

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/256

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| <u>Applicant:</u> | Mr. CHAN Kai Hung represented by Creative Engineering Consultancy Limited |
| <u>Site:</u> | Lots 504 S.A and 504 S.B in D.D. 222, Pak Kong Village, Sai Kung, New Territories |
| <u>Site Area:</u> | About 252 m ² |
| <u>Land Status:</u> | Old Scheduled Agricultural Lots held under Block Government Lease |
| <u>Plan:</u> | Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11 (the OZP) |
| <u>Zoning:</u> | “Green Belt” (“GB”) |
| <u>Application:</u> | Proposed Public Vehicle Park (excluding Container Vehicles) on a Temporary Basis for a Period of Three Years |

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) (**Plan A-1**) for temporary public vehicle park (excluding container vehicles) for a period of three years. According to the Notes of the OZP, temporary use or development of any land 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. According to the applicant, the proposed vehicle park will provide 10 private car parking spaces for use by villagers.
- 1.2 In support of the application, the applicant has submitted the application form on 23.9.2019 (**Appendix I**). The location plan submitted by the applicant is at **Drawing A-1**.

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) there is insufficient parking spaces in Pak Kong Village and illegal parking in the village is rife;

- (b) the Site is adjacent to a village road frequently used by residents of Pak Kong Village and hence there is no need to construct a new road to connect to the Site;
- (c) there will be no increase in traffic flow; and
- (d) the Site is currently flat with no trees. There is no need to fell trees and there would be no adverse impact on the surrounding environment.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was part of an enforcement case against unauthorized land filling (case no. E/SK-PK/70) (**Plan A-2**). Enforcement Notice was issued on 30.3.2015 requiring the unauthorised use to discontinue, and a Reinstatement Notice was issued on 31.8.2015 requiring the removal of the leftovers, debris, and fill materials (including asphalt) on the area, and to grass the area. The Compliance Notices were issued on 4.10.2016 and 5.10.2016.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Development within “Green Belt” Zone (TPB PG-No. 10) are relevant to this application (**Appendix II**). The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development in a “GB” zone. In general the Board will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use;
- (b) an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds;
- (c) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (d) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area; and
- (e) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Application

The Site forms part of a previous application No. A/SK-PK/1 for proposed ten 3-storey village-type houses which was rejected upon review by the Board on 20.1.1995 mainly on the grounds of not in line with planning intention of “GB” zone; the proposed development will result in an increase in population within the 250m Consultation Zone of the Pak Kong Water Treatment Works, a Potentially Hazardous Installation, which will be undesirable; piecemeal nature of the proposed development and approval of the application will frustrate future comprehensive planning of the wider areas; and there is insufficient information on the drainage impacts and flood mitigation proposals.

7. Similar Application

There is no similar application within the “GB” zone on the OZP.

8. The Site and Its Surrounding Areas (Plans A-1 to A-3, and Site Photos at Plans A-4a and A-4b)

8.1 The Site is:

- (a) flat, partly fenced and covered with grass and weeds;
- (b) currently vacant; and
- (c) accessible from an access road off Pak Kong Road to its east.

8.2 The surrounding areas have following characteristics:

- (a) to the north and across the village road is a plant nursery, Koon Lam Garden;
- (b) to the south within the “Recreation” (“REC”) zone is dense vegetation with small clusters of structures;
- (c) to the immediate west within the same “GB” zone is land covered with grass and to its further west are clusters of 3-storey village houses within the “V” zone;
- (d) to the east and across Pak Kong Road is Pak Kong Water Treatment Works (PKWTW); and
- (e) there are three public car parks within the “V” zone to the further west with a total of 57 metered parking spaces.

9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against

development within this zone.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no objection to the application subject to no erection of any structure within the proposed Site area;
- (b) the subject lots are Old Scheduled Agricultural Lots governed by Block Government Lease; and
- (c) there is no Small House application at the Site; however there are 17 outstanding Small House applications in Pak Kong.

Traffic

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

- (a) no objection to the application from traffic viewpoint; and
- (b) the access road leading to the Site is not under Transport Department's management. Comments from relevant management / maintenance parties should be sought.

Environment

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

he objects to the application from chlorine risk perspective as the Site falls entirely within the Safety Buffer Zone (SBZ) of PKWTW, which is an area with high chlorine risk. The objective of SBZ is to essentially exclude development from the vicinity of the PKWTW.

Landscape

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

- (a) she has reservation on the application from landscape planning perspective;
- (b) with reference to the aerial photo of 2018, the Site is located in an

area of rural landscape character dominated by vegetated area with scattered tree groups, patches of hard paved area, and some isolated structures to the south. It is also noted that village houses within the “V” zone are located to the further west. The proposed temporary public vehicle car park is not entirely incompatible with the surrounding environment;

- (c) according to recent site photos, the Site is currently covered with self-seeded vegetation of grass and shrub and partly surrounded by chain link fence with climbers. No existing tree is observed within the Site;
- (d) when comparing the aerial photos of 2012, 2013 and 2018, the Site was originally covered with vegetation, but has been cleared and formed since 2013. Landscape impact has taken place;
- (e) although further significant adverse landscape impact arising from the proposed development is not anticipated, approval of the application would set an undesirable precedent to encourage similar applications within the “GB” zone. The cumulative effect of which would result in a general degradation of the landscape character of the area and affect the integrity of the “GB” zone; and
- (f) should the Board approve the application, the following landscape condition is suggested to be included with the planning approval:

submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Drainage

10.1.5 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) the Site is in the vicinity of an existing streamcourse. Provided that all the proposed works are 3 metres away from the top of the bank of the streamcourse, there is no objection to the application from drainage maintenance viewpoint; and
- (b) the applicant is advised that adequate stormwater drainage facilities should be provided in connection with the proposed installation to deal with the surface runoff of the Site without causing any adverse drainage impacts or nuisance to the adjoining areas.

