

RNTPC Paper No. A/HSK/116
For Consideration by
the Rural and New Town
Planning Committee
on 18.1.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/116

- Applicant** : Mr. TANG Chun Kee represented by New Creation Consultant Engineering Company Limited
- Site** : Lots 1804(Part), 1805(Part), 1808RP, 1809 RP(Part) and 1817(Part) in D.D. 124, San Lee Uk Tsuen, Yuen Long
- Site Area** : About 2,628 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Proposed Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles Not Exceeding 5.5 Tonnes) with Ancillary Car Beauty Services and Office 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 public vehicle park (private cars and light goods vehicles not exceeding 5.5 tonnes) with ancillary car beauty services and office use for a period of 3 years (**Drawings A-1 and A-4 and Plans A-1a and 1b**). The Site is currently vacant with a few container-converted structures and a large shelter (**Plans A-4a and A-4b**).
- 1.2 According to the Notes for the “V” zone on the OZP, ‘Public Vehicle Park (excluding container vehicles)’ and ‘Shop and Services’ are Column 2 uses which require planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for a period of 3 years.
- 1.3 The Site is related to five previous applications (Nos. A/YL-PS/320, A/YL-PS/442 and A/HSK/60 for temporary public vehicle park (private cars and light goods vehicles) with ancillary car beauty services, No. A/YL-PS/536 for temporary minibus seating assembling workshop, open storage of minibus and vehicle parts with ancillary office and No. A/HSK/23 for temporary open storage

of new minibus with ancillary office). The last application No. A/HSK/60 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 6.7.2018 but revoked on 6.10.2018 due to non-compliance with approval condition(s). Details of the previous applications are summarised at paragraph 4 below and at **Appendix II**.

- 1.4 The major development parameters of the current application (No. A/HSK/116) are the same as the last approved application (No. A/HSK/60), which are tabulated as follows:

	Current application No. A/HSK/116
Site Area	About 2,628m ²
Applied Use	Proposed Temporary Vehicle Park (Private Cars and Light Goods Vehicles) with Ancillary Car Beauty Service and Office for a Period of 3 Years
Maximum Floor Area (non-domestic)	807.25m ²
No. of Structures	3 (site office, car beauty service centre and storeroom for car beauty service)
Maximum Height of Structures	1 storey (2.5m - 4.6m)
No. of Private Car Parking Spaces	24 spaces (5m x 2.5m each)
No. of Light Goods Vehicles Parking Spaces	4 spaces (7m x 3.5m each)
Operation Hours	7:00 a.m. to 12:00 a.m. daily (including Sundays and public holidays)

- 1.5 The Site is accessible via a local track connecting Tin Ha Road. The site plan, tree preservation proposal, proposed drainage plan, fire service installations proposal are at **Drawings A-1 to A-4**.

- 1.6 In support of the application, the applicant has submitted the following documents:

Application form received on 21.11.2018 with layout plan, (Appendix I)
drainage proposal, fire service installations proposal and
tree preservation proposal

2. Justifications from the Applicant

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

- (a) The previous approval for temporary vehicle park with ancillary car beauty service was revoked as the previous tenant had used the Site for other uses. The unauthorised development (UD) was terminated and the Site is vacant and has

been reinstated.

- (b) The customers need to make appointments for car beauty services to avoid queueing of too many cars. The shelter will not be enclosed and the area is required to provide servicing to three vehicles at the same time. Internal access of not less than 6 feet wide will also be provided within the Site.
- (c) No vehicle repair, dismantling, paint spraying or workshop activity will be allowed. Besides, no vehicle without valid license issued under the Road Traffic Ordinance, or medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, are allowed to be parked/ stored on or enter/exit the Site. A notice will be posted to indicate that only private cars and light good vehicles are allowed to enter/be parked at the Site.
- (d) The operation hours will be from 7 a.m. to 12 a.m. daily (including Sundays and public holidays).

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 notice and sending registered mail to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any planning enforcement.

5. Previous Applications

- 5.1 The site is involved in five previous planning applications No. A/YL-PS/320, 442, 536, A/HSK/23 and 60. Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Application Nos. A/YL-PS/320, A/YL-PS/442 and A/HSK/60 for temporary public vehicle park for private cars and light goods vehicles with ancillary car beauty services were approved with conditions by the Committee for a period of 3 years on 13.8.2010, 25.4.2014 and 6.7.2018 respectively mainly on grounds that temporary use would not frustrate the long-term use planning intention of the “V” zone, the applied use was not incompatible with the surrounding land uses, and the development would unlikely generate significant adverse environmental, traffic, drainage and landscape impacts on the surrounding areas. However, application Nos. A/YL-PS/320 and A/HSK/60 were revoked on 26.4.2011 and 6.10.2018 respectively due to non-compliance with approval condition(s) on prohibiting parking of goods vehicles exceeding 5.5 tonnes and submission of condition record of the existing drainage facilities respectively, while application

No. A/YL-PS/442 was revoked on 4.1.2016 due to non-compliance with approval conditions on prohibiting vehicle repair activities, prohibiting parking/storage of vehicles without valid licence, prohibiting parking of vehicles exceeding 5.5 tonnes, and requirement for posting notice indicating the types of vehicles allowed to enter/be parked at the Site.

- 5.3 Application No. A/YL-PS/536 for temporary minibus seating assembling workshop, open storage of minibus and storage of vehicle seating and parts with ancillary office for a period of 3 years and application No. A/HSK/23 for temporary open storage of new vehicles (minibus) with ancillary office for a period of 3 years were rejected by the Board on review on 18.8.2017 and by the Committee on 10.11.2017 respectively for the reasons of not in line with the planning intention, not compatible with surrounding land uses, failure to demonstrate no adverse environmental impact, not comply with TPB PG-No. 13E in that the application site fell within Category 4 areas, and no strong planning justification to demonstrate exceptional circumstances, and undesirable precedent.
- 5.4 The current application is submitted by the same applicant of the approved applications No. A/YL-PS/320, A/YL-PS/442 and A/HSK/60 which were subsequently revoked as described in paragraph 5.2 above.

6. Similar Application

There is one similar application (No. A/YL-PS/500) for temporary public vehicle park (private cars and light goods vehicles) for a period of 3 years within the same "V" zone, which was approved by the Committee on 22.1.2016. Details of the similar application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) fenced, hard paved and currently vacant; and
- (b) accessible from a local track from Tin Ha Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) to the north is a site for parking of vehicles;
- (b) to the east are some residential dwellings and vacant land;
- (c) to the south are village cluster of San Lee Uk Tsuen, an orchard, agricultural land and unused land; and
- (d) to the west is a nullah. To the immediate southwest is a site for storage of metal ware. To the further southwest is a factory. To the northwest across the nullah are sites for open storage and an occupational training centre.

8. Planning Intention

The planning intention of “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

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 prior approval of the Government.
- (b) The Site is accessible to Tin Ha Road through government land (GL) (**Plan A-2**). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The private land of Lots Nos. 1805 and 1817 both in D.D. 124 are currently covered by Short Term Waiver (STW) No. 3915 to permit structures for the purpose of “Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles (Not Exceeding 5.5 Tonnes) with Ancillary Car Beauty Service”.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) According to his record, there is no lease modification/land exchange application or building plan submission in relation to commercial development at the Site approved/under processing.
- (f) According to his record, there are 7 Small House (SH) applications approved and no SH application under processing in the vicinity of the Site.
- (g) Should planning approval be given to the subject planning

application, the STW holder will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and here 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, Buildings Department (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 comment 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 unauthorised 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 Authorised 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 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.

Environment

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

- (a) 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 Environment Aspects of Temporary Uses and Open Storage Sites”.
- (b) Nevertheless, he would like to remind the applicant that effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge license under the WPCO should be obtained before a new discharge is commenced. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures.
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Traffic

9.1.4 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 space shall be provided within the Site. 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.

9.1.5 Comments of the Chief Highways 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 Tin Ha Road.

Drainage

9.1.6 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) He notes that the drainage proposal was generally identical to the one submitted under the previous application No. A/HSK/60. Although the application was subsequently revoked due to non-compliance with some approval conditions, the implementation of the drainage facilities was found satisfactory.
- (c) Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the drainage facilities to the satisfaction of his Division.

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 his satisfaction.
- (b) He has the following comments on the submitted FSIs Proposal:
 - (i) the applicant should clarify whether the shed for car beauty services is open on 4 sides; and
 - (ii) one more fire extinguisher shall be placed near the single-storey store.
- (c) However, the applicant should be reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

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

- (a) He has no objection to the application from the landscape planning point of view.

- (b) With reference to the site photos and the aerial photo, it is observed that the Site is hard paved with trees generally along the site boundary. The Site is situated in an area of village landscape character but disturbed by open storage yards. As the applicant proposes to retain all the trees within the Site, significant change to the landscape character arising from the application is not anticipated.
- (c) Should the Board approve this application, he would advise the applicant to maintain all screen planting including trees and shrubs within the Site in good condition throughout the duration of the approval period.
- (d) In consideration of the temporary nature and site location, in event of any tree requiring replacing the applicant may wish to propose a tree species of short life span habit or with less vigorous root system in lieu of the *Fiscus microcarpa*.
- (e) Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: http://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html) published by the GLTM Section, DEVB.
- (f) The applicant is reminded that approval of tree preservation and landscape proposal does not imply approval of tree works such as pruning, transplanting or felling under lease. Tree felling applications should be submitted directly to DLO for approval.

