

RNTPC Paper No. A/HSK/87  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 17.8.2018

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

**APPLICATION NO. A/HSK/87**

- Applicant** : Gainman Development Limited represented by Land Chartering Limited
- Site** : Lot 1024 S.A RP (Part) in D.D. 124, Hung Chi Road, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : About 48m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No. S/HSK/1
- Zoning** : “Government, Institution or Community” (“G/IC”)  
[Restricted to maximum building height of 8 storeys]
- Application** : Proposed Temporary Shop and Services (Estate and Property 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 (estate and property agency) for a period of 3 years (**Plan A-1**). According to the Notes for “G/IC” zone on the OZP, “Shop and Services” is a Column 2 use which requires permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for a period of 3 years. The Site is currently partly used for a shop for property sales and management services without valid planning permission and partly vacant.
- 1.2 According to the information submitted by the applicant, the major development parameters of the proposed development are as follows:

Site area	48m <sup>2</sup>
Total floor area	96m <sup>2</sup>
No. of structure	1 (for estate and property agency)
Height of structure	Not exceeding 7m (2 storeys)
Operation hours	10:00 a.m. to 7:00 p.m. on Mondays to Fridays; 10:00 a.m. to 1:00 p.m. on Saturdays and Sundays; and Closed on public holidays

- 1.3 According to the applicant, the Site is directly accessible from Hung Shui Kiu Main Street and Hung Chi Road (**Drawing A-1** and **Plan A-2**). No car parking space will be provided at the Site. People can reach the Site by taxi, minibus, light train or bus. No latrine will be provided at the Site. People can use the public latrine near the Site.
- 1.4 The site plan and floor plans are at **Drawings A-1** to **A-3**.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 21.6.2018 (Appendix I)
  - (b) Supplementary planning statement attached with location plan, site plan and site photos; and with replacement page for paragraph 4 and Appendix II of the planning statement received on 1.8.2018 incorporated (Appendix Ia)
  - (c) Letter of 19.7.2018 providing responses to comments from the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) (*accepted and exempted from publication and recounting requirement*) (Appendix Ib)
  - (d) Letter of 31.7.2018 confirming that no car parking space will be provided; providing floor plans of the proposed shop and clarifying that no latrine will be provided at the Site (*accepted and exempted from publication and recounting requirement*) (Appendix Ic)

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

The justifications put forth by the applicant in support of the application are detailed in the justification at **Appendices Ia** to **Ic**. They can be summarized as follow:

- (a) The Site is now used as a commercial shop for property sales and management services. There are four container boxes for shop and office premises. An application for a Short Term Waiver covering the structure will be submitted to the District Lands Officer, Yuen Long upon obtaining planning approval from the Town Planning Board.
- (b) The applicant would like to use the Site as a shop for property sales and management services to provide services to the residents in the locality.
- (c) Since the previous structures on the Site were too shabby and deteriorated, the applicant had replaced the old structures by new container boxes and would like to convert the use to a commercial shop. The purpose of this application is to regularize the current shop and services use.
- (d) The proposed temporary use is compatible with the existing land use of the locality which is dominated by residential development, open and covered storage yards and rural workshops.

- (e) The proposed temporary use will meet the local demand to facilitate the nearby residents, workshops and storage yards.
- (f) The planning application will not generate adverse impact on drainage, traffic and environmental aspects.

### **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 notice at the Site and Ha Tsuen Rural Committee Office. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

4.1 The eastern part of the Site is subject to on-going enforcement action (No. E/YL-HSK/18) (**Plan A-2**) against an unauthorized development (UD) involving office use. An Enforcement Notice (EN) was issued to the concerned parties on 19.3.2018 requiring the discontinuation of the UD. If the requirement of the EN is not complied with upon expiry of the compliance period of the notice, the concerned parties will be subject to prosecution action. The remaining part of the Site is not subject to any active enforcement case.

4.2 The Site falls within an area designated as “Education” use on the adopted Hung Shui Kiu and Ha Tsuen Outline Development Plan (ODP) No. D/HSK/1. According to the ODP, the Site is reserved for a primary school and a secondary school.

### **5. Previous Application**

There is no previous application covering the Site.

### **6. Similar Application**

There is no similar application for temporary estate and property agency within the same “G/IC” zone on the OZP.

### **7. The Site and Its Surrounding Areas (Plans A-1 to A-4)**

7.1 The Site is:

- (a) currently partly occupied by a shop for property sales and management services without valid planning permission and partly vacant; and
- (b) accessible from Hung Shui Kiu Main Street and Hung Chi Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the northeast, north and northwest are vehicle repair workshops, sites used for parking of vehicles, storage yards, open storage yards of construction materials and machinery and warehouses which are suspected unauthorized developments (UDs); and residential dwellings and metal ware workshop which may be tolerated under the Town Planning Ordinance (TPO) and vacant land;
- (b) to the immediate east and further east across Hung Shui Kiu Main Street are vacant land and nullah; and
- (c) to the south and southwest are logistics centre, car servicing, vehicle repair workshop, food factory, logistic centre, site used for parking of vehicles and storage yards which are suspected UD's and residential dwellings.

