

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

APPLICATION NO. A/HSK/62

- Applicant** : TANG Wan Hang represented by Metro Planning and Development Company Limited
- Site** : Lot 1046 RP (Part) in D.D. 125, Sik Kong Wai. Ha Tsuen, Yuen Long, New Territories
- Site Area** : 126m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (real estate agency) for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP for “V” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for the use for a period of 3 years. The Site is currently with works in progress.
- 1.2 The Site is accessible from San Sik Road via local track (**Plan A-2**). As shown on the proposed layout plan at **Drawing A-1**, a single storey structure (not exceeding 3.5m high with floor area not exceeding 126m²) is proposed for real estate agency, which including a site office and a conference room. Neither car parking spaces nor loading/unloading areas are proposed. The proposed drainage plan is at **Drawings A-2**. According to the applicant, the operation hours of the Site are from 8:00 a.m. to 10:00 p.m. daily (including Sundays and public holidays).
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 6.3.2018 with proposed layout plan and proposed drainage plan (**Appendix I**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form in **Appendix I**. They can be summarized as follows:

- (a) The nature, layout and the form of the proposed development is compatible with the surrounding environment.
- (b) The Site is zoned “V” and the proposed use is an “as-of-right” use at the ground floor of a New Territories Exempted House (NTEH) in the zone. Selected commercial and community uses serving the needs of villagers and in support of the village type development are always permitted on the ground floor of a NTEH.
- (c) The Site is situated at Sik Kong Wai and the proposed development would benefit the nearby residents.
- (d) There are no adverse traffic, environmental and drainage impacts from the development. The opening hour is proposed to be restricted from 8:00 a.m. to 10:00 p.m. daily (including Sundays and public holidays).
- (e) Similar precedence at “V” zone have been approved by the TPB on temporary basis. Similar treatment should be delivered to this application.

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

The applicant is not the “current land owner” and has also 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. 31) by posting site notice and sending notice to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement case. However, it is noted that a suspected unauthorized structure had been erected on the Site.

5. Previous Application

The Site is not a subject of any previous application.

6. Similar Applications

- 6.1 There are 10 similar applications Nos. A/YL-HT/889, 931, 955, 973, 980, 996, 1013 and 1069 and A/HSK/13 and 58 for temporary shop and services (real estate agency) use within the same “V” zone between 2014 and 2018. Particulars of these applications and the decisions of the Committee are summarized at **Appendix**

II and their locations are shown on **Plan A-1**.

6.2 All these applications were approved by the Committee taking into consideration that the applied use was not incompatible with the surrounding uses. However, one of the applications (No. A/YL-HT/931) was subsequently revoked due to non-compliance with approval conditions.

7. The Site and Its Surrounding Areas (Plan A-1a to Plan A-4)

7.1 The Site is:

- (a) with works in progress;
- (b) accessible from San Sik Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its east and south are the village settlements of Sik Kong Wai. To its further south are a convenient store under planning application No. A/YL-HT/1051, a parking of vehicles which is a suspected unauthorized development (UD), an orchard and vacant lands;
- (b) to its west are some residential dwellings, a shrine and a parking of vehicles which is a suspected UD while to its further southwest is a piece of vacant land; and
- (c) to its north are a convenient store and real estate agency under planning application No. A/HSK/58, 2 flood-control ponds and a pump house. Further north and north-east across San Sik Road and nullah are vacant land, the village settlements of Sik Kong Tsuen, a shop and services (real estate agency) under planning application No. A/YL-HT/1069 and a parking of vehicles, which is an “Existing Use” under Town Planning Ordinance.

8. Planning Intention

The planning intention of the “V” zone in the draft HSK and HT OZP 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.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The private land of Lot No. 1046RP in D.D. 125 is covered by a Short Term Wavier (STW) No. 4163 to permit structures for the purpose of “Temporary Shop and Services (Convenient Store)”.
- (c) The Site is accessible to San Sik Road through both private lots and Government Land (GL). His Office provides no maintenance work to the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) According to his record, there is no small house applications having been approved or under processing within the “V” zone portion of the Site.
- (f) Should the application be approved, the STW holders will need to apply to his Office for modification of the STW conditions if there are any irregularities on site. Such application will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

On the basis that no traffic would be generated by the applied use, as stated by the applicant, he has no adverse comment on the application from traffic engineering point of view.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) As no vehicular access is proposed or to be granted under the subject application, his office has no comment from highways maintenance point of view.
- (b) Should the application be approved, he recommends to highlight in the reply to the applicant that it is understood from the application that there is and will be no vehicular access to/from the Site.

Environment

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

Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of

Practice (COP) on Handling Environmental Aspects of Open Storage and Temporary Uses”.

Drainage

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

- (a) He has no objection in principle to the proposed development from a drainage point of view.
- (b) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (c) The applicant is reminded that the development should neither obstruct overland flow nor adversely affect existing stream course, natural streams, village drains, ditches and the adjacent areas.
- (d) The applicant should consult DLO/YL and seek consent from the relevant owners for any works to be carried out outside his lot boundary before commencement of the drainage works.

Building Matters

9.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of D of FS.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the 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.

Others

9.1.8 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

9.1.9 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

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

- (a) Commissioner of Police (C of P);

- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD); and
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD)

10. Public Comments Received During Statutory Publication Period

On 13.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 3.4.2018, 3 public comments were received including one from a member of Yuen Long District Council (YLDC) and two from individuals member of the public (**Appendix IIIa to c**). The YLDC member supports the application without providing reasons while two individuals object to the application mainly on the grounds that the intended use violates the land lease and will not be used for the applied use.

11. Planning Considerations and Assessment

- 11.1 The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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. Although the applied use is not entirely in line with the planning intention of the “V” zone, DLO/YL advises that no Small House application has been received at the Site. It could provide real estate agency service to meet any such demand in the area. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.
- 11.2 The proposed temporary use is not incompatible with the existing land use for the area, which is predominately occupied by village houses (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned Government departments, including DEP, AC for T/NT of TD and CE/MN of DSD. Significant environmental, traffic and drainage impact to the area is not expected. Relevant approval conditions have been recommended in paragraph 12.2 to minimize any possible nuisances or to address the technical requirements of the concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Committee has approved 10 similar applications within the same “V” zone on the OZP for similar temporary shop and services uses (**Appendix II**). Approval of the subject application is in line with the Committee’s previous decisions.
- 11.5 Three public comments were received with one supporting and two objecting to the application mainly on grounds stated in paragraph 10. The planning considerations and assessment in para. 11.1 to 11.4 above are relevant. For the concern on the unauthorized use of the Site, any development/uses not covered by

the planning approval or tolerated/permitted under the OZP are subject to planning enforcement actions.

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 shop and services (real estate agency) could be tolerated for a period of 3 years.
- 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 period of 3 years until **4.5.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 10:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the implementation of the accepted drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **4.11.2018**;
- (c) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 **4.11.2018**;
- (e) in relation to ~~(d)~~ (d) above, the implementation of the 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 **4.2.2019**;
- (f) if any of the above planning conditions (a) 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;
- (g) if any of the above planning conditions (b), (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; and
- (h) upon expiry of the planning permission, the reinstatement of the 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**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following

reason for rejection is suggested for Members' reference:

The applied is 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 the zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such 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 received on 6.3.2018 with proposed layout plan and proposed drainage plan
Appendix II	Similar s.16 Applications within the subject "V" Zone on the draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan
Appendix IIIa-c	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	As-built Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

PLANNING DEPARTMENT
May 2018