.4 above. The application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in Part 7 of the application form, supplementary information and further information at **Appendices I, Ia, Ib and Ic**. 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. Previous planning applications for the same use were approved with conditions. The last approval was revoked because one of the applicants was seriously ill last year and could not give consent to the other applicants to follow up the required work. Under the current application, the applicants have submitted drainage and FSIs proposals to demonstrate efforts to comply with requirements of relevant departments;
- (c) there are already stormwater drains and fencing around the Site. The applicants have also provided FSIs. Should the application be approved, the applicants undertake to timely process the matters for compliance with the approval conditions;
- (d) the temporary private car park will only allow parking of private cars and light goods vehicles (not more than 3.3 tonnes). It will be used by the villagers/residents of Ping Kong Village and no hourly parking to non-villagers/residents will be provided. The daily vehicular trips to be generated will not be significant;

- (e) the Site is connected with Ping Kong Road and has sufficient space for vehicle manoeuvring. Suitable measures (e.g. signboard and convex mirrors) will be installed at the entrance of the Site to ensure pedestrian safety and to indicate no provision of hourly parking so as to avoid queuing of cars outside the Site; and
- (f) the applied use would not involve excavation / filling of land and felling of tree and hence would not generate adverse environmental impact.

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

The applicants are the sole “current land owners” 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, the Site is involved in an active enforcement case. An Enforcement Notice (EN) against parking of vehicles was issued to the land owners on 26.5.2020. His site inspection on 10.8.2020 revealed that the unauthorized development still continued upon expiry of the notice. Prosecution action may be undertaken.

5. **Previous Applications**

- 5.1 The Site is the subject of two previous applications No. A/NE-PK/81 and 136 for the same use and submitted by the same applicants, which were approved with conditions by the Committee on 24.6.2016 on 4.10.2019 respectively. They were approved by the Committee mainly on the considerations that the applied uses could serve the parking need of the local villages and were not incompatible with the surrounding rural developments; concerned departments had no adverse comments on the applications; and approval conditions could be imposed to address technical concerns of relevant departments. However, both planning permissions were subsequently revoked due to non-compliance with approval conditions on the submission and implementation of drainage proposal and FSIs proposal.
- 5.2 The development scheme submitted under the current application is largely the same as compared to the previous applications, in terms of site area, parking layout and number of parking spaces provided (**Drawings A-1 and A-2**). The applicants have also submitted preliminary drainage and FSIs proposals under the current application to demonstrate their efforts to comply with the requirements of relevant government departments.
- 5.3 Details of the previous applications are at **Appendix II** and their locations are shown on **Plans A-1 and A-2**.

6. **Similar Application**

There is no similar application for temporary vehicle 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-4b)

7.1 The Site is:

- (a) situated at the western fringe of Ping Kong Village;
- (b) mainly flat and bounded on three sides by boundary wall and fences at its northwest, west and south;
- (c) paved for parking of vehicles without valid planning permission; and
- (d) 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) structures on the Site, if any, are not acceptable under the lease concerned. His office reserves the right to take enforcement actions against unauthorized structures;
- (c) there is no Small House application regarding the Site; and
- (d) should the application be approved, the applicants shall apply to his office for

a Short Term Wavier (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):

he has no in-principle objection to the application from traffic engineering viewpoint based on the applicants' submissions.

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, and considers that the fundamental aspects of the drainage proposal submitted by the applicants are generally acceptable;
- (b) should the application be approved, a condition for the submission and implementation of a more detailed drainage proposal for the Site should be imposed to ensure that no adverse drainage impact will be caused to the adjacent area; and
- (c) should there be any sewer generation in relation to the Site, the applicants shall submit and implement a detailed sewerage connection proposal.

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 in accordance with the detailed comments in paragraph (g) of **Appendix IV**.

Building Matters

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

- (a) no objection to the application; and
- (b) for any submission to the Building Authority for approval of proposed buildings/structures and drainage works, the detailed comments in paragraph (h) of **Appendix IV** should be noted.

Fire Safety

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

- (a) no in-principle objection to the application and considers the preliminary FSI proposal acceptable;
- (b) should the application be approved, the applicants should be required to submit relevant layout plans incorporated with details of the proposed FSIs to his department for approval. The layout plans should be drawn to scale and

depicted with dimensions and nature of occupancy, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and

- (c) if there is any structure(s) requiring 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 of the concerned constituency and the Indigenous Inhabitant Representative (IIR) of Ping Kong Village support the application, and the Chairman of Sheung Shui District Rural Committee (SSDRC) has no comment on the application. A villager of Ping Kong objects to the application mainly for concerns on perpetuation of unauthorized car park operation, adverse impacts on environmental hygiene, glare, air quality, traffic and pedestrian safety, and lack of tree planting proposal within the Site.

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 (Appendix III)

On 11.8.2020, the application was published for public inspection. During the statutory public inspection period, 12 public comments were received. Among them, one indicates no comment on the application. The remaining 11 public comments object to the application mainly for concerns on adverse impacts that may be caused by the applied use on the pedestrian safety, traffic, glare, air quality, noise, drainage and public health aspects as well as the history of the Site with repeated revocations of planning permission.

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 3 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 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 the subject of two previous applications No. A/NE-PK/81 and 136 for the same use submitted by the same applicants, which were approved with conditions by the Committee on 24.6.2016 and 4.10.2019 respectively. The applied use under current application is largely the same as the previously approved cases in terms of the site area, and number and layout of parking spaces. Both previous planning permissions were subsequently revoked, on 24.5.2017 and 4.1.2020 respectively, due to non-compliance with approval conditions on the submission and implementation of drainage proposal and FSIs proposal. For revocation of the last permission, the applicants explained that one of them was seriously ill last year and could not give consent to the others to follow up the required work. Under the current application, the applicants have submitted drainage and FSIs proposals to demonstrate efforts for compliance with the requirements of relevant government departments. Both CE/MN, DSD and D of FS have no in-principle objection to the application and advise that approval conditions requiring the submission of more detailed proposals and their implementation should be imposed.
- 11.3 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. DEP has no objection to the application and advises that there was no substantiated environmental complaint case in the past three years. Having reviewed the FIs submitted by the applicants, C for T has no objection to the application. Other relevant departments consulted including CTP/UD&L of PlanD, CE/C of WSD and CHE/NTE, HyD have no adverse comment on or no objection to the application.
- 11.4 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 would not be given to any further application.
- 11.5 Regarding the local objection to the application conveyed by DO(N), HAD in paragraph 9.1.10 above and the adverse public comments as detailed in paragraph 10 above, Government departments' 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 and local views mentioned in paragraphs 10 and 9.1.10 respectively, the Planning Department has no objection to the application.

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 8.1.2024. 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 time during the planning approval period;
- (d) the submission of a 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 8.4.2021;
- (e) in relation to (d) 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 8.7.2021;
- (f) the submission of proposals for water supplies for fire-fighting and fire service installations 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 8.4.2021;
- (g) in relation to (f) above, the implementation of proposals for water supplies for fire-fighting and fire service installations 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 8.7.2021;
- (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 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 3.8.2020
Appendix Ia	Supplementary Information received on 7.8.2020
Appendix Ib	Further Information received on 3.9.2020
Appendix Ic	Further Information received on 19.11.2020
Appendix II	Previous s.16 Applications
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	Location of Proposed Fire Service Installations
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos