

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

APPLICATION NO. A/HSK/191

- Applicant** : Ms. WONG Lai Kam represented by Mr. KWOK Chi Man
- Site** : Lot 924RP (Part) in D.D.125 and Adjoining Government Land, Ha Tsuen, Yuen Long, New Territories
- Site Area** : 1,030m² (about) (includes Government Land (GL) of about 1,017m² (98.73%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK & HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public vehicle park (private cars and light goods vehicles (LGV)) for a period of 3 years (**Drawings A-1 and A-2, Plans A-1a and A-1b**). The Site falls within the “V” zone on the approved HSK & HT OZP No. S/HSK/2. According to the Notes for the “V” zone, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary planning permission for 3 years. The Site is currently used for the applied use without a valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of two previous applications No. A/DPA/YL-HT/39 and A/YL-HT/895 for proposed temporary use for Ha Tsuen Heung Ten Years’ “Tai Ping Ching Chiu and Thanksgiving Activity” which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 15.7.1994 and 25.4.2014 for a period of 7 months and 6 months respectively (**Plan A-1b**).

1.3 The Site is accessible to Ha Mei Road via a vehicular track to its south (within a temporary public vehicle park for private cars and light goods vehicles under planning permission No. A/HSK/169) with the ingress/egress located at the southern boundary of the Site adjoining the above approved public vehicle park (**Drawings A-1 and A-2 and Plan A-2**). One single-storey structure of 2.6m high with dimensions of 7m x 7m, with total floor area of about 49m² and under a shelter with overall height of 6.1m proposed for office at the eastern part of the Site. The open area in the northern and southern parts are designated for 14 parking spaces (each of 7m x 3.5m) for light goods vehicles and private cars and manoeuvring space is provided at the north-western corner. According to the applicant, the car park is intended for monthly rental and to serve the villagers of Shek Kong Tsuen and Lo Uk Tsuen and will be operated 24 hours daily. No vehicle without valid license issued under the Road Traffic Ordinance will be parked within/accessed to the Site. The proposed vehicular access plan and site layout plan are at **Drawings A-1 to A-2**.

1.4 The major development parameters of the application are as follows:

	Major Development Parameters
Applied Use	Temporary public vehicle park (private cars and light goods vehicles) (3 years)
Site Area	1,030m ² (includes GL of 1,017m ²)
No. of Structure	1 for office
Total Floor area	49m ²
No. of Parking Spaces	14 for light goods vehicles and private cars (each of 7m x 3.5m)
Operation Hours	24 hours daily

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

- (a) Application form with supplementary planning statement, proposed vehicular access plan and site layout plan received on 26.9.2019 **(Appendix I)**
- (b) Further Information (FI) from the applicant dated 29.10.2019 providing trip generation rate **(Appendix Ia)**
[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 in **Appendix Ia**. They can be summarised as follows:

- (a) The Site has been paved and with electricity and water supply. No tree felling, land filling and drilling activities will be held. There will be no toxic and polluting materials involved and will not have impact on ecology and environment. The applied use does not involve port back-up and open storage uses and is a small scale development.
- (b) The applied use is temporary in nature and would not contravene the planning intention of “V” zone and is compatible with the surrounding environment and would not affect the character of the indigenous village setting.

- (c) It is temporary in nature and do not have any permanent structures. It would not jeopardise the building of New Territories Exempted House (NTEH) in the long run. The application is in response to the request from nearby villagers and residents. Support from villagers was obtained for the application during preliminary consultation.
- (d) The car park is intended for monthly rental and to serve the villagers of Shek Kong Tsuen and Lo Uk Tsuen and will be operated 24 hours daily.
- (e) Similar public vehicle parks in “V” zones have been approved by the Board in rural New Territories. Hence, similar preferential treatment should be given to the current application.
- (f) The impact generated by the proposed development would be insignificant. No adverse traffic, environmental, landscape and drainage impacts and fire hazard are foreseen.

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

The applicant is not the “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 by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The parking of vehicles on the Site would be subject to planning enforcement action.

5. Previous Applications

The Site is the subject of two previous applications No. A/DPA/YL-HT/39 and A/YL-HT/895 for proposed temporary use for Ha Tsuen Heung Ten Years’ “Tai Ping Ching Chiu and Thanksgiving Activity” which were approved by the Committee with conditions on 15.7.1994 and 25.4.2014 for a period of 7 months and 6 months respectively. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.

6. Similar Applications

There are 6 similar applications (No. A/YL-HT/719 and 915 and A/HSK/20, 76, 80 and 169) involving temporary vehicle park uses for private cars and light goods vehicles within the same “V” zone on the OZP approved with conditions by the Committee between 2011 and 2019. However, 3 of them were subsequently revoked due to non-compliance with approval conditions regarding the provision of fencing, restriction on the types of vehicles to be parked and the submission of drainage and fire services installation proposals respectively. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) hard paved and currently used for public vehicle park without a valid planning permission; and
- (b) accessible to Ha Mei Road via a vehicular track (**Plan A-2**).

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

- (a) to its immediate north is a pond while to its further north is the village cluster of Lo Uk Tsuen;
- (b) to its immediate southeast is an eating place under a valid planning permission (No. A/HSK/144) while to its further east is Ha Tsuen Soccer Pitch. To its further southeast is Ha Tsuen Heung Rural Committee building;
- (c) to its south is a public vehicle park under a valid planning permission (No. A/HSK/169); and
- (d) To its west across Ha Mei Road is a cluster of residential dwellings of Sik Kong Tsuen (with the closest one about 16m away).

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. 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.