Others

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

He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising 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

9.1.10 Comments of the DO(YL), HAD:

His office has not received any comment from locals upon the end of consultation period.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Antiquities and Monuments Office, Commissioner for Heritage's Office (AMO, CHO);
- (d) Commissioner of Police (C of P);
- (e) Director of Food and Environmental Hygiene (DFEH);
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (g) Chief Engineer/Special Tasks, Civil Engineering and Development Department (CE/ST, CEDD); and
- (h) Project Manager (West) (PM(W)), CEDD.

10. Public Comments Received During Statutory Publication Period

On 30.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 21.12.2018, a total of two public comments from a member of Yuen Long District Council (YLDC) and a private individual were received. Both of the commenters objected to the application on the grounds of the previous three planning approvals had been revoked by the Board for not complying with the approval condition(s) (**Appendix IV**).

11. Planning Considerations and Assessments

11.1 The subject application is for temporary public vehicle park (private cars and light goods vehicles not exceeding 5.5 tonnes) with ancillary car beauty services and office use at a site zoned "V" on the OZP. The planning intention of the "V" zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The proposed use is considered not entirely in line with the planning intention of the "V" zone. DLO/YL, LandsD advises that there is no Small House application being processed at the Site. Approval of the application on a temporary basis would not jeopardise the long-term planning intention of the "V" zone.

11.2 The nature of use and scale of the proposed development is considered not incompatible with the surrounding land uses which are predominantly occupied by village houses intermixed with agricultural land (**Plan A-2**).

- 11.3 However, the Site is the subject of previous three planning permissions for similar temporary public vehicle park (private cars and light goods vehicles not exceeding 5.5 tonnes with ancillary car beauty services (Nos. A/YL-PS/320, 442 and A/HSK/60) submitted by the same applicant granted in 2010, 2014 and 2018. These planning approvals were subsequently revoked due to non-compliance with the approval conditions regarding the prohibition of parking of goods vehicles exceeding 5.5 tonnes and/or prohibiting vehicle repairs activities, storage of vehicles without valid licence, requirement for posting notice indicating the types of vehicles allowed to enter/be parked on the Site, and submission of condition record of the existing drainage facilities. In this regard, it should be noted that the three previous applications covering the Site with similar use and layout were all submitted by the same applicant. In effect, the applicant has yet to demonstrate sincerity to comply with the approval condition(s) since the first grant of planning approval in 2010. Whilst the applicant undertakes in the current application to comply with the approval conditions, similar proposals were also suggested for the previous application No. A/HSK/60, which was revoked on 6.10.2018. Approval of the application with repeated non-compliances with approval condition(s) would set an undesirable precedent for other similar applications, thus nullifying statutory planning control.
- 11.4 There are two public comments objecting to the application received on the grounds as summarised in paragraph 10. 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 comments mentioned in paragraph 10 above, the Planning Department does not support the application for the following reason:

Three previous planning permissions for the same use granted on the Site by the Board were revoked due to non-compliance of the approval condition(s). Approval of the application with repeated non-compliances with approval condition(s) would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

- 12.2 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 **18.1.2022** but with shorter compliance periods to monitor the fulfilment of the approval conditions. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 12:00 a.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle repair, dismantling, paint spraying or workshop activity, as proposed by the applicant, is allowed on the Site at any time during the

planning approval period;

- (c) no vehicle without valid license issued under the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site at any time during the planning approval period;
- (d) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) a notice shall be posted at a prominent location of the Site at all times to indicate that only private cars and light goods vehicles not exceeding 5.5 tonnes as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to enter/be parked on the Site during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the submission of the condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **18.4.2019**;
- (h) in relation to (g) above, the existing drainage facilities shall be maintained at all times during the planning approval period;
- (i) all screen planting including trees and shrubs within the Site shall be maintained in good condition during the planning approval period;
- (j) the submission of a fire service installations proposal within **3** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **18.4.2019**;
- (k) in relation to (j) above, the implementation of the 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 **18.7.2019**;
- (l) the provision of fencing of the Site within **3** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **18.4.2019**;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (h) or (i) 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; and
- (n) if any of the above planning conditions (g), (j), (k) or (l) 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

Advisory clauses

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

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

Appendix I	Application form received on 21.11.2018 with layout plan, drainage proposal, fire service installations proposal and tree preservation proposal
Appendix II	Previous Applications covering the Site
Appendix III	Similar Application within the same “V” Zone
Appendix IV	Public comments received
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Tree preservation proposal
Drawing A-3	Drainage proposal
Drawing A-4	Fire Service Installations proposal
Plans A-1a and 1b	Location Plans
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos