

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

**APPLICATION NO. A/HSK/120**

- Applicant** : Mr. Tang Sheung Chai represented by Mr. Yeung Yau Sing
- Site** : Lot 650RP (Part) in D.D. 125 and Adjoining Government Land (GL), Sik Kong Tsuen, Ha Tsuen, Yuen Long
- Site Area** : 234 m<sup>2</sup> (about) (including about 40m<sup>2</sup> of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Village Type Development” (“V”)  
[Restricted to maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary "Shop and Services (Real Estate Agency)" for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for temporary shop and services (real estate agency) for a period of 3 years (**Plan A-1**). According to the 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 being used for the applied use with a valid planning permission.
- 1.2 The Site is related to a previous application No. A/YL-HT/980 for the same applied use for a period of 3 years which was approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions on 22.1.2016 for a period of 3 years. All the time-specific approval conditions including the implementation of accepted drainage, landscape proposals and fire services installations (FSIs) proposals have been complied with. The permission is valid up to 22.1.2019.

- 1.3 The site is accessible from San Sik Road (**Plan A-2**). As shown on the layout Plan at **Drawing A-1**, a single-storey (4m high) structure with a floor area of not exceeding 128m<sup>2</sup> under a 4.5m high open shed (not exceeding 168m<sup>2</sup>) is proposed for real estate agency use. The operation hours are from 9:00 a.m. to 8:00 p.m. daily. The proposed landscape plan and drainage plan submitted by the applicant are at **Drawings A-2 to A-3**.
- 1.4 The development parameters of the current application and the last approved application are totally the same.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form received on 30.11.2018 with proposed (**Appendix I**) layout plan, landscape plan and drainage plans
  - (b) Further Information from the applicant via letter dated (**Appendix Ia**) 8.1.2019 advising the operation hours of the development

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

The justifications put forth by the applicant in support of the application are provided in Part 8 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) Since the previous approval, the development has met the needs of the villagers. No change to the existing structure has been made.
- (b) The approval conditions of the previous planning permission including tree preservation and landscape planting as well as drainage works have all been complied with.

## **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. 31) by posting site notice and sending notice to the relevant Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Background**

The use is not subject to planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

**5. 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. 34B) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

**6. Previous Applications**

The Site is the subject of a previous application No. A/YL-HT/980 for the same applied use for a period of 3 years which was approved by the Committee with conditions on 22.1.2016 for a period of 3 years. Details of this application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

**7. Similar Applications**

There are 12 similar applications No. A/YL-HT/889, 931, 955, 973, 996, 1013 and 1069 and A/HSK/13, 58, 62, 97 and 111 for temporary shop and services (real estate agency) use within the same “V” zone between 2014 and 2018 all approved by the Committee. However, two of the approved applications (No. A/YL-HT/931 and 1013) were subsequently revoked due to non-compliance with approval conditions. Particulars of these applications and the decisions of the Committee are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The site is:

- (a) currently used by its applied use under valid planning permission; and
- (b) accessible from San Sik Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are a pavilion, a convenient store under the planning permission of Application No. A/YL-HT/998 and a refuse collection point. To its northwest are small house developments including King’s Garden. To its southwest and south are a small group of small houses and a real estate agency under the planning permission of Application No. A/YL-HT/1069;
- (b) to its further north, northeast, east and southeast across San Sik Road are a car park, a latrine and a village office, a real estate agency, a group of small houses of Sik Kong Tsuen and a car park; and
- (c) to its further south, and south west across a nullah are some small houses (Purmerend Villas), vacant land, a yard for open storage of miscellaneous materials.

## **9. Planning Intention**

The planning intention of the “V” zone is to designate both existing recognized 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. 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 (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

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

10.1 The following Government departments have been consulted and their views on the application and public comments are summarized as follows:

### **Land Administration**

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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 Government Land (GL) (about 40m<sup>2</sup> subject to verification) is covered by Short Term Tenancy No. 3073 (STT3073) for the purposes of shop and services (real estate agency).
- (c) Lot No. 650 RP in D.D.125 is covered by Short Term Wavier No. 4699 (STW4699) for the purposes of shop and services (real estate agency).
- (d) The Site is accessible to San Sik Road through 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.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) According to his record, there are no Small House applications approved/under processing for the site.
- (g) Should the application be approved, the STW/STT holders will need to apply to his office for modification of the STW/STT conditions where appropriate. 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. Application(s) 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 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.

