

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-CWBN/64

- Applicant** : Mr. WAN Pak-fung
- Site** : Various Lots and Adjoining Government Land in D.D. 227, Tai Po Tsai Village, Clear Water Bay, Sai Kung
- Site Area** : 3,201m² (about) (including about 208m² Government land (GL))
- Land Status** : (a) Private Land (93.5%) - Old Schedule Agricultural Lots governed by Block Government Lease
(b) Government Land (6.5%)
- Plan** : Approved Clear Water Bay Peninsula North Outline Zoning Plan (OZP) No. S/SK-CWBN/6
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Temporary Public Vehicle Park (Private Cars) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary public vehicle park (private cars) for a period of 3 years. The Site falls within an area zoned “V” on the approved Clear Water Bay Peninsula North OZP No. S/SK-CWBN/6 (**Plan A-1**). According to the Notes of the OZP, temporary public vehicle park requires planning permission from the Town Planning Board (the Board). Part of the Site is the subject of two previous planning applications for temporary public vehicle park both for a period of 2 years, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 3.5.2013 and 12.12.2014. The first planning permission was revoked in February 2014, while the second one lapsed in December 2016. There is no valid planning permission at the Site.
- 1.2 The Site is currently used as vehicle park. The proposed public vehicle park will provide 57 parking spaces for private cars. The Site is accessible from Clear Water Bay Road via a local track (**Plan A-2**). The layout of the proposed vehicle park and its entrance arrangement are shown in **Drawings A-2 and A-3**. The major development parameters of the current application and previously approved applications are summarized as follows:

Major Development Parameters	Previously Approved Application No. A/SK-CWBN/26	Previously Approved Application No. A/SK-CWBN/34	Current Application No. A/SK-CWBN/64
Applied Use	Temporary Public Vehicle Park (for Private Cars, Light Goods Vehicles and Medium Goods Vehicles) for a Period of 2 Years	Temporary Public Vehicle Park (Private Cars) for a Period of 2 Years	Temporary Public Vehicle Park (Private Cars) for a Period of 3 Years
Site Area	1,170 m ²	1,640m ²	3,201m ²
Number of parking space for private car	25	25	57
Number of parking space for light and medium goods vehicles	5	-	-

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

- (a) Application Form dated 18.3.2021 **(Appendix I)**
- (b) Further Information received on 6.5.2021 (*accepted and exempted from publication and recounting requirements*) **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in paragraph 7 of the application form at **Appendix I** and are summarized as follows:

- (a) there is a shortage of public parking spaces in Tai Po Tsai Village. In view of an increase of small house development and population in Tai Po Tai Village over the past few years, there are insufficient public parking spaces with only three public vehicle parks in Tai Po Tsai Village. Many villagers have occupied government land and private land for parking purposes; and
- (b) the applicant had applied for s.16 planning application for temporary public vehicle park for a period of two years at part of the Site and approved by the Committee on 12.12.2014. The validity of the application was until 11.12.2016. A renewal application was not submitted due to misunderstanding on the requirement for renewing the planning approval.

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

The applicant is not the “current land owners” 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 sending notice to the other current land owners by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. The “owner’s consent/notification” requirement is not applicable on the government land portion of the Site.

4. Previous Application

- 4.1 Part of the Site is subject of two previous applications (A/SK-CWBN/26 and A/SK-CWBN/34) for temporary public vehicle park.
- 4.2 Application No. A/SK-CWBN/26 for proposed temporary public vehicle park (providing parking spaces for 25 private cars and 5 medium/light goods vehicles) for a period of 2 years (with a site area of about 1,170m²) was approved with conditions by the Committee on 3.5.2013. The planning permission was however revoked on 3.2.2014 due to non-compliance with the planning condition related to submission of landscape proposal.
- 4.3 Application No. A/SK-CWBN/34 for proposed temporary public vehicle park (providing parking spaces for 25 private cars) for a period of 2 years (with a site area of about 1,640m²), with a larger site area and without goods vehicle parking areas, was approved with conditions by the Committee on 12.12.2014. All time-limited approval conditions were complied with.
- 4.4 Details of previous applications are summarized at **Appendix II** and the locations are shown on **Plan A-2**.

5. Similar Application

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

6. Background

The Site is currently not subject to planning enforcement action.

