

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/671

- Applicant** : Sea Well (Hong Kong) Limited represented by Lawson David and Sung Surveyors Limited
- Site** : Lots 246 S.A (Part), 247, 249 and 250 RP (Part) in D.D. 23, Ting Kok, Tai Po, N.T.
- Site Area** : About 1,295m²
- 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 three years at the application site (the Site) (**Plan A-1**). The Site is zoned “AGR” on the approved Ting Kok OZP No. S/NE-TK/19. 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.
- 1.2 According to the applicant’s submission, a total of 33 parking spaces for private cars will be provided within the Site. No parking space of heavy goods vehicle will be provided and no structure will be erected on the Site. Screen planting along the site boundary will be provided. The proposed temporary public vehicle park will operate 24 hours daily and it is anticipated that there will be not more than 20 vehicular trips during peak hours (7:00am - 9:00am and 5:00pm - 7:00pm). The Site is accessible from Tung Tsz Road via a local track. Plans showing the vehicular access to the Site, indicative layout and landscape proposal are at **Drawings A-1 to A-3** respectively.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) application form and attachments received on (Appendix I)
27.5.2019
- (b) Planning Statement (Appendix Ia)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement (Appendix Ia). They can be summarized as follows:

- (a) the Site is located close to local villages of Wai Ha and San Tau Kok. There are strong local demand for parking of private cars by the local villagers/residents as very limited public parking facilities are found in the locality. In view of the village environment, the village houses are built in a very dense manner and limited spaces are available for vehicular access and parking. It is very common for villagers to park their cars disorderly on open ground or road side. The proposed public vehicle park is intended to meet the acute parking demand of nearby villagers/residents. It will also increase the safety of pedestrians/cyclists and reduce accident casualties by avoiding disorderly parking;
- (b) the temporary nature of the application will not jeopardize the long-term planning intention of the “AGR” zone. The proposed development in the interim at the Site is not unsuitable and is able to flexibly meet the parking demand of the local villagers;
- (c) the surrounding areas of the Site are mainly village houses and residential dwellings. The Site is located in between the villages in Wai Ha and San Tau Kok and within walking distance to these villages. The proposed development could complement to the existing and future residential uses and is considered not incompatible with other developments/facilities in the adjacent areas in terms of nature and scale of use;
- (d) the Site has been left vacant for years. The proposed development provides an interim solution to maximize land utilization on the Site rather than leaving the Site idle and deteriorating. It would also contribute to achieving Government policy of increasing parking spaces by private initiatives. It would make better use of valuable land resources and bring about social benefits without increasing public expenditure;
- (e) as the proposed public vehicle park will absolutely not include any vehicle repairing, washing or workshop activities, it will not induce any air, noise and sewage impacts. The Site will be fenced off to ensure that the proposed development be inconspicuous and not create an eyesore to surrounding areas. Moreover, there are no trees within the Site and significant disturbance to existing landscape resources and character was not anticipated. Screen planting along the site boundary will be provided to soften the appearance of the proposed development and improve the local environment in general;
- (f) the applicant will also provide drainage facilities to the satisfaction of Drainage Services Department and petrol interceptors will be placed at

discharge points of the proposed drainage system to avoid water pollution. Therefore, the proposed use will unlikely create significant adverse environmental, visual and drainage impacts to the surrounding areas;

- (g) the layout design of the proposed temporary public vehicle park has taken into account vehicular circulation and manoeuvring. Adequate aisle width will be provided for vehicle maneuvering and the proposed layout conform with the requirement stipulated in the Hong Kong Planning Standards and Guidelines. Besides, as only private cars will be allowed to be parked at the Site, it will not burden the traffic infrastructure and the concern of traffic safety is therefore not an issue. In addition, the proposed vehicle park will allow parking of vehicles in a well-managed area and reduce chaotic/illegal parking in the village areas/road sides; and
- (h) it is anticipated that there will be not more than 20 vehicular trips during peak hours (7:00am - 9:00am and 5:00pm - 7:00pm). Tung Tsz Road is not a busy road used by heavy goods vehicles and container vehicles and traffic congestion on this road unlikely happens. Since the capacity of the access road would be able to cope with the traffic demand induced by the proposed development, the proposed development could help meet the car parking needs of the villagers.

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

The applicant is not the “current land owner”. In respect of the “current land owner(s)”, the applicant 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 posting site notice at the Site and sending notice to Tai Po Rural Committee through registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is not involved in any active planning enforcement case.
- 4.2 However, the Site was subject to previous enforcement action (Ref. E/NE-TK/116). Enforcement Notice (EN) against storage use was issued on 8.3.2018 and Compliance Notice (CN) was issued on 28.12.2018 as the storage use was discontinued. Reinstatement Notice (RN) was also issued on 7.1.2019 and CN was issued on 8.5.2019 as the Site was reinstated.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application within the same “AGR” zone.

7. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3a, A-3b and A-4)

7.1 The Site is:

- (a) covered by grass and fenced off; and
- (b) accessible from Tung Tsz Road via a local track.

7.2 The surrounding areas are predominantly rural in character with village houses, vacant land and tree groups. To the east and the west are village proper of San Tau Kok and Wai Ha respectively. Some of the land areas in close proximity to the Site (**Plan A-2**) are used for parking of vehicles without planning permission and are subject to enforcement action.

8. 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.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 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. 23, Ting Kok, which are held under Block Government Lease demised for agricultural purpose. No structure shall be erected on the lots without prior approval from LandsD;
- (c) a recent inspection revealed that the Site was vacant and no structure was found thereon;

- (d) should the application be approved by the Board, the lot owners are required to submit application for short term waiver (STW) to LandsD should they wish to erect any structure on the Site. 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 fees as considered appropriate; and
- (e) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access (EVA) thereto.

Traffic

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

- (a) no in-principle objection to the application from traffic engineering point of view; and
- (b) comments from the owners of the affected lots and the maintenance responsibility parties should be sought for the approaching road as necessary.

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

- (a) no comment on the application; and
- (b) the local track branching from Tung Tsz Road, which is proposed to serve as access to the Site, is not maintained by HyD.

Agriculture and Nature Conservation

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

- (a) the Site is overgrown with grass. 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; and
- (b) should the application be approved by the Board, the applicant should be reminded to confine the proposed development within the Site, and to implement necessary precautionary measures to

minimize any potential impact on the marsh in the nearby “Conservation Area” zone, which is on the opposite side of Tung Tsz Road.

Environment

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

- (a) no comment on the application;
- (b) it is noted that the temporary car park is intended for private car use, which does not involve generation of heavy vehicles;
- (c) 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”; and
- (d) there was no environmental complaint related to the Site received in the past three years.

Landscape

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

- (a) some reservations on the application from the landscape planning perspective;
- (b) the Site is bounded by Tung Tsz Road to the south and local access road to the north. The Site is situated in an area of rural landscape character comprising scattered tree groups and village houses. No similar application was previously approved by the TPB within the same “AGR” zone;
- (c) the original vegetation on the Site had been cleared as shown on aerial photo of 2017 (**Plan A-3b**). According to his recent site inspection, the Site is vacant and covered with grasses and groundcovers. Saplings of native trees including *Ficus microcarpa* (細葉榕), *Ficus hispida* (對葉榕) and *Macaranga tanariux* (血桐) in fair to good condition are found along the site boundary. Referring to the layout plan submitted by the applicant, existing saplings are not in direct conflict with the proposed development. Although significant adverse impact arising from the proposed development on landscape resources within the Site is not anticipated, approval of the application may encourage similar temporary use in the area, which would lead to degradation of the rural landscape character in the vicinity; and

- (d) in view that the Site is not bounded by prominent public frontage, should the application be approved by the Board, it is considered unnecessary to impose condition for submission and implementation of landscape proposal.

Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (c) while there are DSD's public stormwater drains in this area, the proposed use should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. 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;
- (d) there is existing public sewers in the vicinity of the Site. The applicant should follow the established procedures and requirements for connecting sewers from the Site to the public sewerage system. A connection proposal should be submitted for approval beforehand. Moreover, the sewerage connection will be subject to DSD's technical audit, for which an audit fee will be charged; and
- (e) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant lot owners should be sought.