### **Traffic**

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

He has no adverse comment on the application from traffic engineering viewpoint.

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

If no vehicular access is proposed or to be granted under the application, he has no comment from highways maintenance point of view. However, if the application is approved, it should be understood that there will be no vehicular access to/from the Site.

### **Drainage**

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Since the subject application is for renewal of planning approval of the previous application No. A/YL-HT/980, he supposes the existing drainage facilities will be maintained by the applicant. Should the application be approved, he suggests that a condition should be stipulated requiring the Applicant to maintain the proposed drainage facilities.

### **Environment**

#### 10.1.5 Comment of the Director of Environmental Protection (DEP):

- (a) No substantiated environmental complaint against the site has been received over the past 3 years.
- (b) The applicant is reminded to follow the latest "Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize any potential environmental nuisance.

**Building Matters**

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

- (a) There is no record of approval by the Building Authority for the structures existing at the Site and Buildings Department (BD) is not in a position to offer comments on their suitability for the use related to the application.
- (b) If the existing structures are erected on leased land without approval of the BD (not being NTEH), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the captioned application.
- (c) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on leased land in the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (d) 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.
- (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 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 Building (Planning) Regulations at the building plan submission stage.

**Fire Safety**

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

- (a) He has no objection to the proposal subject to fire services installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the structures, 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 BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **District Officer's Comment**

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

He has no comment on the application from the locals on the application.

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

- (a) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD);
- (b) Commissioner of Police (C of P);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Chief Engineer/Development (Construction), Water Supplies Department (CE/C, WSD); and
- (e) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD).

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

On 7.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 28.12.2018, two public comments were received from the public objecting to the application on the grounds that the proposed development will attract additional traffic, affect pedestrian safety and lead to light and noise pollution (**Appendices Va to Vb**).

## **12. Planning Considerations and Assessment**

12.1 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 temporary shop and services use is not entirely in line with the planning intention of the "V" zone, it could provide real estate agency service to meet any such demand in the area. DLO/YL of LandsD advises that no Small House application has been received for the site. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.

12.2 The proposed temporary use is not incompatible with the existing land use for the area, which is predominately occupied by village houses.

- 12.3 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 13.2 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 the development 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.
- 12.4 The current application is a renewal application of the last approved application (No. A/YL-HT/980) for three more years. There has been no major change in planning circumstances of the Site and the surrounding areas since the previous temporary approval. As explained above, approval of the application on a temporary basis would not jeopardize the implementation of the zoned uses. Furthermore, there would be no adverse planning implications arising from the renewal of the temporary planning approval and that the applicant has complied with all the approval conditions under previous approval. In view of the above, the renewal application is considered generally in line with the TPB PG-No. 34B.
- 12.5 The Committee has approved one previous application for the same applied use on the Site and 12 similar applications within the subject "V" zone on the OZP for similar temporary shop and services (real estate agency) between 2014 and 2018. Approval of the subject application is in line with the Committee's previous decisions.
- 12.6 Two public comments were received objecting to the application mainly on grounds stated in paragraph 11 above. The planning considerations and assessments in para. 12.1 to 12.5 above are relevant.

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

- 13.1 Based on the assessment made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the temporary shop and services (real estate agency) for a further period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years from **23.1.2019 until 22.1.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;



- (b) the submission of a condition record of the existing drainage facilities within **3** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **23.4.2019**;
- (c) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the existing trees and landscape planting on the Site shall be maintained at all time during the planning approval period;
- (e) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **23.7.2019**;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within **9** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **23.10.2019**;
- (g) if any of the above planning conditions (a), (c) or (d) 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; and
- (h) if any of the above planning conditions (b), (e) or (f) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

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

the development is not in line with the planning intention of the "Village Type Development" zone which is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion. There is no strong justification to deviate from the planning intention even on a temporary basis.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval 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.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

**15. Attachments**

<b>Appendix I</b>	Application Form with proposed layout plan, landscape plan, and drainage plan received on 30.11.2018
<b>Appendix Ia</b>	Further Information from the applicant dated 8.1.2019 advising the operation hours of the development
<b>Appendix II</b>	Relevant extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B)
<b>Appendix III</b>	Previous Application covering the Application Site
<b>Appendix IV</b>	Similar Applications within the subject "V" Zone on the approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan between 2014 and 2018
<b>Appendices Va to Vb</b>	Public comments received during publication period
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Landscape Plan
<b>Drawing A-3</b>	Proposed Drainage Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4c</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2019**