Nature Conservation

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

- (a) no strong view on the application from nature conservation

perspective; and

- (b) the Site is currently vacant. Aerial photo records show that the Site was paved in recent years.

Fire Safety

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

- (a) no objection in-principle to the application subject to fire service installations (FSIs) being provided to the satisfaction of D of FS;
- (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 D of FS 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 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) 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.

Water Supply

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

- (a) no objection to the application;
- (b) for provision of water supply to the development, the applicant may need to extend their 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; and
- (c) the Site falls within the Consultation Zone of PKWTW, which is a PHI.

10.2 The following government departments have no objection to / no comment on the application:

- (a) Chief Engineer (Works), Home Affairs Department;

- (b) Chief Highway Engineer/ New Territories East, Highways Department; and
- (c) District Officer/ Sai Kung, Home Affairs Department.

11. Public Comments Received During Statutory Publication Period

On 4.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 25.10.2019, five public comments were received from Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong Limited, World Wide Fund For Nature Hong Kong, The Hong Kong Bird Watching Society and an individual of the public (**Appendix III**). All commenters object to the application mainly on grounds that the proposed development is not in line with the planning intention of the “GB” zone; vegetation clearance and land filling had been found at the Site that the proposed development is considered a “destroy first, build later” case which should not be encouraged; approval of the application would set an undesirable precedent for similar applications in the area and cumulative impacts of approving the application should be considered.

12. Planning Considerations and Assessments

- 12.1 The application is for the development of a public vehicle park (excluding container vehicles) with 10 car parking spaces on a temporary basis for a period of 3 years at the Site which is zoned “GB” on the OZP. The proposed development is not in line with the planning intention of the “GB” zone which is to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within the “GB” zone. There is no strong planning justification in the submission for a departure from the planning intention even on a temporary basis.
- 12.2 The Site is located on the periphery of the “GB” zone with a “V” zone cluster to its further west and the densely vegetated “REC” zone to its immediate south. The proposed development is considered not incompatible with the surrounding environment which is mainly rural in character with clusters of village houses, tree groups and shrubs. However, the application is not in line with the TPB PG-No. 10 in that there are neither exceptional circumstances nor strong planning grounds to justify the proposed development even on a temporary basis.
- 12.3 CTP/UD&L has reservation on the application from landscape planning perspective. The Site was originally covered with vegetation but has been cleared and formed since 2013. Although further significant adverse landscape impact arising from the proposed development is not anticipated, approval of the application would set an undesirable precedent to encourage similar applications within the “GB” zone. The cumulative effect of which would result in a general degradation of the landscape character of the area and affect the integrity of the “GB” zone. Though DAFC he has no strong view on the application from nature conservation point of view, he advises that according to aerial photo records, the Site was paved in recent years.
- 12.4 The applicant claims that there are insufficient parking spaces in Pak Kong

Village. However, three public carparks with 57 metered parking spaces are located within the “V” zone to the west of the Site (**Plan A-2**). There is no information in the application to justify the need of the proposed car park under application.

- 12.5 The Site falls entirely within the SBZ of PKWTW, which is an area with high chlorine risk. DEP advises that the objective of SBZ is to essentially exclude development from the vicinity of the PKWTW and objects to the application from chlorine risk perspective.
- 12.6 Public comments received are mainly objecting to the application on the grounds of not in line with planning intention of the “GB” zone, the proposed development is considered as “destroy first, build later” cases and setting an undesirable precedent for similar cases. In this regard, the assessments in paragraphs 12.1 to 12.3 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, 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 “GB” zone, which is for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong justification to warrant a departure from this planning intention even on a temporary basis;
 - (b) the proposed development is not in line with Town Planning Board Guidelines No.10 in that there are neither exceptional circumstances nor strong planning grounds to justify the proposed development; and
 - (c) approval of the application would set an undesirable precedent for other similar applications within the “GB”. The cumulative effect of approving such similar applications would result in a general degradation of the landscape character and affect the integrity of the “GB” zone.
- 13.2 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 15.11.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle without valid license issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) only private cars and light goods vehicles as defined in the Road Traffic

Ordinance is allowed to enter/be parked on the Site at all times 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) the submission of a landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 15.5.2020;
- (e) in relation to (d) above, the implementation of the landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 15.8.2020;
- (f) the submission of proposal for 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 15.5.2020;
- (g) in relation to (f) above, the provision of 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 15.8.2020;
- (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;
- (i) if any of the above planning conditions (d), (e), (f) or (g) is not complied with by the above 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 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**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14.3 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 date when the validity of the permission should expire.

15. Attachments

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| Appendix I | Application form received on 23.9.2019 |
| Appendix II | Town Planning Board Guidelines for Application for Development within "Green Belt" Zone (TPB PG-No. 10) |
| Appendix III | Public Comments |
| Appendix IV | Advisory Clauses |
| Drawing A-1 | Location Plan submitted by the applicant |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and 4b | Site Photos |

**PLANNING DEPARTMENT
NOVEMBER 2019**