

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL  
FOR TEMPORARY USE  
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/ST/977**

<b><u>Applicant</u></b>	The Link Properties Limited
<b><u>Site</u></b>	Commercial / Car Park Block (G/F, 1/F); Integrated Commercial / Carpark Accommodation, Osprey House (G/F, 1/F); Integrated Commercial / Carpark Accommodation, Sand Martin House (G/F, 1/F); and Open Carpark, No. 5 Sha Kok Street, Sha Kok Estate, Sha Tin, New Territories
<b><u>Total Floor Area</u></b>	About 24,822 m <sup>2</sup> (commercial / carpark blocks)
<b><u>Site Area</u></b>	About 2,017 m <sup>2</sup> (open carparks)
<b><u>Lease</u></b>	Sha Tin Town Lot No. 552 stipulates that the lessee shall provide and maintain within the lot:  (a) 530 motor vehicle parking space, 72 open goods vehicle parking space and 60 motor cycle parking space shall be provided and maintained within the lot.  (b) the parking spaces so provided shall not be used for any purpose other than for the parking of motor vehicles belonging to the residents or occupiers of the building or buildings erected or to be erected on the lot and their bona fide guests and visitors.
<b><u>Plan</u></b>	Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34
<b><u>Zoning</u></b>	“Residential (Group A)” (“R(A)”)
<b><u>Application</u></b>	Renewal of Planning Approval for Temporary Public Vehicle Park (excluding container vehicle) under Application No. A/ST/908 for a Period of 3 Years

**1. The Proposal**

- 1.1 On 2.10.2019, the applicant sought planning permission to continue the use of the public vehicle park (excluding container vehicle) at the application site (the Site) (Sha Kok Estate carpark) which is zoned “R(A)” on the approved Sha Tin OZP No. S/ST/34 (**Plans A-1a, A-1b and A-2**). According to the Notes of the OZP, planning permission from the Town Planning Board (the Board) is required for ‘Public Vehicle Park (excluding container vehicle)’ in the “R(A)” zone.

- 1.2 The Site is the subject of an application No. A/ST/908 submitted by the same applicant for the same use which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on a temporary basis for three years up to 17.1.2020. The applicant proposes to continue letting the surplus parking spaces at Sha Kok Estate carpark (including parking spaces for private car, lorry and motorcycle) to non-residents on a monthly basis for a period of three years, i.e. up to 17.1.2023. Letting of the vehicle parking spaces to non-residents is regarded as a conversion of the existing ancillary carpark to 'Public Vehicle Park (excluding container vehicle)' use.
- 1.3 According to the applicant, the average surplus rate of monthly parking spaces (including private car, lorry and motorcycle parking spaces) from March to August 2019 is about 11%. A summary of the total number of monthly vehicle parking spaces let is as follows:

Motor Vehicle	Total no. of monthly residential parking spaces (a)	No. of monthly parking spaces let (b)	Surplus parking space (a) - (b)
Private car	530	487	43 (8%)
Lorry	72	45	27 (38%)
Motorcycle	60	57	3 (5%)
<b>Total</b>	<b>662</b>	<b>589</b>	<b>73 (11%)</b>

- 1.4 In support of the application, the applicant has submitted the following:
- (a) Application form with attachments received on 2.10.2019 **(Appendix I)**
  - (b) Further information (FI) providing responses to public comment received on 18.11.2019 **(Appendix Ia)**
- 1.5 Location Plans showing Sha Kok Estate carpark submitted by the applicant are shown in **Drawings A-1 to A-7**.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Annex 1 of **Appendix I**. They can be summarized as follows:

(a) Previous Approval

Letting of the surplus monthly vehicle parking spaces in Sha Kok Estate to non-residents on a monthly rental basis (No. A/ST/908) was approved by the Committee on 23.12.2016 on a temporary basis for a period of 3 years up to 17.1.2020.

(b) Better Utilization of Public Resources

Average utilization rate of the monthly parking spaces in Sha Kok Estate from March to August 2019 is about 89%. To better utilize public resources (i.e. about 11%

surplus parking spaces), it is proposed to continue letting the surplus parking spaces to non-residents.

(c) No Adverse Traffic and Environmental Impacts

Letting of vacant monthly parking spaces to non-residents has not generated any additional traffic flow in the last three years.

(d) Compatibility with Surrounding Land Uses

The proposal involves no physical change in land use and is considered compatible with the adjacent land uses.

(e) Upholding Residents' Rights and Interest

In order not to affect the residents' rights and interest, it is suggested to impose the following conditions if the application is approved by the Committee:

- (i) the residents of Sha Kok Estate will be given priority in letting of monthly vehicles parking spaces in Sha Kok Estate carpark;
- (ii) only surplus monthly vehicle parking spaces will be let to non-residents; and
- (iii) same monthly parking fee will be charged to both residents and non-residents.

