

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/646

- Applicant** : Team Rich Inc Limited represented by Glister Engineering Consultants Company
- Site** : Lots 1831 S.B RP (Part), 1833 and 1834 S.C RP (Part) in D.D. 76, Ma Mei Ha, Fanling, N.T.
- Site Area** : About 3,090 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : “Agriculture”(“AGR”)
- Application** : Proposed Temporary Vehicle Park for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary vehicle park for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZP.
- 1.2 According to the applicant, a total of 13, 24 and 7 parking spaces will be provided for private car (2.5m x 5m each), light goods vehicle (LGVs) (3m x 7.5m each) and heavy goods vehicle (HGVs) (3.5m x 16m each) respectively. Five temporary single-storey (3m in height) structures with a total floor area of about 36.72 m² are proposed for guard room, office and toilet uses respectively. The proposed vehicle park will operate 24 hours daily. The Site is accessible from Sha Tau Kok Road – Ma Mei Ha Section at its southern boundary (**Plan A-2**). The layout plan submitted by the applicant is at **Drawing A-1**. The Site is currently vacant.
- 1.3 The Site is the subject of a previous application (No. A/NE-TKL/624) submitted by the same applicant for a different use of proposed temporary open storage of construction material for a period of three years. It was rejected by the Rural and New Town Planning

Committee (the Committee) on 20.9.2019 mainly on the grounds of not in line with the planning intention of the “AGR” zone; not compliance with the relevant Town Planning Board Guidelines; and insufficient information to demonstrate no adverse traffic, environmental and drainage impact on the surrounding areas.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form with Attachment received on 15.9.2020 (Appendix I)
- (b) Supplementary Information received on 16.9.2020 (Appendix Ia)

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 attachment at **Appendix I**. They can be summarized as follows:

- (a) the proposed development is supported by local villagers as it would alleviate the car parking shortage problem in the area;
- (b) the proposed development is on temporary basis; and
- (c) the approval conditions imposed upon the planning approval would be strictly followed by the applicant.

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

The applicant is one of the “current land owner” of the Site and 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 or notifying the other current land owner.

4. Previous Application

4.1. The Site is the subject of a previous application (No. A/NE-TKL/624) for a proposed temporary open storage of construction material for a period of three years submitted by the same applicant. The application was rejected by the Committee on 20.9.2019 mainly on the grounds of not in line with the planning intention of the “AGR” zone; not compliance with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13E); and insufficient information to demonstrate no adverse traffic, environmental and drainage impact on the surrounding areas.

4.2. Details of the previous application is summarized at **Appendix II** and its location is shown on **Plan A-1**.

5. Similar Application

There is no similar application in the same “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.

6. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on Plans A-3 and site photos on Plans A-4a to A-4b)

6.1 The Site is:

- (a) flat, vacant and mainly covered by grass and fenced off; and
- (b) accessible from Sha Tau Kok Road – Ma Mei Ha Section.

6.2 The surrounding areas have the following characteristics:

- (a) to the immediate west is village proper of Leng Tsai Village;
- (b) to the south across the Sha Tau Kok Road – Ma Mei Ha Section are domestic structures, some retail shops and active/fallow agricultural land;
- (c) to the immediate north are active/fallow agricultural land intermixed with vacant land and some domestic structures; and
- (d) to the immediate southwest is a site of open storage and temporary domestic structure.

7. **Planning Intention**

The planning intention of the “AGR” zone is to primarily 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 summarised as follows:

Land Administration

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

- (a) the lot is an Old Schedule lot held under Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make her own arrangement of acquiring access, and there is no guarantee that any adjoining Government Land (GL) will be allowed for the vehicular access of the proposed use;
- (b) only part of Lot No. 1831 S.B RP in D.D. 76 (the Lot) falls within the Site. The other part of the Lot, which is situated on the opposite side of the Site (separated by Sha Tau Kok Road), has not been included in the Site, and is overgrown with weeds at the time of site inspection (Plans A-2 and A-3); and

- (c) should the application be approved, the applicant shall apply to her office for 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, their 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 fees as considered appropriate by her office.

