

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/689

- Applicant** : Mr. LEUNG Pak Keung
- Site** : Lots 725 RP (Part) and 762 (Part) in D.D. 29, Ting Kok, Tai Po, New Territories
- Site Area** : About 937m²
- 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 Car Park (Private Cars only) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary car park (private cars only) for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. Part of the Site is currently used as an open storage for construction materials without planning permission.
- 1.2 According to the applicant, a total of 34 parking spaces for private cars will be provided within the Site to serve local residents and operate 24 hours daily. No structure will be erected on the Site. The Site abuts on Shan Liu Road. A plan showing the parking layout and vehicular ingress/egress to Shan Liu Road is at **Drawing A-1**.
- 1.3 The Site is part of the subject of two previous applications (No. A/NE-TK/629 and 674) for the same use for a period of three years, which were rejected by the Rural and New Town Planning Committee (the Committee) and the Board upon review on 9.2.2018 and 22.5.2020 respectively. Compared with the latest previous application, the site area under the current application has been reduced from 1,994m² to 937m² and the number of parking spaces is reduced from 68 to 34.

- 1.4 In support of the application, the applicant has submitted the application form and attachments on 15.9.2020 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) Shan Liu Road, which is the only access to Shan Liu Village and the area to the east of Ting Kok Village, is often blocked by roadside parking, leading to serious traffic and safety problems;
- (b) in view of the traffic and safety problems, the applicant and land owners of the Site agree to provide land for car parking to the villagers. As the Site is zoned as “AGR”, planning permission is required;
- (c) the proposed development will operate 24 hours daily for parking of private cars only; and
- (d) the design of Shan Liu Road could not meet the need of the significantly increased population and private cars in the past two decades. The Board is urged to approve the application so that villagers could have proper parking area and avoid blocking Shan Liu Road by illegal parking.

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by sending notices by registered mails to or obtaining consent of the “current land owner(s)”. 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), part of the Site is the subject of an active planning enforcement case (No. E/NE-TK/154) against unauthorized development involving storage use (**Plan A-2**). Enforcement Notice (EN) was issued on 24.9.2020 requiring the notice recipients to discontinue the unauthorized development by 24.11.2020. The case is now under monitoring according to established procedures.
- 4.2 The Site was also the subject of a previous enforcement case (No. E/NE-TK/118) against unauthorized development involving parking of vehicles. EN

and Reinstatement Notice were issued on 1.2.2018 and 19.11.2018 respectively, with relevant Compliance Notices issued on 9.11.2018 and 5.8.2020.

5. Previous Applications

- 5.1 The Site is part of the subject of two previous applications (No. A/NE-TK/629 and 674) for temporary car park uses for a period of three years, which were rejected by the Committee and the Board on 9.2.2018 and 22.5.2020 respectively, for the reasons of being not in line with the planning intention of the “AGR” zone; causing adverse landscape impact to the area; and setting of undesirable precedent for other similar applications. The latest previous application No. A/NE-TK/674 was submitted by the applicant of the current application. Compared with that application, the site area in the current application has been reduced from 1,994m² to 937m² by excluding the Government land and some private land, and the number of parking spaces is reduced from 68 to 34.
- 5.2 Details of the above applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

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-3 and A-4)

- 7.1 The Site is:
- (a) partly used as an open storage for construction materials without planning permission;
 - (b) situated near the northern fringe of Ting Kok Village and adjoins Shan Liu Road; and
 - (c) bounded by woodland and undergrowth to the north and east.
- 7.2 The surrounding areas are predominantly rural in character with village houses, scattered tree groups and woodland. The village proper of Ting Kok is situated about 35m to the south of the Site across Shan Liu Road. Pak Sin Leng Country Park is located about 50m to the east of the Site.

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 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 two private lots in D.D. 29, Ting Kok with different ownership. The private lots are held under Block Government Lease demised for agricultural purpose. No structure shall be erected thereon without prior approval from LandsD;
- (c) the two proposed ingress/egress are on unallocated Government land. As such, no trees thereon shall be interfered with unless prior approval is obtained from LandsD. Also, the maintenance and management responsibility of the said Government land should be sorted out with the relevant Government departments, prior to making use of them for proposed vehicular access purpose. Neither occupation nor works of any kind thereon is allowed without the prior approval from LandsD;
- (d) should the application be approved by the Board, the applicant is required to submit applications for Short Term Waiver (STW) to LandsD if he wishes to erect structures on the private lots. However, there is no guarantee at this stage that the STW applications would be approved. If the STW applications are 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 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) does not support the application from traffic engineering point of view as the applicant fails to demonstrate the proposed car park

layout is feasible. Access to some of the parking spaces are blocked by other parking spaces as shown on the applicant's submission. The applicant should demonstrate how the vehicles can enter into these parking spaces;

- (b) for the village access road, it is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes; and
- (c) the applicant is also reminded that sufficient space within the Site should be provided for manoeuvring of vehicles.

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

- (a) no adverse comment on the application; and
- (b) the section of Shan Liu Road adjacent to the Site is under HyD's maintenance purview, but the road branching from Shan Liu Road leading to the proposed ingress/egress is not.

9.1.4 Comments of the Commissioner of Police (C of P):

- (a) no comment on the application;
- (b) record check revealed that there were 91 records related to vehicle obstruction and traffic complaints in Shan Liu Road between September 2019 and September 2020 (inclusive), i.e. on average of 8 complaints received per month; and
- (c) a site visit revealed that illegal parking existed in the area but vehicular traffic flow was low in general. The illegal parking situation is not particularly alarming.

Environment

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

- (a) no comment on the application; and
- (b) the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites".

