

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/SK-CWBS/27

- Applicant** : Charter Atlantic Limited represented by Centaline Surveyors Limited
- Site** : Lots 114, 115, 117, 118 and 119 in D.D. 235, Sheung Sze Wan, Sai Kung
- Site Area** : About 485.6 m²
- Lease** : Block Government Lease for Agricultural Purpose
- Plan** : Approved Clear Water Bay Peninsula South Outline Zoning Plan (OZP)
No. S/SK-CWBS/2
- Zoning** : “Village Type Development” (“V”)
- Application** : Renewal of Planning Approval for Temporary Private Swimming Pools for
a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for private swimming pools for a period of 3 years. The Site falls within an area zoned “V” on the approved Clear Water Bay Peninsula South OZP No. S/SK-CWBS/2 (**Plan A-1**). According to the Notes of the OZP, temporary private swimming pool for a period of 3 years requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is the subject of three previously approved applications No. A/SK-CWBS/11, A/SK-CWBS/12 and A/SK-CWBS/19 all for the same use submitted by the same applicant. The last application No. A/SK-CWBS/19 was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 17.4.2015 and is valid until 30.3.2018. No approval condition has been imposed by the Committee for the last planning approval as the approval conditions as stipulated in application No. A/SK-CWBS/12 were fully complied with.
- 1.3 The proposal comprises three existing private swimming pools of about 135.7 m² (each respectively with an area of 41.2m², 46.2m² and 48.3m²) with three existing associated circulation pumps of about 10.25 m² (each respectively with an area of 4m², 4m² and 2.25m²) within the Site. These remain unchanged from the

previously approved planning application. Details of the existing swimming pools are as follows (**Drawing A-3**):

Adjoining House No.	House 205	House 206	House 207
Swimming Pool Area (m ²)	41.2	46.2	48.3
Area of Circulation Pump associated with each Swimming Pool (m ²)	4	4	2.25
Corresponding Lots for the construction of the Swimming Pool	Lots 114 & 119 in D.D. 235	Lots 114 & 118 in D.D. 235	Lots 115 & 117 in D.D. 235

- 1.4 In support of the application, the applicant has submitted the Application Form dated 23.1.2018 at **Appendix I**.
- 1.5 The location plan, lot index plan and layout plan showing the proposed swimming pools submitted by the applicant are at **Drawings A-1 to A-3**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I** and summarized as follows:

- (a) the private swimming pools are designed for the exclusive use of the residents of Houses 205, 206 and 207, Sheung Sze Wan, Sai Kung;
- (b) the scale of the swimming pools is small. Hence, the impact on local traffic and environment would be negligible; and
- (c) public swimming pool facility is not sufficient in the Clear Water Bay Peninsula district. The nearest public swimming pool is located in Po Hong Park, Tseung Kwan O.

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

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

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B) are relevant to the application. The criteria for assessing applications for renewal of planning approval include:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding

areas;

- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant government departments within the specified time limits;
- (d) whether the approval period sought is reasonable;
- (e) any other relevant considerations; and
- (f) the approval period for renewal should not be longer than the original validity period of the temporary approval.

5. Background

The Site is covered by valid planning approval (Application No. A/SK-CWBS/19) and is not subject to any enforcement action.

6. Previous Applications

- 6.1 The Site is the subject of three previous planning applications No. A/SK-CWBS/11, A/SK-CWBS/12 and A/SK-CWBS/19, all submitted by the same current applicant and for the same temporary use (i.e. temporary private swimming pools for a period of 3 years).
- 6.2 The application No. A/SK-CWBS/11 was approved with conditions by the Committee on 30.7.2010 mainly on the grounds that the long-term planning intention of the “V” zone would not be jeopardized and no significant adverse impacts were anticipated. Planning permission was revoked on 30.1.2012 as the applicant failed to comply with the approval conditions requiring the implementation of the mitigation measures identified in the Geotechnical Planning Review Report and landscaping proposal by the specified date.
- 6.3 The application No. A/SK-CWBS/12 was approved with conditions by the Committee on 30.3.2012. All time-limited approval conditions had been complied with.
- 6.4 The last application No. A/SK-CWBS/19 was approved by the Committee on 27.3.2015. As all time-limited approval conditions as stipulated in the previous application No. A/SK-CWBS/12 had been fully complied with, no approval condition was imposed by the Committee for the latest planning approval. The planning approval will expire on 30.3.2018.

7. Similar Application

There is one similar application No. A/SK-CWBS/6 for private swimming pool on a temporary basis for a period of 3 years in the vicinity of the Site (**Plan A-1**). Application No. A/SK-CWBS/6 was approved by the Committee with conditions on 14.12.2007 mainly on the grounds that the long-term planning intention of the “V” zone would not be jeopardized and no significant adverse impacts were anticipated. Details of the similar application are summarized at **Appendix II**.

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

8.1 The Site is:

- (a) within the village environs of Sheung Sze Wan;
- (b) is currently used as private gardens, including swimming pools, of three existing 3-storey village houses; and
- (c) accessible via Hiu Po Path through Sheung Sze Wan Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its east, west and south are 3-storey village houses; and
- (b) to its further east and north is an area zoned “Coastal Protection Area”.