**3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is the sole "current land owner". 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. 34C) is relevant to this application. For renewal of planning approval, relevant assessment criteria are summarised as follows:

- (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 should not be longer than the original validity period of temporary approval.

## **5. Previous Applications**

- 5.1 There are four previous applications (Nos. A/ST/593, A/ST/730, A/ST/832 and A/ST/908) involving the Site. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plans A-1a and A-1b**.
- 5.2 Application No. A/ST/593 was submitted by HKHA for the change of use from resident-only vehicle park to public vehicle park in one Home Ownership Scheme (HOS) development (i.e. May Shing Court) and eight public rental housing estates (Chun Shek Estate, Lek Yuen Estate, Lung Hang Estate, Mei Lam Estate, Sha Kok Estate, Sun Chui Estate, Sun Tin Wai Estate and Wo Che Estate) in Sha Tin which was approved by the Committee on 26.3.2004 for a period of three years up to 26.3.2007 on the consideration that the application was to let out the existing surplus ancillary vehicle parking spaces as public vehicle parks; no alteration, addition or modification works to existing car parks were involved; there would not be significant difference in traffic generated from the proposed use; and the residents would be given priority in the letting of parking spaces.
- 5.3 Application Nos. A/ST/730, A/ST/832 and A/ST/908 were submitted by the same applicant for approval of temporary public vehicle park (excluding container vehicle) use (letting of surplus monthly vehicle parking spaces to non-residents) for a period of 3 years. They were approved with condition by the Committee on 18.1.2011, 17.1.2014 and 23.12.2016 respectively on similar grounds.

## **6. Similar Applications**

- 6.1 There are seven similar applications for temporary public vehicle park (excluding container vehicle) approved or rejected by the Committee at various HOS / public rental housing developments in Sha Tin District. Application Nos. A/ST/648, A/ST/694, A/ST/807, A/ST/894 and A/ST/968 were for temporary public vehicle park (excluding container vehicle) for May Shing Court for a period of 3 years which were approved with condition by the Committee on 9.3.2007, 5.3.2010, 1.3.2013, 5.2.2016 and 22.2.2019 respectively. Application No. A/ST/653 was for temporary public vehicle park (excluding container vehicle) for Ka Keng Court for a period of 3 years which was approved with condition by the Committee on 25.5.2007. The grounds of approval are similar to the previous applications above.
- 6.2 Application No. A/ST/692 was for temporary public vehicle park (excluding container vehicle) at Yu Chui Court. It was rejected by the Committee on 15.1.2010 for the reasons that the subject car parks were intended for meeting the car parking demand for the residents of Yu Chui Court; there was strong objection from the residents, the applicant failed to demonstrate that the car parking demand for the residents had been met; and the proposed public vehicle park would cause environmental, security and management problems to Yu Chui Court.

6.3 Details of these similar applications are summarized at **Appendix II**.

## **7. The Site and Its Surrounding Areas**

7.1 The Site falls within the boundary of Sha Kok Estate. Access to these parking facilities is through internal roads from Sha Kok Street (**Plans A-1a to A-3** and site photos on **Plan A-4a to A-4d**).

7.2 The surrounding areas have the following characteristics:

- (a) to the east across Sha Tin Wai Road is a group of residential developments. Further east are Prince of Wales Hospital and City One Shatin;
- (b) to the immediate north-west is Yue Shing Court; to the north and north-west is Shing Mun River Channel across which are New Town Plaza, Lek Yuen Estate, Wo Che Estate and MTR Sha Tin Station;
- (c) to the south across Sha Kok Street are Pok Hong Estate and MTR Sha Tin Wai Station; and
- (d) to the west and south-west are Jat Min Chuen.

## **8. Planning Intention**

The planning intention of the “R(A)” zone in Sha Tin New Town is primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

## **9. Comments from Relevant Government Departments**

9.1 The following Government departments have been consulted and their views are summarised as follows:

### **Land Administration**

9.1.1 Comments of the District Lands Officer/Shan Tin, Lands Department (DLO/ST, LandsD):

- (a) under clause 3.26 of Lease dated 3.7.2008 under which Sha Tin Town Lot No. 552 is held, the lessee shall provide and maintain within the Lot:
  - (i) 530 motor vehicles (excluding motor cycles and goods vehicles) parking spaces;
  - (ii) 60 motor cycles parking spaces; and
  - (iii) 72 open goods vehicles parking spaces;

for the parking of motor vehicles belonging to the residents or occupiers of the building or buildings erected or to be erected on the lot and their bona fide guests and visitors;

- (b) the current application is to renew the planning permission which permits the letting of surplus vehicle parking spaces to non-residents. A temporary waiver (waiver no. W477) of the restrictions contained in clause 3.26 if the lease was granted to Link Properties Limited so as to permit the letting of motor vehicle parking spaces to non-resident with effect from 1 January 2011; and
- (c) he has no in-principle objection from the land administration point of view if the waiver conditions are complied with.

### **Building Matters**

9.1.2 Comments of the Senior Maintenance Surveyor/Independent Checking Unit(1), Housing Department (SMS/ICU(1), HD):

- (a) he has no objection to the application under the Buildings Ordinance (BO) noting that the new non-domestic gross floor area (GFA) does not exceed the permitted GFA under the Building (Planning) Regulation;
- (b) the covered carparks (previously provided for residents) are now accountable to non-domestic GFA as they will be let to the outsiders. In future, any new submission to the Independent Checking Unit under the Buildings Ordinance should include these new GFA;
- (c) there is no submission to the Housing Department under the BO for including the car parking space area and hence, the surplus car parking spaces are GFA non-accountable; and
- (d) if the change is from private car parking spaces to public car parking spaces, they should be accountable for GFA (Practice Notes for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-2 refers).

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

- (a) Chief Highways Engineer/New Territories East, Highways Department;
- (b) Commissioner for Transport;
- (c) Director of Fire Services (DFS);
- (d) District Officer (Sha Tin), Home Affairs Department (DO(ST), HAD); and
- (e) Housing Manager, Sha Kok Estate Office, Housing Department.

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

On 11.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one comment were received from a private individual expressing that GFA of the excess car parking spaces should be reconfigured to provide elderly facilities (**Appendix III**).

## **11. Planning Considerations and Assessments**

- 11.1 The application is for renewal of a temporary approval granted for the same use under application No. A/ST/908 up to 17.1.2020, so as to continue letting the surplus parking space at Sha Kok Estate carpark to non-residents for another three years up to 17.1.2023. According to the applicant, the average surplus rate of monthly parking spaces from March to August 2019 is about 11%. The letting of the surplus parking spaces to non-residents as proposed in the application would help utilize resources more efficiently.
- 11.2 The applicant indicates that the residents of Sha Kok Estate would continue be given the priority in the letting of monthly vehicle parking spaces. As only the surplus monthly vehicle parking spaces will be let out to non-residents, the parking need of the residents of Sha Kok Estate will not be compromised. In this regard, C for T has no objection to the application. Other government departments consulted including DLO/ST, LandsD, DFS and DO(ST),HAD have no adverse comment or objection to the application.
- 11.3 The application generally complies with the TPB PG-No. 34C in that there has been no material change in planning circumstances since the previous temporary approval was granted nor a change in the land uses of the surrounding areas. There are no adverse planning implications arising from the renewal of the planning approval. The approval period of three years sought is also not longer than the original validity period of the temporary approval. The period of renewal of three years of the planning permission sought is considered reasonable so that the vacant parking spaces can be let to non-residents flexibly while the parking demand of the residents can be further reviewed.
- 11.4 To ensure that the residents of Sha Kok Estate should be offered the highest priority in renting the monthly parking spaces and the number of parking spaces to be let to non-residents should be monitored from time to time, should the application be approved by the Committee, an approval condition which is same as the previous renewal permissions, is recommended in paragraph 12.2.
- 11.5 A public comment was received during the publication period expressing concern that the Site could be reconfigured to provide elderly facilities. In this regard, it is considered by the applicant that the proposed letting of surplus monthly parking spaces to non-residents for the Site would allow greater flexibility in optimizing the use of resources and the conversion of carpark into elderly facilities would be subject to constraints.

## 12. **Planning Department's Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a further period of 3 years until **17.1.2023**. The following condition of approval / advisory clause are suggested for Members' reference:

### Approval Condition

priority should be accorded to the residents of Sha Kok Estate in the letting of the surplus vehicle parking spaces and the proposed number of vehicle parking spaces to be let to non-residents should be agreed with the Commissioner for Transport

[same condition as the last approved application No. A/ST/908]

### Advisory Clause

The recommended advisory clause is 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 subject car park is intended for meeting the car parking demand for the residents of Sha Kok Estate. The applicant fails to demonstrate that the car parking demand for the residents has been met.

## 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 conditions and advisory clauses, 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 and Attachments received on 2.10.2019
Appendix Ia	FI providing responses to public comment received on 18.11.2019
Appendix II	Summary of previous applications and similar application
Appendix III	Public comment
Appendix IV	Recommended Advisory Clauses
Drawings A-1 to A-7	Location plans of Parking Facilities at Sha Kok Estate
Plan A-1a and A-1b	Location Plan
Plan A-2	Site plan
Plan A-3	Aerial Photo
Plans A-4a to 4d	Site photos

**PLANNING DEPARTMENT  
NOVEMBER 2019**