Landscape

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 landscape planning point of view;
- (b) the Site is located in an area of rural coastal plains landscape character surrounded by dense vegetation within the subject “AGR” zone and village houses to its south in the “Village Type Development” zone on the same OZP. Based on the aerial photos of 2014 to 2019 (**Plan A-3**), vegetation within and outside the Site was cleared and site formation works had been conducted since 2015. Adverse landscape impact had already taken place;
- (c) a mature *Ficus microcarpa* (細葉榕) is observed in close proximity to the proposed car parking space along the southeastern site boundary (**Plans A-2 and A-4**); the direct/indirect impact arising from the proposed development on the subject tree could not be ascertained. Furthermore, according to record, no similar development has previously been approved by the Board within the same “AGR” zone; the proposed temporary car park is considered not entirely compatible with the densely vegetated surroundings of the Site within the subject “AGR” zone. Should the application be approved, it would set an undesirable precedent of such development in the “AGR” zone, and would encourage more similar developments within the area. The cumulative impact of approving such applications would degrade the landscape quality of the surrounding environment; and
- (d) there is no major public frontage along the site boundary. Should the application be approved by the Board, it is considered unnecessary to impose landscape condition as its effect on enhancing the quality of public realm is not apparent.

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) there is no existing DSD maintained public drains available for

connection in the area. The applicant should have his own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, 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 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 are existing public sewers in the vicinity of the Site; 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.

Agriculture

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

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

Fire Safety

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) and water supplies for fire-fighting being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposed development, the applicant should submit relevant layout plans incorporated with the proposed FSIs for his approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if there is any proposed structure(s) which 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.

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

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

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

On 22.9.2020, the application was published for public inspection. During the statutory public inspection period, three public comments were received from The Hong Kong Bird Watching Society, WWF Hong Kong and an individual objecting to the application on the grounds of being not in line with the planning intention of the “AGR” zone; being the subject of an unauthorized development; being a “destroy first, build later” case; causing adverse environmental impact; and setting of undesirable precedent.

11. **Planning Considerations and Assessments**

11.1 The application is for a proposed temporary car park (private cars only) with 34 private car parking spaces on a site falling entirely within an area zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation. The applicant has not provided any strong planning justifications in the submission to justify a departure from the planning intention of “AGR” zone, even on a temporary basis.

11.2 The Site is situated near the northern fringe of Ting Kok Village and adjoins Shan Liu Road. It is partly used as an open storage for construction materials without planning permission (**Plan A-4**). One *Ficus microcarpa* (細葉榕) is observed in close proximity to the proposed car parking space along the southeastern site boundary (**Plans A-2 and A-4**). CTP/UD&L of PlanD advises that the direct/indirect impact arising from the proposed development on the subject tree could not be ascertained, and the proposed development is considered not entirely compatible with the densely vegetated surroundings of the Site within the subject “AGR” zone. According to the past aerial photos (**Plan A-3**), vegetation within and outside the Site was cleared and site formation works had been conducted since 2015. Adverse landscape impact had already taken place. Therefore, she has some reservations on the application from the landscape planning point of view.

- 11.3 As shown in the parking layout plan submitted by the applicant (**Drawing A-1**), access to some of the parking spaces are blocked by other parking spaces. C for T does not support the application from traffic engineering point of view as the applicant fails to demonstrate the proposed scheme is feasible. Other relevant Government departments consulted including DEP, H(GEO) of CEDD, CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD, D of FS and C of P have no objection to or adverse comment on the application.
- 11.4 The Site is part of the subject of two previous applications (No. A/NE-TK/629 and 674) for temporary car park uses for a period of three years, which were rejected by the Committee and the Board on 9.2.2018 and 22.5.2020 respectively, for the reasons of being not in line with the planning intention of the “AGR” zone; causing adverse landscape impact to the area; and setting of undesirable precedent for other similar applications. Compared with the latest previous application, which was also submitted by the applicant of the current application, the site area in the current application has been reduced from 1,994m² to 937m² by excluding the Government land and some private land, and the number of parking spaces is reduced from 68 to 34. Despite that the scale of the proposed car park has been reduced, there is no material change in planning circumstances since the rejection of the latest previous application that warrants a departure from the Board’s previous decision.
- 11.5 There is no similar application within the same “AGR” zone. As such, approving the application would set an undesirable precedent for similar applications in the “AGR” zone and the cumulative effect of approving such similar applications will result in a general degradation of the landscape character of the area.
- 11.6 Regarding the public comments on the application as detailed in paragraph 10, 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;
 - (b) the applicant fails to demonstrate in the submission that the proposed car park layout is feasible from traffic engineering point of view;
 - (c) the applicant fails to demonstrate in the submission that the proposed

development would not result in adverse landscape impact to the area;
and

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

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 three years until 6.11.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle without valid licence issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) only private car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) a notice should be posted at a prominent location of the Site to indicate that only private car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) 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 peripheral 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 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;
- (g) in relation to (f) 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 6.8.2021;

- (h) the submission of fire service installations 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 6.5.2021;
- (i) in relation to (h) above, the implementation of fire service installations 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 6.8.2021;
- (j) the submission of a revised car park layout proposal prior to the operation of the proposed temporary car park within 6 months from the date of planning approval and to the satisfaction of the Commissioner for Transport or of the Town Planning Board 6.5.2021;
- (k) in relation to (j) above, the implementation of revised car park layout proposal prior to the operation of the proposed temporary car park within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board 6.8.2021;
- (l) 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;
- (m) if any of the above planning conditions (e), (f), (g), (h), (i), (j) or (k) 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
- (n) upon 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 IV**.

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 15.9.2020
Appendix II	Previous applications
Appendix III	Public comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photos
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**