Water Supply

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

- (a) no objection to the application; and
- (b) for the provision of water supply to the proposed use, the applicant may need to extend the inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Fire Safety

9.1.9 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) in consideration of the design/nature of the application, FSIs are anticipated to be required. Therefore, the applicant is advised to submit the relevant layout plans incorporated with the proposed FSIs for approval. The applicant should also be advised that 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.

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

- (a) Commissioner of Police;
- (b) Project Manager/North, Civil Engineering and Development Department;
- (c) Director of Electrical and Mechanical Services;
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (e) District Officer/Tai Po, Home Affairs Department.

10. Public Comments Received During Statutory Publication Period (Appendix II)

On 4.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received from World Wide Fund for Nature Hong Kong, The Hong Kong Bird Watching Society and an individual objecting to the application mainly on the grounds of not being in line with the planning intention of "AGR" zone; causing

adverse ecological and environmental impacts; still being possible for agriculture purpose; being “destroy first, build later”; and setting of an undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary public vehicle park for 33 private car parking spaces on a site falling entirely on 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 agricultural infrastructure such as road access and water source is available, and 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.
- 11.2 The Site, being covered with grass and fenced off, is situated in an area of rural landscape character comprising scattered tree groups and village houses (**Plans A-2 and A-3a**). CTP/UD&L of PlanD advises that the original vegetation on the Site had been cleared as shown on the aerial photo of 2017 (**Plan A-3b**). Although significant adverse impact arising from the proposed development on landscape resources within the Site is not anticipated, approval of the application may encourage similar temporary use in the area, which would lead to degradation of the rural landscape character in the vicinity. Thus, he has some reservations on the application from the landscape planning perspective. While the Site is not involved in any active planning enforcement case, it was subject to a previous enforcement action against storage use. Relevant EN and CN were issued in March and December 2018 respectively as the storage use was discontinued, and relevant RN and CN were also issued in January and May 2019 when the Site was reinstated.
- 11.3 C for T has no in-principle objection to the application from traffic engineering point of view. DEP has no comment on the application as the proposed use does not involve heavy vehicles and advises that no environmental complaint related to the Site was received in the past three years. Other relevant Government departments consulted including H(GEO) of CEDD, CE/C of WSD, CE/MN of DSD, CHE/NTE of HyD, D of FS and C of P have no objection to or no adverse comment on the application.
- 11.4 The Site is not the subject of any previous application, and there is no similar application for the same use within the same “AGR” zone. It should be noted that some of the land areas in close proximity to the Site (**Plan A-2**) are currently used for parking of vehicles without planning permission and are subject to enforcement action. In view of the above, approving the application would set an undesirable precedent for similar applications in the same “AGR” zone, the cumulative effect of approving such similar applications will inevitably degrade the landscape character of the “AGR” zone.

- 11.5 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 10 above, Government departments' comments and the planning assessments in above paragraphs 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 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; and
- (b) the approval of the application, even on a temporary basis, 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.

- 12.2 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 19.7.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicles other than private cars are allowed to be parked on the site at any time during the planning approval period;
- (b) no vehicle dismantling, inspection, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the site at any time during the planning approval period;
- (c) the provision of boundary fencing on the application 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 19.1.2020;
- (d) the submission of 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 19.1.2020;
- (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 19.4.2020;

- (f) the submission of fire service installations (FSIs) and water supplies for fire-fighting 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 19.1.2020;
- (g) in relation to (f) above, the implementation of FSIs and water supplies for fire-fighting proposal 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 19.4.2020;
- (h) if any of the above planning conditions (a) or (b) 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 (c), (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 the expiry of the planning permission, the reinstatement of the application 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 III**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 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, and the period of which the permission should be valid on a temporary basis.

14. Attachments

Appendix I	Application form and attachments received on 27.5.2019
Appendix Ia	Planning Statement
Appendix II	Public comments
Appendix III	Recommended advisory clauses
Drawings A-1 to A-3	Vehicular access, indicative layout and landscape proposal

	submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3b	Aerial Photos
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2019**