

RNTPC Paper No. A/HSK/222  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 12.6.2020

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

**APPLICATION NO. A/HSK/222**

<b><u>Applicant</u></b>	:	Ka Long Consultant Engineering Ltd. represented by Mr. WONG Sun Wo William
<b><u>Site</u></b>	:	Lots 1804(Part), 1805(Part), 1808RP, 1809 RP(Part) and 1817(Part) in D.D. 124, San Lee Uk Tsuen, Tin Ha Road, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 2,628 m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2
<b><u>Zoning</u></b>	:	“Village Type Development” (“V”) [Restricted to a maximum building height of 3 storeys (8.23 m)]
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services with Ancillary 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 shop and services with ancillary office use (for real estate agency and decoration company with display of decoration materials) for a period of 3 years. According to the Notes for the “V” zone on the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant with some temporary structures (**Plans A-2 to A-4**).
- 1.2 The Site is related to six previous applications (Nos. A/YL-PS/320, 442, 536, A/HSK/23, 60 and 116). The last application No. A/HSK/116 for temporary public vehicle park (private cars and light goods vehicles) with ancillary car beauty services and office use was rejected by the Board on review on 14.6.2019. Details of the previous applications are summarised at paragraph 5 below and at **Appendix II**.

- 1.3 The Site is accessible via a local track connecting Tin Ha Road and the ingress/egress point is located at its west of the Site (**Plan A-1 and Drawing A-1**). There are 3 temporary structures with a total floor area of about 792m<sup>2</sup> and building height ranging from about 3.5m to 4.5m (single-storey) for rain shelter cum display uses (660m<sup>2</sup>), ancillary office (117m<sup>2</sup>) and toilet uses (15m<sup>2</sup>) are proposed. 10 private car parking spaces and 1 light goods vehicle parking space are proposed at the north and south-eastern portions of the Site respectively (**Drawing A-1**). The operation hours of the applied use are between 8:00 a.m. and 8:00 p.m. daily (including Sundays and public holidays). According to the applicant, not more than 2 numbers for the same item of decoration materials will be stored on the Site. The site layout, proposed drainage plan and tree preservation proposal as submitted by the applicant are shown as **Drawings A-1 to A-4**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 21.4.2020 with layout plan, drainage proposal and tree preservation proposal (**Appendix I**)
  - (b) Further information (FI) from the applicant dated 29.4.2020 clarifying the background information (**Appendix Ia**)  
*[Accepted and exempted from publication and recounting requirements]*
  - (c) FI from the applicant dated 22.5.2020 clarifying the estimated trip generation and attraction (**Appendix Ib**)  
*[Accepted and exempted from publication and recounting requirements]*
  - (d) FI from the applicant dated 26.5.2020 clarifying the estimated trip generation (**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 Part 7 of the Application Form and FI at **Appendices I to Ic**. They can be summarised as follows:

- (a) The Site used to be a public vehicle park which the permission was revoked, and now the applicant would like to change to proposed shop and services for real estate agency and decoration company. The display room under the open shed could demonstrate some samples of decoration materials to the potential customers, and not more than 2 numbers for the same item will be stored under the shed.
- (b) The daily traffic flow will not generate more than 13 vehicle/trips.

- (c) The open shed structure will not be enclosed for storage use.

### **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 was the subject of previous planning enforcement action (No. E/YL-HSK/43) against an unauthorized development (UD) involving storage use. An Enforcement Notice was issued on 9.10.2019 to the concerned parties requiring the discontinuation of the UD. Subsequent site inspections revealed that the UD had been discontinued.

### **5. Previous Applications**

- 5.1 The Site is involved in six previous planning applications (No. A/YL-PS/320, 442, 536, A/HSK/23, 60 and 116) for various temporary car park, open storage and storage uses. Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Applications No. 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 Rural and New Town Planning Committee (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, applications No. 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 conditions 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 Applications No. A/YL-PS/536 and A/HSK/23 for temporary minibus seating assembling workshop, open storage of minibus and storage of vehicle seating and parts with ancillary office and temporary open storage of new vehicles (minibus) with ancillary office 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 the then 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 last application No. A/HSK/116 for temporary public vehicle park use was rejected by the Board on review on 14.6.2019 due to repeated revocation history. Compared with the last application, the current application is submitted by a different applicant for a different applied use but with a similar layout.

## **6. Similar Application**

There is no similar application within the same “V” zone on the current OZP.

## **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 with some temporary structures; and
- (b) accessible via 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 vacant; further northwest across the nullah are a warehouse, a workshop and an open storage yard;
- (b) to the east are an open storage yard, some residential dwellings and some agricultural land;
- (c) to the south is the village cluster of San Lee Uk Tsuen intermixed with some agricultural land; and
- (d) to the immediate southwest are some storage facilities and a factory.

## **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 reprovisioning 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 private lots No. 1805 and 1817 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”.
- (c) 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.
- (d) Should planning approval be given to the subject planning application, the STW holders 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 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 LandsD.

### **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 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.

9.1.3 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.

**Environment**

9.1.4 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) There was no environmental complaint pertaining to the Site received in the past 3 years.

**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 proposed application from a drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (b) He has the following comments on the submitted drainage

proposal:

- (i) The cover levels and invert levels of the proposed u-channels, catchpits/sand traps should be shown on the drainage plan.
- (ii) Cross sections showing the existing and proposed ground levels of the Site with respect to the adjacent areas should be given.
- (iii) Sand trap or provision alike should be provided before the collected runoff is discharged to the public drainage facilities.
- (iv) Standard details should be provided to indicate the sectional details of the proposed u-channel and the catchpit/sand trap.
- (v) Where walls or hoarding are erected are laid along the Site boundary, adequate opening should be provided to intercept the existing overland flow passing through the Site.
- (vi) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
- (vii) The applicant should consult DLO/YL of LandsD and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.

### **Building Matters**

9.1.6 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.
- (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.

### **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 proposed 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. In formulating FSIs proposal for the proposed structures, the applicant is advised to make reference to the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plan.
- (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.

### **District Officer's Comments**

#### 9.1.8 Comments of the 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) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);  
and
- (b) Project Manager (New Territories West) (PM(NTW)), CEDD.

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

On 28.4.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 19.5.2020, no public comment was received.

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

- 11.1 The application is for temporary shop and services with ancillary office (for real estate agency and decoration company with display of decoration materials uses) for a period of 3 years at a site zoned “V” on the OZP (**Plan A-1**). 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 development occupying an area of about 2,628m<sup>2</sup> with a total floor area of 792 m<sup>2</sup> and including a shed with an area of 660m<sup>2</sup> for displaying the sample materials, is more akin to storage/wholesale/warehouse use and is considered not entirely in line with the planning intention of the “V” zone since the applicant has not provided any information to prove that the proposed use is intended to serve the needs of the villagers. There is no strong planning justification given in the submission for a departure from the planning intention of the “V” zone, even on a temporary basis.
- 11.2 The proposed development is considered excessive in scale in the “V” zone, which is mostly occupied by village houses. While the applicant claims that the proposed development is intended to serve as real estate agency and display of sample decoration materials to the potential customers, and not more than 2 numbers for the same item will be stored under the shed, insufficient information has been included in the submission on the need for such a large area of 2,628m<sup>2</sup> and an extensive shed (about 660m<sup>2</sup>) for displaying the decoration materials.
- 11.3 The nature of use and scale of the proposed development is considered not compatible with the surrounding land uses which are predominantly occupied by village houses intermixed with agricultural land. In addition, the proposed development is closed to the residential dwellings at San Lee Uk Tsuen to its south. As no other similar application within the same “V” zone has been approved by the Committee or the Board, the approval of the application would set an undesirable precedent for similar applications, the cumulative effect of

approving these applications would result in a general degradation of the environment of the area.

- 11.4 The Site is the subject of previous six planning applications for various temporary public vehicle park / open storage of vehicles / workshop and car beauty services submitted by different applicant between 2010 and 2018. Three of them were rejected by the Committee or the Board on review. The remaining three planning approvals for temporary public vehicle park were subsequently revoked due to non-compliance with the approval conditions. Rejection of this application is in line with the Committee's previous decisions on similar considerations as mentioned in paragraph 5.3 above.
- 11.5 There is no public comment received during the statutory public inspection period.

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

- 12.1 Based on the assessment made in paragraph 11 above, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the "V" zone which is intended primarily for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from such planning intention, even on a temporary basis; and
  - (b) approval of the application would set an undesirable precedent for similar applications within the same "V" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.
- 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 **12.6.2023**. 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 8:00 a.m., as proposed by the applicant, is allowed on the Site 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 are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (d) the submission of the revised 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 **12.12.2020**;
- (e) in relation to (d) above, the implementation of the revised drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **12.3.2021**;
- (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) 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 **12.12.2020**;
- (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 **12.3.2021**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (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; and

Advisory clauses

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

**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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments**

<b>Appendix I</b>	Application form received on 21.4.2020 with layout plan, drainage proposal, fire service installations proposal and tree preservation proposal
<b>Appendix Ia</b>	FI from the applicant dated 29.4.2020 clarifying the background information
<b>Appendix Ib</b>	FI from the applicant dated 22.5.2020 clarifying the estimated trip generation and attraction
<b>Appendix Ic</b>	FI from the applicant dated 26.5.2020 clarifying the estimated trip generation
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Proposed Tree Preservation Proposal
<b>Drawing A-3</b>	Proposed Drainage Proposal
<b>Plans A-1a and 1b</b>	Location Plans
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2020**