7. The Site and Its Surrounding Areas (Plans A-1 to Plan A-3 and Photos in Plans A-4a and A-4b)

7.1 The Site:

- (a) is within the village environ (VE) of Tai Po Tsai Village;
- (b) currently used as vehicle park without valid planning permission; and
- (c) is accessible from Clear Water Bay Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to the north and northeast are the village cluster of Tai Po Tsai Village;
- (b) to the east across the Clear Water Bay Road is a comprehensive residential development, namely Mount Pavilion, within “Comprehensive Development Area (1)” zone; and
- (c) to its further south and west are mostly vegetated slopes within the “V” and “GB” zones.

8. Planning Intention

The planning intention of “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning 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 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/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) the Site falls on various private lots and government land in D.D. 227 within the VE of Tai Po Tsai Village;
- (b) the affected private lots are old schedule agricultural Lot held under the Block Government Lease;
- (c) the proposed use does not constitute a breach of the lease under which the affected private lots are held;
- (d) as no structure is proposed to be erected within the affected lots, no temporary waiver or consent under lease from his office is involved following planning permission if approved;
- (e) subject to the proposed vehicle park being contained within the affected private lots only, his office has no objection to the application from land administrative point of view;
- (f) it is noted that the Site is accessible from Clear Water Bay Road via a strip of unallocated government land. His office does not provide maintenance works for this strip of government land nor guarantee any right-of-way to the application site;
- (g) the number of outstanding Small House applications in Tai Po Tsai

Village is 87, of which 13 are within the Site; and

- (h) as last advised by the Indigenous Inhabitant Representative (IIR) of Tai Po Tsai Village, the 10-year Small House demand forecast for the village was 180 as at 31.12.2016. It is noted that his office is not in a position to verify the correctness of the 10-year Small House demand forecast reported by the IIR in 2016.

Traffic

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

- (a) based on observation, the Site is operating as a carpark with over 30 vehicle parking within the Site. Meanwhile, the nearest public car parking spaces managed by Transport Department or Short Term Tenancy carpark are at distances of 300m and 600m respectively to this Site (**Plan A-1**). Apparently, there is a genuine demand for parking spaces in the vicinity; and
- (b) he has no objection in-principle to the application subject to the following conditions:
 - (i) no vehicle without valid license is allowed to be parked/stored on the Site;
 - (ii) only private cars are allowed to enter/be parked on the Site; and
 - (iii) a notice should be posted at a prominent location of the Site to indicate that only private cars are allowed to enter/be parked on the Site.

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) presumably, HyD would not be responsible for construction and maintenance of the proposed temporary public vehicle park.

9.1.4 Comments of the Commissioner of Police:

- (a) no comment on the application; and
- (b) regarding the illegal parking in the area for the past six months, there were a total of 32 traffic complaints between November 2020 and April 2021.

Fire Safety

9.1.5 Comment of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to fire service installation (FSIs) being provided to his satisfaction;

- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. 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:
 - (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; and
- (c) however, the applicant is reminded that if proposed structure(s) 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.

Environment

9.1.6 Comment of the Director of Environmental Protection (DEP):

- (a) no comment on the application; and
- (b) the applicant is advised to follow the 'Revised Code of Practice on Handling Environmental Aspects of Open Storage and other Temporary Uses' issued by the DEP.

Nature Conservation

9.1.7 Comments of the Director of Agriculture, Fisheries and Conservation:

no comment on the application. It is noted that the Site is overlapping with the site of the previously approved application (A/SK-CWBN/34) with an extension to the west of the existing car park which is already in use.

Landscaping

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

- (a) no objection to the application from landscape planning point of view;
- (b) according to the aerial photo of 2020 and site photos (**Plans A-4a and 4b**), the majority of the Site is hard paved and in applied use. Existing trees are observed within the site boundary, including some large fruit trees at northern site portion and some amenity trees (*Juniperus chinensis* vc. *Kaizuca* (龍柏)) in the road median at the southern site portion. The Site is located within an area of settled valleys generally surrounded by tree groups/woodlands with village houses, low-rise residential houses and open car parks to the further north and east. The proposed development is considered not

incompatible with the surrounding environment;

- (c) although the applicant indicates in the application form (**Appendix I**) that no tree felling would be involved in the proposed development, with reference to the submitted site layout plan, some car parking spaces are in conflict with existing trees in the northern portion of the Site. The applicant is advised to adjust the layout of the car parking spaces to minimize the impact to the existing trees; and
- (d) the applicant is advised that the approval of the Section 16 application by Town Planning Board does not imply approval of tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/ government department(s) direct to obtain necessary approval on tree works.