## **8. Planning Intention**

The "G/IC" zone is intended primarily for the provision of Government, institution or facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

## **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 Lot 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 Site is accessible to Hung Shui Kiu Main Street Road through Government Land (GL). His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) According to his record, there is no lease modification/land exchange application nor building plan submission at the Site approved/under processing.

- (e) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on Site. Such application(s) 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(s) will be approved. If such application(s) 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.

### **Building Matters**

#### 9.1.2 Comments of the Chief Building Surveyor/New Territories West (CBS/NTW, BD):

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) 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.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) 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 (B(P)R) respectively.
- (f) 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 B(P)R at the building plan submission stage.

### **Traffic**

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site or its adjacent area. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Hung Shui Kiu Main Street/Hung Chi Road. Presumably, the relevant departments will provide their comments.

### **Drainage**

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

He has no objection in principle to the proposed application from a drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that conditions should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

### **Environment**

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

- (a) He has no comment on the application.

- (b) Should the application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

### **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 the 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 to be installed should be clearly marked on the layout plans.
- (d) However, 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.

### **Long Term Development**

#### 9.1.8 Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

He has no objection to the temporary use for 3 years, which should be considered in accordance with the provisions of the existing Outline Zoning Plan and infrastructure capacities. However, the Site falls within the boundary of Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The lot(s) concerned falls within a site under Stage 3 Works stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

9.1.9 Comments of the Secretary for Education (SED):

- (a) He understands that the proposal is effective for 3 years and renewal is subject to further approval.
- (b) The reserved primary/secondary school site is to cater for the population in Hung Shui Kiu New Development Area (HSK NDA) and the commencement of facilities will tie in with nearby housing development in HSK NDA.
- (c) Reservation of sites for primary/secondary schools should be made on a district basis. So long as a suitable school site can be identified within the district by the Planning Department for his department, the Education Bureau would not have specific preference over the exact location of the school site.

**Others**

9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from such activity/operation, the applicant should arrange its disposal properly at her own expenses.
- (c) Proper licence/permit issued by FEHD is required if there is any catering service/activities regulated by the DEFH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

**District Officer's Comments**

9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any locals' comments on the application by 13.7.2018.

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

- (a) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Director of Electrical and Mechanical Services (DEMS); and



- (f) Director of Leisure and Cultural Services (DLCS).

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

On 29.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.7.2018, one public comment was received objecting the application on the grounds that the proposed commercial activity is not in line with the intention of the “G/IC” zoning (**Appendix II**).

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

- 11.1 The Site falls within the “G/IC” zone, the planning intention of which is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments. Whilst the applied use is not in line with the planning intentions of the “G/IC” zone, the implementation programme for this part of HSK NDA is still being formulated, and PM(W) of CEDD and SED have no objection to the applied use for 3 years on the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects.
- 11.2 The Site and its surrounding areas are predominantly occupied by sites used for parking of vehicles, storage yards, warehouses and logistic centre (**Plan A-2**). The proposed development is considered not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including AC for T/NT of TD, DEP, CE/MN of DSD and CTP/UD&L of PlanD, have no objection to or adverse comment on the application. The proposed use will unlikely create significant adverse traffic, environmental, drainage and landscape impacts to the surrounding areas. There has been no environmental complaint concerning the Site received in the past 3 years. To minimize any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on Site will be subject to enforcement action by the Planning Authority.
- 11.4 There is one public comment received objecting the application on land use planning grounds as summarised in paragraph 10 above. The planning considerations and assessments above are relevant.

## 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 considers that the proposed temporary shop and services (estate and property 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 17.8.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation between 7:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation between 1:00 p.m. and 7:00 p.m. on Saturdays and Sundays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no operation on public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 17.2.2019;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 17.5.2019;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 17.2.2019;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 17.5.2019;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (g) 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;

- (k) if any of the above planning conditions (e), (f), (h) or (i) 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
- (l) upon the 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 III**.

- 12.3 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 intentions of the "G/IC" zone which is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. The applicant fails to demonstrate the proposed temporary shop and services (estate and property agency) would not generate adverse environmental nuisance on the surrounding areas. No strong planning justification has been given in the submission for a departure from the planning intentions, 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 reason(s) for rejection should be given to the applicant.

### **14. Attachments**

<b>Appendix I</b>	Application form received on 21.6.2018
<b>Appendix Ia</b>	Supplementary planning statement attached with location plan, site plan and site photos; and with replacement page for paragraph 4 and Appendix II of the planning statement received on 1.8.2018 incorporated
<b>Appendix Ib</b>	Letter of 19.7.2018 providing responses to comments from the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD)

<b>Appendix Ic</b>	Letter of 31.7.2018 confirming that no car parking space will be provided; providing floor plans of the proposed shop and clarifying that no latrine will be provided at the Site
<b>Appendix II</b>	Public comments received during the statutory publication period
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Plan
<b>Drawing A-2</b>	Ground Floor Plan
<b>Drawing A-3</b>	First Floor Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2018**