

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-SSH/134

- Applicant** : Keenco Investment Limited represented by Grandmax Surveyors Limited
- Site** : Lots 452 (Part), 453 (Part), 454 (Part), 461 S.A (Part), 461 S.B (Part), 462 (Part) and 810 (Part) in D.D. 209, Shap Sz Heung, New Territories
- Site Area** : About 502m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11
- Zoning** : “Village Type Development” (“V”)
- Application** : Renewal of Planning Approval for Temporary Private Car Park (Private Cars and Light Goods Vehicles) for a Period of Three Years until 28.7.2023

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary private car park (private cars and light goods vehicles) for a further period of three years until 28.7.2023. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ is a Column 2 use within the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission until 28.7.2020.
- 1.2 According to the information submitted by the applicant, the applied use provides 14 parking spaces (13 for private cars and one for light goods vehicle) serving only residents of Kei Ling Ha San Wai in Shap Sz Heung. The Site is accessible from Sai Sha Road via a local track (**Drawing A-1**). The layout of the temporary private car park is shown on **Drawing A-2**.
- 1.3 The Site is the subject of a previous application (No.A/NE-SSH/106) for the same use approved by the Rural and New Town Planning Committee (the Committee) on 28.7.2017 for a period of 3 years. The approved scheme is the same as that under the current application in terms of the site area, number and layout of carparking spaces and access arrangement. All the approval conditions of the previous application have been complied with.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) application form and attachments received on 20.5.2020 (**Appendix I**);
 - (b) supplementary information received on 26.5.2020 (**Appendix Ia**); and
 - (c) further information received on 24.6.2020 (**Appendix Ib**).

2. Justifications from the Applicant

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

- (a) the Site is located in Kei Ling Ha San Wai and is surrounded by village houses. Private vehicle is the main means of transportation for the local residents as there are only limited routes of bus serving the area. The private car park can address the basic parking needs of the local residents;
- (b) the proposed private car park will only serve local residents of Kei Ling Ha San Wai. It is expected that traffic in/out the private car park will be mostly between 7:00 a.m. to 11:00 p.m. daily;
- (c) the details of the proposal, including the applied use, operation details and layout, are the same as the permitted scheme under previous planning application No. A/NE-SSH/106;
- (d) all approval conditions under the previous application have been complied with;
- (e) there was no problem identified during the operation of the approved car park under the previous planning approval; and
- (f) there are similar approved applications (No. A/NE-SSH/105, 119, 121 and 124) within the “V” zone in Shap Sz Heung.

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

The applicant is not a “current land owner” 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. 31A) by posting site notices and publishing newspapers notices. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject of any planning enforcement action.

5. Town Planning Board Guidelines

Town Planning Board Guidelines No. 34C (TPB-PG No. 34C) on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ are relevant to this application. The relevant planning criteria are summarized in **Appendix II**.

6. Previous Application

6.1 The Site is the subject of a previous planning application (No. A/NE-SSH/106) submitted by the same applicant for the same use under the current application. The application was approved by the Committee on 28.7.2017 for a period of three years mainly on the considerations that the applied use on a temporary basis would not frustrate the long-term planning intention of “V” zone; was not incompatible with the surrounding village setting; and would unlikely cause adverse traffic, environmental, drainage and landscape impacts on the surrounding area. All approval conditions imposed for the previous application have been complied with and the planning permission is valid until 28.7.2020. The details of the above application are summarized at **Appendix III** and the location is shown on **Plan A-1**.

6.2 The approved scheme under the previous application is the same as that under the current application in terms of site area, number and layout of parking spaces and access arrangement.

7. Similar Application

7.1 There is one similar application for temporary private car park within the same “V” zone located about 10m to the southwest of the Site (No. A/NE-SSH/105) . The application was approved by the Committee on 14.7.2017 for a period of three years on similar considerations as those for Application No. A/NE-SSH/106 as mentioned in paragraph 6.1 above. The details of the application are summarized at **Appendix IV** and the location is shown in **Plan A-1**.

7.2 There is another application for temporary private car park (No. A/NE-SSH/135) covering the same site as No. A/NE-SSH/105, which will be considered by the Committee at the same meeting with the current application.

8. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3 and A-4)

8.1 The Site is:

- (a) hard-paved and currently used as a private car park;
- (b) situated within the villager proper of Kei Ling Ha San Wai; and
- (c) abutting a local track leading to Sai Sha Road.

- 8.2 The surrounding areas are predominantly rural in character with a mix of village houses, fallow agricultural land and tree groups.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised 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.

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/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the Site consists of 7 private lots in Kei Ling Ha San Wai of Shap Sz Heung. The lots are all held under Block Government Lease demised for agricultural purpose. No structure shall be erected on the aforesaid lots without prior approval from LandsD;
- (c) the lot owner is required to submit a Short Term Waiver (STW) application to LandsD should he wish to erect structures on the Site. However, there is no guarantee at this stage that the STW application would be approved. If the STW application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to terms and conditions as may be imposed by LandsD including the payment of waiver and administrative fees as considered appropriate;
- (d) there is no guarantee of right of way to the Site or approval of the emergency vehicular access thereto; and
- (e) no application for Small House has been received in respect of the Site.

Environment

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

the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department (EPD). No environmental complaint in relation to the Site has been received in the last three years.

Drainage

10.1.3 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) there is no existing DSD maintained public storm drain available for connection in this area. The proposed car park should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The proposed development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant/owner is required to maintain such drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (c) should the application be approved, a condition should be included to request the applicant to submit a condition record of the existing drainage facilities on the Site as previously agreed under the planning application No. A/NE-SSH/106 to the satisfaction of the Director of Drainage Services or of the Board within three months of the planning approval;
- (d) the applicant should maintain those existing drainage facilities properly and rectify those facilities if they are found inadequate/ ineffective during operation;
- (e) for works to be undertaken outside the lot boundary, the applicant should consult LandsD and seek consent from relevant lot owners; and

- (f) there is no existing public sewerage in the vicinity of the Site.

10.1.4 Comments of the Principal Project Coordinator/SDD (PPC/SDD, DSD):

- (a) the Site is located in the vicinity of the proposed sewerage works in Kei Ling Ha San Wai under the Project "Tolo Harbour Sewerage of Unsewered Areas Stage 2". However, as the programme of the works in Kei Ling Ha San Wai is still uncertain, there is no conflict between the proposed sewerage works with the renewal application at this stage; and
- (b) he has no objection to the renewal of the planning approval until 28.7.2023.

Water Supply

10.1.5 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 applicant may need to extend the 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.

Landscape

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

- (a) it is noted that there is no change in the major development parameters of this renewal application compared with the previous application and the approval conditions on the submission and implementation of landscape proposal under the previous application have been complied with. Landscape impact arising from the continuous use within the Site is not anticipated; and
- (b) the applicant is advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to LandsD for approval.

Fire Safety

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

- (a) no in-principle objection to the renewal application; and
- (b) for compliance with the approval condition relating to fire services installations (FSI) under the previous application No. A/NE-SSH/106, the applicant had suggested that no particular firefighting and FSI were necessary for the Site which was open-air with no structures nor flammable source. He agreed with this suggestion. As the scale of the carpark and the conditions of the Site under current application remain unchanged, he considers that no approval condition relating to FSI needs to be imposed should this application be approved.

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

- (a) Commissioner for Transport;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Director of Electrical and Mechanical Services;
- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (f) Project Manager/New Territories East, Civil Engineering and Development Department; and
- (g) District Officer/Tai Po, Home Affairs Department.

11. Public Comment Received During Statutory Publication Period (Appendix V)

On 29.5.2020, the application was published for public inspection. During the statutory public inspection period, one public comment was received suggesting that the ground floor of the village houses should be converted into garage for parking and the Site should be used for village greening.

12. Planning Considerations and Assessments

12.1 The application is for renewal of a planning permission for temporary private car park for a further period of three years in the “V” zone of Kei Ling Ha San Wai. Whilst the applied use is not totally in line with the planning intention of “V” zone where land is primarily intended for development of Small Houses by indigenous villagers, it is noted that the temporary private car park is to serve the residents of Kei Ling Ha San Wai. According to DLO/TP, LandsD, no Small House application has been received for the Site. The approval of the temporary private car park for a further three years would not frustrate the planning intention of the Site for village type development. DLO/TP, LandsD has no objection to the application.

- 12.2 The current scheme is the same as that under the previously approved scheme (No. A/NE-SSH/106) in terms of the applied use, site area, number and layout of parking spaces and access arrangement. All approval conditions of the previous application have been complied with and there has been no material change in planning circumstances since the approval of the previous application.
- 12.3 The applied use is considered not incompatible with the surrounding environment which is predominantly rural in landscape with a mix of village houses, fallow agricultural land and tree groups (**Plans A-2 and A-4**). CTP/UD&L, PlanD advises that landscape impact arising from the applied use in relation to the Site is not anticipated. DEP advises that no environmental complaint in relation to the Site has been received in the past three years. Relevant Government departments consulted, including C for T, CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD, DAFC and D of FS have no adverse comment on the application.
- 12.4 The application generally complies with the TPB PG-No. 34C on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' in that there has been no material change in planning circumstances since the approval of the previous application; there are no major adverse departmental comments against the renewal application; all the approval conditions for the previous application have been complied with; and the approval period sought which is the same as the last approval granted by the Board is not unreasonable.
- 12.5 There is one similar application (No. A/NE-SSH/105) located to the southwest of the Site for the same use which was approved with conditions by the Committee on 14.7.2017 for a period of three years on similar considerations as those for the approval of the previous application No. A/NE-SSH/106.
- 12.6 Regarding the public comment raising concern on the use of land for car parking, Government departments' comments and the planning assessments and considerations 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 has no objection to the application.
- 13.2 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 three years and **be renewed from 29.7.2020 to 28.7.2023**. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicles other than private cars and light good vehicles are allowed to be parked within the application site;
- (b) no vehicle repairing, car washing/fuelling, vehicle dismantling and workshop activities shall be permitted within the site during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.10.2020;
- (d) if any of the above planning conditions (a) or (b) is not complied with at any time during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (e) if the above planning condition (c) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked on the same date without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

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

- the development 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. 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. There is no strong planning justification in the submission to justify 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 conditions and advisory clauses 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 applicant.

15. Attachments

Appendix I	Application Form and Attachment received on 20.5.2020
Appendix Ia	Supplementary Information received on 26.5.2020
Appendix Ib	Further Information received on 24.6.2020
Appendix II	Relevant Extract of TPB Guidelines No. 34C on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development
Appendix III	Previous s.16 Application
Appendix IV	Similar s.16 Application
Appendix V	Public Comment
Appendix VI	Recommended advisory clauses
Drawing A-1	Location plan submitted by the applicant
Drawing A-2	Site plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
JULY 2020**