9. Planning Intention

The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) the three swimming pools are located within the areas of Lots 114, 115, 117 to 119 in D.D. 235. The subject lots are “Old Schedule Agricultural Lots” held under Block Government Lease for agricultural purposes;
- (b) the proposed swimming pools are designed to serve House Nos. 205, 206 and 207 on Lots 164, 165 and 166 respectively in D.D. 235. The applicant had already been notified in 2012/2013 DLO/SK’s comment that the Site was separated from Lot Nos. 164, 165 and 166 in D.D. 235 by strips of Government Land in between and the Government Land is not designed for the exclusive use for House 205, 206 and 207 or other developments. Despite the comments given, it is noted that unauthorized occupation by the owners of House No. 205, 206 and 207 was found in the Government Land, hence, land control action is underway;
- (c) short term waivers have been approved for each swimming pool and they do not include Lot No. 114 in D.D. 235;
- (d) he does not support the planning application subject to the issue of the unauthorized occupation of the government land be resolved;
- (e) there is no small house application on the Site; and
- (f) there are 22 outstanding Small House applications in Sheung Sze Wan while there is no information regarding the 10-year Small House demand forecast.

Landscape

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

- (a) the existing vegetation will be maintained and significant landscape impact arising from the continuous use on the area is not anticipated. Therefore he has no objection to the application from the landscape planning perspective; and
- (b) should the TPB approve the application, the following advisory clause is recommended:

existing vegetation shall be properly maintained at all times within the application site.

Building Matters

10.1.3 Comments of the Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department (CBS/NTE2 & Rail, BD):

no in-principle objection under the Buildings Ordinance (BO) to the application provided that the swimming pools and other building

structures tally with the building plans approved on 22.10.2013.

Water Supply

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

- (a) no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his 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.

Geotechnical

10.1.5 Comments of the Head of the Geotechnical Engineering Office, the Civil Engineering and Development Department (H(GEO), CEDD):

the Site encroaches upon two Registered Geotechnical Features namely, 12NW-C/C81 and 12NW-C/C460 (**Plan A-2**). The applicant should be reminded to make necessary submissions to DLO and/or the BA for approval if these Geotechnical Features could affect or be affected by the proposed work (if any) in accordance with the provisions of the Building Ordinance.

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

- (a) Chief Engineer/Mainland South, Drainage Services Department;
- (b) Chief Engineer (Works), Home Affairs Department;
- (c) District Officer (Sai Kung);
- (d) Director of Fire Services; and
- (e) Commissioner for Transport.

11. Public Comment Received During Statutory Publication Period

On 30.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.2.2018, 1 public comment was received from an individual of the public. She objects to the application mainly on the grounds that the proposed private swimming pools are not in line with the planning intention of the "V" zone (**Appendix III**).

12. Planning Considerations and Assessments

- 12.1 The current application is for renewal of the planning approval under previous application No. A/SK-CWBS/19 for temporary private swimming pools for a period of 3 years. The Site falls within an area zoned “V” on the OZP. The planning intention of the “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. Although the proposed temporary use is not entirely in line with the planning intention of “V” zone, given the temporary nature of the proposed private swimming pools, the long term planning intention of the “V” zone would not be frustrated.
- 12.2 The existing swimming pools are considered not incompatible with the surrounding land uses which are predominantly occupied by village type houses. According to DLO/SK, LandsD, the outstanding Small House applications in Sheung Sze Wan are 22. It is estimated that about 2.77 ha (or equivalent to about 110 Small House sites) of land are available within the “V” zone of Sheung Sze Wan. As such, land is still available to meet the outstanding Small House applications in Sheung Sze Wan. DLO/SK also advises that there is no Small House application at the Site. Approval of the planning application on a temporary basis for a period of 3 years will not affect the provision of land for Small House development in Sheung Sze Wan. For DLO/SK’s comments that the Site is separated by Government Land which involves unauthorized occupation, the concerned area is outside the Site and relevant control action will be undertaken by DLO/SK.
- 12.3 The Site is the subject of 3 previous approved applications for the same temporary use submitted by the same applicant. The application is generally in line with TPB Guidelines PG-No. 34B in that since the last planning approval, there has been no major change in planning circumstances; approval conditions in the previous application No. A/SK-CWBS/12 have been complied with and no approval condition has been imposed in the last planning approval; and the 3 years approval period sought is the same as the previous planning application. Relevant departments consulted including CTP/UD&L, PlanD, BD, WSD, DSD and H(GEO), CEDD have no adverse comments on/no objection to the application.
- 12.4 Regarding the public comment objecting to the application, the assessments in paragraphs 12.1 to 12.2 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the temporary private swimming pools could be tolerated for a further period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the

planning permission shall be valid on a temporary basis for a further period of three years, and be renewed from 31.3.2018 until 30.3.2021. The advisory clauses at **Appendix IV** are also suggested for Members' reference.

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

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

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 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form dated on 23.1.2018
Appendix II	Similar Application
Appendix III	Public Comment
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan Submitted by the Applicant
Drawing A-2	Lot Index Plan Submitted by the Applicant
Drawing A-3	Layout Plan Submitted by the Applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4 a & b	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**