Traffic

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

- (a) she cannot render support to the application from the traffic engineering perspective unless the applicant could satisfactorily address his following comments:
 - (i) the applicant shall assess the impact of the proposed carpark on the operation of the bus stop to the immediate south of the Site (**Plan A-2**);
 - (ii) the applicant shall demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site, manoeuvring within the Site and into/out of the parking and loading/unloading spaces, preferably using the swept path analysis;
 - (iii) the applicant shall advise the management/control measures to be implemented to ensure no queuing of vehicles outside the Site;
 - (iv) the applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety; and
 - (v) the applicant should advise the arrangement and the width of the vehicular access by drawing of better quality.

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

- (a) the section of Sha Tau Kok Road – Ma Mei Ha adjacent to the Site is under his maintenance purview. However, the proposed ingress/egress to the Site will pass through a strip of land between the footpath of Sha Tau Kok Road - Ma Mei Ha Section and the Site, which is an unallocated government land (UGL) (**Plan A-2**). The applicant is required to sort out the land issues with relevant land authority;
- (b) adequate drainage measures should be provided to prevent surface water running from the Site onto the nearby public road; and

- (c) should the application be approved, the applicant is required to construct a proper ingress and egress for the Site according to HyD's Standard Drawings. Upon termination of the application, the applicant is required to reinstate the ingress and egress to their original state to his satisfaction at his own cost.

Environment

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

- (a) he does not support the application as there are domestic structures in the vicinity of the Site, the closest ones are located to the south at a distance of about 5m (**Plan A-2**); and
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Uses'.

Landscape Aspect

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

- (a) she has no objection to the application from landscape planning perspective;
- (b) based on the aerial photo of 2019, the site is situated in an area of rural landscape character comprising village houses, temporary structures and clustered tree groups. According to her site record, the Site is a piece of abandoned agricultural land covered mainly by grassy vegetation without existing trees within the site. Significant adverse impact arising from the proposed use under the application on existing landscape resources is not anticipated; and
- (c) the Site is set back from public frontage with existing trees in between Sha Tau Kok Road - Ma Mei Ha Section. Hence, should the application be approved, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) he has no objection to the application from the public drainage viewpoint; and
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area. His advisory comments are at **Appendix IV**.

Building Matters

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

- there is also no record of submission of the proposed buildings/structures to BD for approval. His advisory comments are at **Appendix IV**.

Fire Safety

8.1.8 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 (FSIs) and water supplies for fire-fighting being provided to satisfaction of his department;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans;
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Agriculture

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

- (a) she does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation; and
- (b) the Site is currently abandoned land. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries.

District Officer's Comments

8.1.10 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The Chairman, Vice Chairman and 1st Vice-chairman of Fanling District Rural Committee, a NDC member of the subject constituency, the Indigenous Inhabitants

Representative (IIR) and Resident Representative (RR) of Kan Tau Tsuen, one IIR and one RR of Leng Tsai object to the application mainly on the grounds that the proposed development locates closely to the neighbourhood and would generate heavy traffic flow which cause traffic and environmental impact and hence threaten the safety and health of the local residents; and the proposed vehicular access located closely to the existing bus lay-by which would cause pedestrian safety issue;

- (b) the other RR of Leng Tsui supports the application as the proposed development is supported by local villagers due to the car parking spaces shortage in the area and the proposed development can reduce on-street car parking; and
- (c) the other IIR of Leng Tsui, the RR and IIR of Ma Mei Ha have no comment on the application.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

9. Public Comments Received During Statutory Publication Period

On 22.9.2020, the application was published for public inspection. During the statutory public inspection period, eleven public comments were received (**Appendix III**). A NDC Member indicates no comment on the application. The remaining ten comments from The Vice Chairman and 1st Vice Chairman of Fanling Rural Committee, a NDC Member and a NDC Member of the subject constituency, Kadoorie Farm and Botanic Garden, WWF-HK, the Hong Kong Bird Watching Society and three individuals object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; the Site is the subject of previous rejected application (No. A/NE-TKL/624); the proposed development would generate heavy traffic flow which cause adverse traffic impact to the Sha Tau Kok Road; the proposed development locates closed to the neighborhood would threaten the safety and health of the local residents; the proposed vehicular access located closely to the existing bus lay-by which would cause pedestrian safety issue; the proposed development would cause flooding problem and would cause insurmountable environmental impact to the area; and the proposed development would set an undesirable precedent for similar uses in the surrounding.

