

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/124

- Applicant** : Mr. CHENG Wing Kuen represented by Metro Planning and Development Company Limited
- Site** : Lots 2267 (Part), 2268 (Part), 2270 S.A RP (Part) and 4314 (Part) in D.D. 124, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : About 503 m²
- Lease** : Lot 4314 (Part) in D.D. 124
New Grant Lot (no structures are allowed to be erected upon the lot for any purpose other than for the purposes of a Religious Institution)
- Lots 2267 (Part), 2268 (Part) and 2270 S.A RP (Part) in D.D. 124
Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Residential (Group B) 3” (“R(B)3”) (about 93.57%); and
[Restricted to maximum plot ratio of 1.26, maximum site coverage of 40% and maximum building height of 6 storeys over single-storey car park]
- “Government, Institution or Community” (“G/IC”) (about 6.43%)
[Restricted to maximum building height of 2 storeys]
- Application** : Proposed Temporary Shop and Services (Retail Shop for Hardware Groceries) 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 (retail shop for hardware groceries) for a period of 3 years (**Plan A-1**). The Site is currently vacant with a temporary structure erected thereon.
- 1.2 The Site falls mostly within the “R(B)3” zone (about 93.57%) with minor encroachment onto the adjoining “G/IC” zone (about 6.43%) on the approved Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2. According to the Notes of the “R(B)3” and “G/IC” zones of the OZP, ‘Shop and Services’ is a Column 2 use in both zones which requires 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 accessible via Hung Kei Road (**Plan A-2**). According to the applicant, the Site will be surrounded by 2.5m high corrugated metal sheets and solid boundary wall. Two 1-storey temporary structures and one loading/unloading space for light goods vehicle (LGV) are proposed within the Site (**Drawing A-1**).
- 1.4 The major development parameters of the current application are summarised as follows:

Site Area	About 503m ²
Applied Use	Proposed Temporary Shop and Services (Retail Shop for Hardware Groceries) for a Period of 3 Years
Total Floor Area	228m ²
No. of Structures	Structure 1: Shop and services (Retail Shop for hardware groceries) (not exceeding 6.8m tall, 1-storey) Structure 2: Toilet (not exceeding 3m tall, 1-storey)
No. of Loading/Unloading Spaces	1 for light goods vehicle (3.5m x 7m)
Operation Hours	9:00 a.m. to 7:00 p.m. daily (including Sundays and public holidays)

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

- (a) Application form received on 10.12.2018 **(Appendix I)**
- (b) Supplementary planning statement with site plan, location plan, proposed layout plan, landscape and drainage plans received on 10.12.2018 **(Appendix Ia)**
- (c) Further Information (FI) (1) received on 3.1.2019 **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
- (d) FI (2) received on 15.1.2019 **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)

2. Justifications from the Applicant

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

- (a) The granting of a temporary planning permission would not frustrate the long

term planning intention for the Site.

- (b) The proposed use is compatible with the surrounding environment.
- (c) Similar applications in “R(B)” zone have been approved by the Board.
- (d) The proposed development does not have adverse drainage, environmental and traffic impacts to the surroundings.

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

4. Background

- 4.1 The Site is not subject to any planning enforcement action. However, it is noted that some suspected unauthorised structures had been erected on the Site.
- 4.2 The “R(B)3” portion of the Site falls within an area designated as “Residential Zone 3” (“R3”) on the adopted Hung Shui Kiu and Ha Tsuen Outline Development Plan (ODP) No. D/HSK/1. According to the ODP, this portion of the Site is to reflect the existing development, namely Casa De Oro, Tin Sam Villa and Parkview Garden.

5. Previous Application

- 5.1 The Site is not the subject of any previous planning application.

6. Similar Application

There is no similar application within the same “R(B)3” zone on the OZP.

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

- 7.1 The Site is:
 - (a) fenced and hard-paved with a temporary structure under construction;
and
 - (b) accessible from Hung Kei Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to the immediate north are some temporary structures mainly for warehouse and office uses. To the further north is a residential development (Parkview Garden);
- (b) to the southeast are some residential dwellings; to the immediate southwest is a two-storey building for religious institution use (the Church of Jesus Christ of Latter – Day Saints (Hung Shui Kiu)) with valid planning permission No. A/YL-PS/262.
- (c) to the west and northwest are some warehouses, storage uses and some residential dwellings.