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 an 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) No permission has been given for occupation of GL (about 1,017m² subject to verification) included in the Site (**Plan A-2**). Attention is drawn to the fact that the act of occupation of GL without Government's prior approval is not allowed. With the implementation of the tightened arrangements for handling regularization applications, LandsD will no longer accept application for regularization of new or extension of unlawful occupation of GL or erection of new structures which is found commenced on or after 28 March 2017.
- (c) Lot No. 924RP in D.D.125 is covered by Short Term Waiver No. 4658 (STW4658) for the purposes of Temporary Eating Place.
- (d) The Site is accessible to Ha Mei Road through GL (**Plan A-2**). 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) Given the area of the GL is large and in a good shape, it is considered capable for separate alienation. Hence, LandsD would not normally consider application for direct grant of unleased GL which is capable for reasonable separate alienation even though planning approval is given.
- (g) Should the application be approved, the STW holder will need to apply to his office for modification of the STW conditions where appropriate. The applicant has to exclude the GL from the Site. Besides, given the proposed use is temporary in nature, only application for regularisation 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 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 LandsD.
- (h) There are no Small House applications approved and 1 Small House application under processing within the Site, and there are 8 Small House applications approved and 5 Small House applications under processing in the area within 30 meters from the Site.
- (i) Although one proposed Small House is situated at the concerned unleased GL (UGL), NTEH by way of Private Treaty Grant (PTG) may be still subject to potential appeal and/or judicial review. Therefore, the concerned UGL is sizeable and fit for temporary public vehicle park, and any direct grant of such UGL would not be considered, but preferably under Abbreviated Tender System for temporary public carparking site.

Traffic

9.1.2 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.
- (b) Sufficient manoeuvring spaces shall be provided within the subject Site. No vehicle is allowed to queue back to public road or reverse onto/from the public road.

9.1.3 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 access arrangement is agreed by TD, the applicant should provide the run in/out 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 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 Ha Mei Road.

Environment

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

- (a) There was no environmental complaint pertaining to the Site received in the past 3 years.
- (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 Environment Aspects of Temporary Uses and Open Storage Sites".

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, he would suggest imposing a planning condition requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Building Matters

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

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

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (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 incorporate 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 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) With reference to the site photos of 4.10.2019 and aerial photo of 2019, the Site is hard paved and used as a vehicle park. Existing trees are found outside the Site along Ha Mei Road boundary. The Site is in an area of village landscape character. In consideration of previous approved application No. A/HSK/169 for temporary public vehicle park use to the immediate south of the Site, significant landscape impact arising from the continued use is not envisaged.
- (b) It is noted that the proposed site access is in conflict with existing trees located in the site of application No. A/HSK/169. The applicant is advised that approval of the planning application does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority / government department(s) direct to obtain the necessary approval on tree works.

District Officer's Comments

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

- (a) He has no comment on the application from departmental point of view.
- (b) 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) Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comment Received During Statutory Publication Period

On 4.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 25.10.2019, one public comment from an individual was received (**Appendix IV**), raising concern that the GL should be considered for using as interim housing, rather than for brownfield operations such as car park.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary public vehicle park (private cars and light goods vehicles) for a period of 3 years at a Site zoned “V”. 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. 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 NTEH. According to DLO/YL, although there is one Small House application under processing in respect of the Government land portion of the Site, NTEH by way of PTG may be still subject to potential appeal and/or judicial review. According to the applicant, the proposed public vehicle park is to serve the villagers of Shek Kong Tsuen and Lo Uk Tsuen. Whilst the applied use is not entirely in line with the planning intention of the “V” zone, approval of the application on a temporary basis of 3 years would not affect the processing of Small House development nor frustrate the long-term development of the area. Should the application be approved, it is suggested to include an advisory clause stating that the Site may be required by the Government at any time during the planning approval period for land allocation for Small House development.
- 11.2 The Site is located at the fringe of the “V” zone and its surrounding areas are predominantly rural in character with Ha Tsuen Soccer Pitch adjoining the Site and village settlements of Sik Kong Tsuen, Sik Kong Wai and Lo Uk Tsuen to the west across Ha Mei Road, to the south and to the north. The applied use is considered not incompatible with the surrounding land uses. The public vehicle parking facilities would be able to meet certain demand for the villagers/residents in the area.
- 11.3 There is no adverse comment from the concerned Government departments including the Transport Department on the application. Relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the technical concerns of the concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorized development on the 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 minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 There are 6 similar planning applications for public vehicle park use within the same “V” zone on the OZP (**Plans A-1 and A-2**). They were all approved by the Committee on considerations that they could provide parking facilities to meet such demand despite not in line with planning intention of the “V” zone; not incompatible with the surrounding land uses; and no adverse comment from the concerned Government departments. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 There is one public comment received on the application during the statutory publication period as summarised in paragraph 10. The planning considerations and assessments in the above paragraphs are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taking consideration the public comment mentioned in paragraph 10, the Planning Department has no objection to the temporary public vehicle park (private cars and light goods vehicles) 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 **15.11.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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;
- (b) 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;
- (c) 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;
- (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 **15.5.2020**;
- (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 **15.8.2020**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the approval period;
- (g) 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 **15.5.2020**;
- (h) in relation to (g) 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 **15.8.2020**;
- (i) if any of the above planning conditions (a), (b), (c) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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.

Advisory Clauses

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

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

the applied use is not in line with the planning intention of the "V" zone, which is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with supplementary planning statement, proposed vehicular access plan and site layout plan received on 26.9.2019
Appendix Ia	FI from the applicant dated 29.10.2019 providing trip generation rate
Appendix II	Previous Applications
Appendix III	Similar Applications within the same "V" zone on the OZP
Appendix IV	Public comment received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Site Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos