

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

**APPLICATION NO. A/SK-CWBN/55**

<b><u>Applicants:</u></b>	LAU Man-kit and LAU Hon-kwong
<b><u>Site:</u></b>	Lot 123 (Part) in D.D. 238, Pan Long Wan, Clear Water Bay, Sai Kung, New Territories
<b><u>Site Area:</u></b>	About 307m <sup>2</sup>
<b><u>Land Status:</u></b>	Held under Block Government Lease (demised for agricultural use)
<b><u>Plan:</u></b>	Approved Clear Water Bay Peninsula North Outline Zoning Plan (OZP) No. S/SK-CWBN/6 (the OZP)
<b><u>Zoning:</u></b>	“Green Belt” (“GB”)
<b><u>Application:</u></b>	Proposed Private Vehicle Park on a Temporary Basis for a period of Three Years

**1. The Proposal**

- 1.1 The applicants seek planning permission to use the application site (the Site) (**Plan A-1**) for temporary private vehicle park 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). According to the applicants, the proposed vehicle park will provide six non-fixed private car parking spaces for use by villagers.
- 1.2 In support of the application, the applicants have submitted the following documents:
  - (a) Application form received on 14.3.2019 and (**Appendix I**) supplementary information received on 21.3.2019
  - (b) Further Information (FI) from the applicants received (**Appendix Ia**) on 16.8.2019 (accepted and exempted from publication)
- 1.3 On 3.5.2019 and 19.7.2019, the Rural and New Town Planning Committee (the Committee) agreed to defer its consideration on the application as requested by the applicants for submission of FI. The applicants submitted FIs as indicated in paragraph 1.2 above.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in Part 9 of the application form and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) as there is no parking area for the village, the villagers currently park their cars on the side of the road and slopes which poses a safety risk to villagers and pedestrians. The temporary vehicle park is proposed with a view to resolving the safety risk. Since there will be no increase in the number of vehicles, the usage of Hang Hau roundabout and Clear Water Bay Road will not be affected;
- (b) the lot has not been cultivated and the proposal has no adverse impacts on the environment; and
- (c) sufficient measures, such as installation of reflecting mirror and road sign in appropriate area, will be provided for the safety of the drivers and pedestrians.

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

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

## **4. Background**

The Site together with adjoining government land was part of an enforcement case against unauthorized car park use (case no. E/SK-CWBN/35) (**Plan A-2**). Enforcement Notice (EN) was issued on 17.5.2017 requiring the unauthorized use to discontinue, and the Compliance Notice (CN) was issued on 21.12.2017. A Reinstatement Notice (RN) was issued on 9.1.2018 requiring the removal of the leftovers, debris, and fill materials (including concrete and hard paving) on the area, and to grass the area. The CN for the RN was issued on 28.11.2018.

## **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 is subject of a previous application No. A/SK-CWBN/43 for proposed vehicle park (private cars) on a temporary basis for a period of 3 years. The application was subsequently withdrawn.

## **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-3c, and Site Photos at Plans A-4a to A-4b)**

8.1 The Site:

- (a) is on a platform along Pan Long Wan Road covered with grass;
- (b) is currently vacant; and
- (c) is accessible from a downward sloping track off Pan Long Wan Road.

8.2 The surrounding areas have following characteristics:

- (a) to the north, south and west are vegetated slopes within the “GB” zone. To the east across Pan Long Wan Road is the “Conservation Area” (“CA”) zone covered with dense vegetation;
- (b) to the further north and west are “Village Type Development” (“V”) zones of the Pan Long Wan Village. Sheung Yeung Village is located to the further south; and
- (c) a stream running in the southwest to northeast direction west of the Site.

## **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) the Site under application falls entirely within Lot 123 in D.D. 238;
- (b) the subject lot is an old schedule agricultural lot held under the Block Government Lease; and
- (c) the proposed use does not constitute a breach of the lease under which the lot is held. As no structure is proposed to be erected, no temporary waiver or consent under lease from his office is involved following planning permission (if approved).

### **Traffic**

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

- (a) no objection to the application from traffic engineering viewpoint on the condition that only 6 parking spaces are allowed at the Site;
- (b) Pan Long Wan Road is not under Transport Department's management. Comments from relevant authorities should be sought; and
- (c) should the application be approved by the Committee, the following approval condition is suggested:

*only 6 parking spaces are allowed to enter/be parked on the Site at all time during the planning approval period.*

### **Urban Design and Visual**

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

according to the submission, the applicants propose to use the Site for temporary private vehicle park which will not involve erection of any structure. The Site (83.4mPD) is surrounded by vegetated slopes ascending to the north, south and west. Further north and west are low-rise village type developments of mainly 2 and 3 storeys in height. To the east and on

a higher elevation (86.4mPD) is Pan Long Wan Road ascending to Clear Water Bay Road (127.2mPD) further south. Given the local topography and that the proposed development would be shielded by the surrounding vegetation, no significant adverse visual impact arising from the proposed development is anticipated.

### **Landscape**

#### 10.1.4 Comments of the CTP/UD&L, PlanD:

- (a) she has strong reservations on the application from landscape planning point of view;
- (b) with reference to the aerial photo taken in December 2015, the Site is located in the middle part of an undistributed wooded slope, with dense vegetation of mature trees to its east, west and south. Nevertheless, according to the previous site visit on 28.11.2017, the Site has already been hard-paved with a platform and retaining structures built. Significant adverse impact on existing landscape resources such as blanket removal of natural vegetation has taken place. Other landscape features such as natural topography and landform has been irreversibly changed and adversely impacted;
- (c) with reference to the recent site visit on 1.4.2019, although part of the paving on the platform has been removed, the destroyed landscape resources and altered landscape characters cannot be fully reinstated to the original undisturbed wooded slope. Approval of the application may set an undesirable precedent, likely encouraging other similar unauthorised development in “GB” without prior planning approval. The cumulative impact would lead to a general degradation of the overall landscape character and the integrity of the “GB” zone; and
- (d) as the Site is surrounded by dense vegetation within “GB”, should the Committee approve this application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

### **Drainage**

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

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.

### **Nature Conservation**

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

the Site is currently vacant with limited vegetation. As such, there is no strong view on the application.

### **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 being provided to the satisfaction of his department;
- (b) in consideration of the design / nature of the proposal, fire service installations (FSIs) are anticipated to be required. Therefore, the applicants are advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicants 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;
  - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) the applicants are 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/C, WSD):

- (a) no objection to the application; and
- (b) for provision of water supply to the development, the applicants may need to extend their inside services to the nearest suitable government water mains for connection. The applicants 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 standard.

## **Geotechnical**

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

- (a) he has reservation on the approval of the application in view of the suspected unauthorized site formation works affecting the Site and the surrounding government / private land had been observed; and
- (b) since the Site may be affected by the suspected unauthorized site formation works, it is considered necessary to conduct an investigation to delineate the scale and extent of the suspected unauthorized works, and implement the necessary remedial works to ensure that the Site would not affect or be affected by the adjacent man-made slopes. An approval condition is recommended to require the submission of a geotechnical investigation report and implementation of the necessary geotechnical remedial works identified therein.

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

- (a) Director of Environmental Protection;
- (b) Chief Engineer (Works), Home Affairs Department;
- (c) Chief Highway Engineer/ New Territories East, Highways Department;
- (d) District Officer/ Sai Kung, Home Affairs Department; and
- (e) Chief Engineer/ Consultants Management, Drainage Services Department.

## **11. Public Comments Received During Statutory Publication Period**

On 26.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 16.4.2019, 9 public comments were received (**Appendix III**). One individual of the public raise concerns on the application. The main concerns include the Site is subject to unauthorised use that has not been reinstated and it is uncertain that the parking space would be open to the public. Eight commenters, including World Wide Fund for Nature Hong Kong, The Hong Kong Bird Watching Society, Kadoorie Farm and Botanic Garden, Designing Hong Kong Limited and four individuals of the public, object to the application on the following grounds:

- (a) the proposed development is not in line with the planning intention of the “GB” zone;
- (b) the integrity of the “GB” zone will be affected, eroding its function to serve as a buffer between nearby areas zoned “V” and “CA”;
- (c) the proposed development will result in vegetation clearance, thus rendering adverse landscape impacts;
- (d) trees have been removed from the Site as a result of the unauthorized car park,

thus posing a geotechnical safety risk and rendering adverse visual and landscape impacts;

- (e) the proposed temporary car park will adversely affect the ecology of the nearby stream;
- (f) the proposed temporary car park will increase traffic in the area, resulting in adverse traffic safety and air pollution impacts;
- (g) the Site is located in an area zoned “GB”, and had once been used as an unauthorized car park. The proposed development is a “destroy first, build later” example, which should not be encouraged; and
- (h) approval of the application will set an undesirable precedent for future similar applications within the “GB” zone. The potential cumulative impacts caused by approving this application will result in a general degradation of the surrounding environment.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for the development of a private vehicle park with 6 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 in the midst of the “GB” zone and to the east is the densely vegetated “CA” zone. It forms an integral part of the “GB” zone to serve as an amenity buffer between the existing villages in Pan Long Wan and Sheung Yeung. The proposed development would result in a piecemeal development in the midst of the “GB” zone, affecting the integrity of the “GB” zone. 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 While DAFC has no strong view on the application as the Site is currently vacant with limited vegetation, according to the aerial photos taken in 2016, 2017 and 2018 (**Plans A-3a to A-3c**), the Site was originally a natural slope covered by dense vegetation. It was subsequently modified to a platform for unauthorized parking of private vehicles. Although unauthorized parking on the Site has been discontinued and part of the paving on the Site has been removed, the destroyed landscape resources and altered landscape characters cannot be fully reinstated to the original undisturbed wooded slope. CTP/UD&L has strong reservations on the application from landscape planning perspective. Approval of the application even on a temporary basis would encourage disturbance to the natural landscape environment prior to planning approval. It would set an undesirable precedent for



other similar applications within the “GB” zone. The cumulative effect of approving such similar proposals would result in a general degradation of the overall landscape character and the integrity of the “GB” zone.

- 12.4 While C for T has no objection to the application on the condition that only 6 parking spaces are allowed at the Site, H(GEO), CEDD has reservation on the application in view of the suspected unauthorized site formation works affecting the Site and surrounding government / private land had been observed. Submission of a geotechnical investigation report and implementation of the necessary geotechnical remedial works would be necessary should the application be approved. Other relevant government departments have no adverse comment on or no objection to the proposed temporary private vehicle park.
- 12.5 Public comments received are mainly objecting to the application on the grounds of unauthorized use of the Site for car park and adverse visual, landscape, infrastructural and environmental impacts on the surrounding areas. In this regard, the assessments in paragraphs 12.1 to 12.4 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. The proposed development would result in a piecemeal development in the midst of “GB” zone affecting the integrity of the “GB” 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. TPB-PG 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 proposals would result in a general degradation of the overall landscape character and 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 4.10.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) only 6 parking spaces are allowed to enter/be parked on the Site at all time during the planning approval period;
- (b) 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;
- (c) only private car as defined in the Road Traffic Ordinance is allowed to enter/be parked on the Site at all time during the planning approval period;
- (d) 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;
- (e) the submission of a geotechnical investigation report within 6 months from the date of planning approval to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board by 4.4.2020;
- (f) in relation to (e), the implementation of geotechnical remedial measures identified in the geotechnical investigation report within 9 months from the date of planning approval to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board by 4.7.2020;
- (g) the submission of proposals 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 4.4.2020;
- (h) in relation to (g) above, the provision of fire service installation 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 4.7.2020;
- (i) 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;
- (j) if any of the above planning conditions (e), (f), (g) or (h) 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
- (k) 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 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.
- 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 applicants.

**15. Attachments**

<b>Appendix I</b>	Application form received on 14.3.2019 and supplementary information received on 21.3.2019
<b>Appendix Ia</b>	Further Information received on 16.8.2019
<b>Appendix II</b>	Town Planning Board Guidelines for Application for Development within “Green Belt” Zone (TPB PG-No. 10)
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan submitted by the applicants
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3a to A-3c</b>	Aerial Photos
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2019**