8. Planning Intentions

The planning intention of the “R(B)3” zone is primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted with or without 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) Lot No. 4314 in DD. 124 is a New Grant Lot held under New Grant No. 20839. It contains the restriction that no structures are allowed to be erected upon the lot for any purpose other than for the purposes of a Religious Institution. Hence, the applicant should exclude Lot No. 4314 in D.D.124 from its application site.
- (b) The remaining lots in the Site are 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. According to his record, for these lots, there are no lease modification/land exchange applications or building plan submissions approved/under processing.
- (c) The Site is accessible from Hung Kei Road through both Government Land (GL) and private lot(s). His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.

- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, in the case of Old Schedule Agricultural Lots, the lot owner(s) of the lot(s) without Short Term Waiver (STW) will need to apply to the 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.
- (f) 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.

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 (BA) 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 (NTEH)) are erected on leased land without 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 the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorised Person (AP) should be appointed as the coordinator 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 space should be provided within the Site. No vehicles are allowed to queue back to public roads or reverse back onto/from public roads.

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) If the proposed run-in is agreed by TD, the applicant should provide the run-in/out at Hung Kei Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (d) His department shall not be responsible for the maintenance of any access connecting the Site and Hung Kei Road.

Environment

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

- (a) He has no objection to the application.
- (b) According to the application, it appears that the proposed use will only involve light goods vehicles, and no dusty operation would be involved.

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 application from a drainage point of view.
- (b) Should the application is considered acceptable from the planning point of view, approval conditions requiring the submission of drainage proposal, implementation and maintenance the proposed drainage facilities to the satisfaction of his Office should be stipulated in the approval letter.
- (c) 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 the lot boundary before commencement of the drainage works.

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) 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 Buildings Ordinance (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) The proposed temporary use is not incompatible in the context.

- (b) As the proposed temporary development is low-rise in nature, it is anticipated that significant visual impact is unlikely.
- (c) In consideration that the site is not located at landscape sensitive areas and the proposed development is unlikely to cause any adverse landscape impacts.

Others

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

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities shall be affected and such activity 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 disposal properly at her own expenses, and;
- (c) Proper licence/permit issued by FEHD is required if there is any catering service/activities regulated by the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

District Officer's Comments

9.1.10 Comments of the 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) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Director of Electrical and Mechanical Services (DEMS); and
- (g) Antiquities and Monuments Office, Commissioner for Heritage's Office (AMO, CHO).

10. Public Comments Received During Statutory Publication Period

On 18.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 8.1.2019, one public comment from a private individual was received. The commenter objects to the

application mainly on grounds that the proposed use is encircled by residential development where there is a lack of community facilities, and suggests the application be rejected so that the development of Hung Shui Kiu New Development Area project would be expedited (**Appendix II**).

11. Planning Considerations and Assessments

- 11.1 The Site falls mostly within the “R(B)3” zone (about 93.57%) with minor encroachment onto “G/IC” zone (about 6.43%) on the OZP. This “R(B)3” zone is mainly to reflect the existing residential development in the area, including Casa De Oro, Tin Sam Villa and Parkview Garden. The Site and the areas to its immediate north are residual areas of the zone which could be developed into medium-density residential development in accordance with the provisions of the zone. Approval of the application on a temporary basis would not jeopardise the planning intention of the “R(B)3” zone.
- 11.2 The proposed development occupies an area of about 503m² with a single-storey structure with a total floor area of 228m². It is considered that the proposed use and the development scale is not incompatible with the surrounding area which are predominantly residential use intermixed with a church, vacant land and some workshops/storage use.
- 11.3 There is no adverse comment or objection to the application from concerned departments, including C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD. The applied use will unlikely create significant adverse environmental, traffic, fire safety or drainage impacts to the surrounding areas.
- 11.4 There is one public comment received objecting to the application on grounds of land use planning as summarised above. The planning considerations and assessments above are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 1.2.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (b) 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 **1.8.2019**;

- (c) in relation to (b) 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 **1.11.2019**;
- (d) the submission of a 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 **1.8.2019**;
- (e) in relation to (d) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **1.11.2019**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) if any of the above planning conditions (a) or (f) 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), (c), (d) or (e) 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 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 proposed development is not in line with the planning intention of the "R(B)3" zone which is primarily for medium-density residential developments. No strong planning justification has been given in the submission for a departure from the 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
Appendix Ia	Supplementary Planning Statement with site plan, location plan, proposed layout plan, landscape and drainage plans
Appendix Ib	FI (1) received on 3.1.2019
Appendix Ic	FI (2) received on 15.1.2019
Appendix II	Public Comment received
Appendix III	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2019**