

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-SSH/156

<u>Applicant</u>	Mr. LEUNG Wo Ping represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	Lots 543 (Part), 544 (Part), 546 (Part), 547 (Part), 548 (Part), 549, 550 (Part), 551 (Part), 552 RP (Part), 553, 603 s.A RP, 605 (Part), 606 RP, 607 (Part), 608 (Part), 609 RP and 610 RP (Part) in D.D. 218, and adjoining Government Land (GL), Ma Kwu Lam Village, Shap Sz Heung, Sai Kung North, New Territories
<u>Site Area</u>	About 1,779m ² (including GL of about 96m ² or 5.4% of the Site)
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11
<u>Zoning</u>	“Village Type Development” (“V”)
<u>Application</u>	Proposed Temporary Private Car Park (Private Cars Only) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary private car park (private cars only) for a period of three years at the application site (the Site) which falls within an area zoned “V” on the OZP (**Plan A-1**). According to the covering 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). The Site is largely hard paved and partly occupied by the applied use without valid planning permission.
- 1.2 The Site is accessible from Sai Sha Road via an existing local track (**Drawing A-1**). According to the applicant, the proposed use will provide a total of 83 private car parking spaces (5m (L) x 2.5m (W) each). A guardroom of about 4m² in size and 3m in height will also be erected near the entrance of the Site (**Drawing A-2**). It will operate 24 hours daily. The car park layout and swept path analysis plan are shown in **Drawings A-2** and **A-3**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 27.2.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 8.4.2024[^] (**Appendix Ia**)

(c) FI received on 22.4.2024*	(Appendix Ib)
(d) FI received on 20.6.2024*	(Appendix Ic)
(e) FI received on 1.8.2024*	(Appendix Id)
(f) FI received on 5.8.2024*	(Appendix Ie)
(g) FI received on 19.8.2024*	(Appendix If)
(h) FI received on 3.9.2024*	(Appendix Ig)

(^accepted but not exempted from publication and recounting requirements)

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- 1.4 On 6.7.2024 and 16.8.2024, the Rural and Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months respectively as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ig** as summarized below:

- (a) the proposed carpark will provide parking spaces to cater for the parking demand of local residents and reduce roadside illegal parking;
- (b) approval of the application will not frustrate the long-term planning intention of the “V” zone. Also, it is not incompatible with the surrounding land uses;
- (c) the proposed car park will not induce adverse traffic, environmental and drainage impacts on the surrounding areas; and
- (d) the applicant will rectify the occupation of the GL by applying for the Short Term Tenancy upon the approval of the planning application.

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

The applicant is not the “current land owner” of the Site 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. 31B) to give notification to the owner by sending notice to Sai Kung North Rural Committee and posting site notices. Detailed information would be deposited at the meeting for Members’ inspection. As for the GL portion, the “owner’s consent/notification” requirements as set out in the TPB PG-No. 31B are not applicable.

4. Background

The western part of the Site is subject to an active planning enforcement action against unauthorized development (UD) involving parking of vehicles under the case No. E/NE-SSH/89 (**Plan A-2**). An Enforcement Notice (EN) was issued to the

landowners concerned on 4.3.2024 requiring discontinuation of the UD by 4.6.2024. If the notice is not complied with, prosecution action by the Planning Authority may be followed.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

6.1 There is no similar application within the same “V” zone on the OZP.

6.2 There is another application for temporary private vehicle park (private cars only) for a period of three years (No. A/NE-SSH/155) to the south of the Site (Plans A-1 and A-2), which will be considered by the Committee at this meeting.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Site is :

- (a) largely hard paved and partly occupied by the applied use without valid planning permission;
- (b) located at the western fringe of the Ma Kwu Lam Village; and
- (c) accessible from Sai Sha Road via an existing local track.

7.2 The surrounding areas are predominated by village houses of Ma Kwu Lam Village. To the immediate west is a strip of “Green Belt” (“GB”) zone, and to further west is Sai Sha Road.

8. Planning Intention

The planning intention of the “V” zone is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraphs 9.2 and 9.3 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application

and recommended advisory clause are provided at **Appendices II** and **III** respectively.

9.2 The following department supports the application:

Traffic

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

- (a) she supports the application in view of parking demand in the vicinity; and
- (b) the village area concerned is not managed by her office.

9.3 The following department has adverse comment on the application:

Land Administration

9.3.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) he has adverse comment on the application;
- (b) the Site comprises 17 Old Schedule Agricultural Lots all in D.D. 218 with different ownership and adjoining GL. The lots are held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government and GL;
- (c) the GL within the Site (about 96m² as mentioned in the application form) has been paved without permission. Any occupation and/or site formation of GL without Government's prior approval is an offence under Cap. 28. His office reserves the right to take necessary land control action against the illegal occupation and/or site formation of GL without further notice;
- (d) there is no guarantee to the grant of a right of way to the Site or approval of the EVA thereto; and
- (e) no Small House application has been received for the Site.

10 Public Comments Received During Statutory Publication Period

On 5.3.2024 and 23.4.2024, the application was published for public inspection. During the statutory public inspection periods, two public comments were received from the same individual (**Appendix IV**) objecting to the application mainly for reasons that the subject car park may have adverse landscape impact and the parking need was not justified taking account of the parking situation in the village.

11 Planning Considerations and Assessment

- 11.1 The application is for proposed temporary private car park (private car only) for a period of three years at the Site in the “V” zone of Ma Kwu Lam Village. While the proposed use is not entirely in line with the planning intention of “V” zone which is primarily for development of Small Houses by indigenous villagers, it is noted that the temporary private car park is to serve the residents of Ma Kwu Lam Village. C for T supports the application in view of parking needs of the parking demand in the vicinity. According to DLO/TP, LandsD, no Small House application has been received for the Site. The proposed private car park on a temporary basis would not frustrate the long-term planning intention of “V” zone for village type development.
- 11.2 The proposed temporary private car park will provide a total of 83 private car parking spaces (**Drawing A-2**). The Site is surrounded by village houses of Ma Kwu Lam Village. It is considered not incompatible with the surrounding environment.
- 11.3 Other relevant government departments concerned, including the Chief Town Planner/Urban Design and Landscape of Planning Department, Chief Engineer/Mainland North of Drainage Services Department, Director of Environmental Protection and Director of Fire Services have no objection to or no adverse comment on the application. It is anticipated that the proposed development would not cause adverse landscape, drainage, environmental and fire safety impacts to the surroundings. While DLO/TP, LandsD has adverse comment on the application as occupation and/or site formation of GL without government’s prior approval are found on the lots concerned, the land matters should be dealt with separately under the land regime. The applicant will be advised to follow up with DLO/TP of LandsD about their concerns.
- 11.4 Regarding the public comments as summarized in paragraph 10 above, government department’s comments and the planning assessment above are relevant.

12 Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the proposed use could be tolerated for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 4.10.2027. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) the implementation of the accepted 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 4.7.2025;

- (b) in relation to (a) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of proposal for water supplies for fire-fighting and fire service installations within **6 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.4.2025;
- (d) in relation to (c) above, the implementation of proposal for water supplies for fire-fighting 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 4.7.2025;
- (e) if the above planning condition (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; and
- (f) if any of the above planning condition (a), (c) or (d) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use is not in line with the planning intention of the "V" zone which is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for the development of Small Houses by indigenous villagers. There is no strong planning justification in the submission to justify a departure from the planning intention, even on a temporary basis.

13 Decision Sought

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

14 Attachments

Appendix I	Application Form with Attachments Received on 27.2.2024
Appendix Ia	FI received on 8.4.2024
Appendix Ib	FI received on 22.4.2024
Appendix Ic	FI received on 20.6.2024
Appendix Id	FI received on 1.8.2024
Appendix Ie	FI received on 5.8.2024
Appendix If	FI received on 19.8.2024
Appendix Ig	FI received on 3.9.2024
Appendix II	Government Department's General Comments
Appendix III	Recommended Advisory Clauses
Appendix IIIa	Requirement of Fireman's Emergency Switch
Appendix IV	Public Comment
Drawing A-1	Location Plan submitted by the applicant
Drawing A-2	Site Plan submitted by the applicant
Drawing A-3	Swept Path Analysis submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
OCTOBER 2024**