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

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) District Officer (Sai Kung), Home Affairs Department;
- (d) Chief Engineer/Construction, Water Supplies Department; and
- (e) Head (Geotechnical Engineering Office), Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 26.3.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 16.4.2021, one public comment from an individual was received (**Appendix III**) raising concerns on the genuine parking demand in the area and the size of the Site for the proposed temporary vehicle park.

11. Planning Considerations and Assessment

11.1 The application is for a temporary public vehicle park for a period of 3 years within an area zoned “V”. The planning intention of “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. The Site is accessible from the Clear Water Bay Road via a local track (**Plan A-2**). C for T advises that there is a genuine demand for parking spaces in the vicinity based on the observation on the current operation of the carpark within the Site and the nearest public carpark spaces at distances of 300m and 600m to the Site. The public vehicle park located to the immediate south of the Tai Po Tsai Village and will provide a total of 57 parking spaces which could serve the needs of the village residents and address the parking shortfall. While 13 outstanding Small House applications are within the Site, approval of the planning application on a temporary basis for a period of 3 years will not affect the concerned Small House applications within the Site and would not frustrate the planning intention of the “V” zone.

- 11.2 The Site is in close proximity to the village development of Tai Po Tsai. CTP/UD&L has no objection to the application from the landscape planning point of view as the proposed temporary public vehicle park is considered not incompatible with the surrounding environment and residential neighbourhood (**Plans A-2 and A-3**). Other concerned government departments have no objection to/ no adverse comment on the application from technical aspects. As there are village houses located in close proximity to the Site, approval conditions restricting the types of vehicles to be parked on the Site to avoid nuisance are recommended in paragraphs 12.2 below. Any non-compliance with any of the approval conditions will result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses” to minimize the possible environmental impacts.
- 11.3 Part of the Site is the subject of two previously approved applications (No. A/SK-CWBN/26 and A/SK-CWBN/34) for the similar temporary vehicle park use. They were approved with conditions by the Committee on 3.5.2013 and 12.12.2014 respectively. While the first permission was revoked owing to failure to comply with the approval conditions, the second application was approved mainly on the consideration that the development was not incompatible with the surrounding land uses; would unlikely cause any significant adverse impacts on the traffic, environment, drainage and landscape of the area; there was previous planning approval granted on the site for the same use; and no adverse comment from concerned departments. The applicant has also complied with the approval conditions. Although the current site involves a larger area and the number of parking spaces of the current application (i.e. a total of 57 spaces for private cars) is more than that of the two previous applications (i.e. 25 spaces for private cars and 5 spaces for medium/light goods vehicle in Application No. A/SK-CWBN/26, and 25 spaces for private cars in Application No. A/SK-CWBN/34), C for T advises that there is a genuine demand for parking spaces in the area, and there has not been major change in overall planning circumstances since the approval of the last application.
- 11.4 There is one public comment rising concerns on the application. The planning consideration and assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the proposed temporary public vehicle park could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the planning permission shall be valid on a temporary basis for a period of 3 years until 14.5.2024. 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 during the planning approval period;
- (b) only private cars as defined in the Road Traffic Ordinance is allowed to enter/be parked on the Site at all time during the planning approval period;
- (c) a notice should be posted at a prominent location of the Site to indicate that only private cars as defined in the Road Traffic Ordinance are allowed to enter/be parked on the Site at all times during the planning approval period;
- (d) the submission of fire service installations 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 **14.11.2021**;
- (e) in relation to (d), the implementation of fire service installations 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 **14.2.2022**;
- (f) if the above planning conditions (a), (b) or (c) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (g) if any of the above planning conditions (d) or (e) 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 attached at **Appendix IV**.

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

the proposed temporary public vehicle park is not in line with the planning intention of the "V" zone which is designated for Small House development for the indigenous villagers. No strong planning justification has been given in the submission for 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 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form dated 18.3.2021
Appendix Ia	Further Information dated 6.5.2021
Appendix II	Previous Applications covering the Site
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Layout Plan
Drawing A-3	Carpark Entrance Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2021**