10. Planning Considerations and Assessments

10.1 The application is for a proposed temporary vehicle park for a period of three years at the Site falling entirely within “AGR” zone on the OZP. The proposed development is not in line with the planning intention of “AGR” zone which is primarily 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 as the Site has potential for agricultural rehabilitation. There is no strong justifications in the submission to justify a departure from the planning intention of the “AGR” zone, even on a temporary basis.

- 10.2 The proposed development is considered not entirely incompatible with the surrounding land uses which are mainly village houses, active/fallow agricultural land, vacant land, temporary structures and some open storages uses. CTP/UD&L, PlanD has no objection to the application as significant adverse impact arising from the proposed development on the existing landscape resources is not anticipated.
- 10.3 C for T does not support the application from the traffic engineering viewpoint as the applicant fails to demonstrate in the submission that the temporary vehicle park will not cause adverse traffic impact on the surrounding areas in that the applicant needs to satisfactorily address on the aspects of arrangement of the vehicular access, traffic and the provision of traffic management/control measures, etc. In particular, the proposed development would be in conflict with the existing bus stop (**Plan A-2**). Also, DEP does not support the application as there are sensitive receivers (i.e. domestic structures) in the vicinity of the Site and the closest one is located to the immediate south at distance of about 5m. Other Government departments consulted, including CE/MN of DSD, CE/C of WSD, D of FS and PM(N), CEDD have no adverse comment on or no objection to the application.
- 10.4 The Site is the subject of a previous planning application (No. A/NE-TKL/624) submitted by the same applicant for a proposed temporary open storage of construction material submitted for a period of three years. The application was rejected by the Committee on 20.9.2019 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; not complying with the relevant Town Planning Board Guidelines; and adverse traffic, environmental and drainage impact on the surrounding areas.
- 10.5 Regarding the local objection conveyed by DO(N), HAD and adverse public comments as detailed in paragraphs 8.1.10 and 9 above respectively, Government departments’ comments and 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 local objection conveyed by DO(N), HAD and public comments mentioned in paragraphs 8.1.10 and 9 above respectively, 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 such planning intention, even on a temporary basis; and
 - (b) the applicant fails to demonstrate that the proposed development would not cause adverse traffic impact on the surrounding areas.
- 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 6.11.2023. The following conditions of approval 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) no containers tractor/ trailers 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 no containers tractor/ trailers 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) no vehicle is allowed to queue back to or reverse onto/ from public road at any time during the planning approval period;
- (e) the provision of peripheral boundary fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.5.2021;
- (f) the submission of traffic review within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.5.2021;
- (g) in relation to (f) above, the implementation of traffic mitigation measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.8.2021;
- (h) the submission of a run-in/out proposal within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.5.2021;
- (i) in relation to (h) above, the provision of run-in/out proposal within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.8.2021;
- (j) 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 6.5.2021;
- (k) in relation to (j) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.8.2021;
- (l) the submission of proposals for water supplies for firefighting 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 6.5.2021;

- (m) in relation to (l) above, the provision of water supplies for firefighting and fire service installations 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 6.8.2021;
- (n) 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;
- (o) if any of the above planning conditions (e), (f), (g), (h), (i), (j), (k), (l) or (m) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (p) upon the 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 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 the 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), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

13. Attachments

Appendix I	Application Form with Attachment received on 15.9.2020
Appendix Ia	Supplementary Information received on 16.9.2020
Appendix II	Previous Application
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos