

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/237

- Applicant** : Mr. HUI Yick-hang represented by Mr. KWOK Chi-man
- Site** : Lots 67 (Part), 68 (Part) and 69 (Part) in D.D. 124, Ha Tsuen, Yuen Long
- Site Area** : 810 m²
- 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** : Proposed Temporary Eating Place (Canteen) 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 eating place (canteen) for a period of 3 years (**Plan A-1**). According to the Notes for the “V” zone on the OZP, ‘Eating Place’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently paved and mostly vacant with some parking of vehicles (**Plans A-2 to A-4**).
- 1.2 Part of the Site was involved in two previous planning applications (No. A/YL-HT/1034 and A/HSK/167). The last application No. A/HSK/167 for the same applied use submitted by the same applicant with a smaller site area was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 2.8.2019. The planning permission is valid until 2.8.2022. Details of the previous applications are summarised at paragraph 5 below and at **Appendix II**.
- 1.3 The Site is accessible from Tin Ha Road via a local track to its southeast (**Plans A-2 and A-3**). The proposed temporary eating place comprises a single-storey structure (not exceeding 5.5m high) with a total floor area of about 227.5m². About 30 seats will be provided in the canteen. According to the applicant, the canteen is intended to serve the staff of nearby warehouse (得寶實業公司) to the

west of the Site which falls within “Other Specified Uses” annotated “Logistics Facility” (“OU(LF)”) (**Plan A-2**). 3 private car parking spaces (each of 2.5m x 5m) and 1 light goods vehicle parking space (3.5m x 7m) are proposed at the southwestern portion of the Site (**Drawing A-2**). The parking facilities will only be used by canteen staff. No parking facility for customers will be provided. According to the applicant, the operation hours are from 9:00 a.m. to 7:00 p.m. daily.

- 1.4 The major development parameters of the proposed development in the current application and the last approved application are shown below:

Major Development Parameters	Previous Approved Application No. A/HSK/167 (valid until 2.8.2022) (a)	Current Application No. A/HSK/237 (b)	Difference (b) – (a)
Site Area	About 610m ²	About 810m ²	+ 200m ² (about 33%)
Applied Use	Proposed Temporary Eating Place (Canteen) for a Period of 3 Years		---
Total Floor Area	About 210 m ²	About 227.5 m ²	+ 17.5m ² (about 8%)
No. of Parking Space for Private Cars/Light Goods Vehicles	4	4	---
Operation Hours	9:00 a.m. to 7:00 p.m. daily		---

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

- (a) Application Form with planning statement and proposed vehicular access and layout plan received on 29.6.2020 (**Appendix I**)
- (b) Supplementary information (SI) dated 30.6.2020 by the applicant providing replacement pages (**Appendix Ia**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement annexed to the Application Form and the SI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The development, on a temporary basis and of small scale, does not contravene and will not jeopardize the long-term planning of “V” zone. In view of the temporary nature and scale of the proposed development, it is not incompatible with the surrounding environment.

- (b) A paved vehicular access of 4.5m wide is currently connecting the Site with Tin Ha Road.
- (c) The proposed use will not cause adverse traffic impact on the local road network. The proposed parking provision is for light goods vehicle for the delivery of food supply and for private cars of canteen staffs only, no parking space will be provided for customers.
- (d) The applicant commits to provide a number of mitigation measures, including restriction of the operation hours from 9:00 a.m. to 7:00 p.m. daily, no night time illumination and neon-lights signboards will be installed and no workshop activity would be carried out on the Site.
- (e) The applicant would follow the environmental measures recommended in the relevant Code of Practice (August 2005) issued by the Environmental Protection Department.
- (f) Most of the site area under the current application is covered by a previous planning approval (No. A/HSK/167), due to the some technical problem on the location of the proposed temporary structure in the previous application which will lead to change of the layout. As such, a fresh application is needed.
- (g) The applicant commits to reinstate the Site upon the expiry of the planning approval.

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

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Eating Place within “V” Zone in Rural Areas under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 15A) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

6. Previous Applications

6.1 Part of the Site was involved in two previous planning applications (No. A/YL-HT/1034 and A/HSK/167) for temporary open storage and eating place uses. Details of the applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

- 6.2 Application No. A/YL-HT/1034 for temporary open storage of metal ware for a period of 3 years was rejected by the Committee on 15.7.2016 mainly on the grounds of not in line with the planning intention of the then “Residential (Group D)” and “V” zones; failed to demonstrate that the proposed development would not generate adverse traffic, drainage, landscape and environmental impacts, setting of undesirable precedent, and local objections.
- 6.3 The last application No. A/HSK/167 for proposed temporary eating place (Canteen) was approved with conditions on 2.8.2019. Compared with the last application, the current application is submitted by the same applicant for the same applied use on a larger site with a different layout.

7. Similar Application

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

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

8.1 The Site is:

- (a) paved and mostly vacant with some parking of vehicles; and
- (b) accessible from Tin Ha Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are several large logistics centres with the northwest one within “OU(LF)” zone;
- (b) to its east is a yard for open storage of recycled materials, while to its further east are some vacant structures;
- (c) to its southeast across a local track are a vehicle repair workshop, some residential dwellings, a warehouse, the San Sang Village Office, and the San Sang Tsuen Sitting-Out Area;
- (d) to its immediate south is a warehouse, some open storage yards, some residential dwellings and a piece of woodland; to its further southwest are some residential dwellings and vehicle repair workshop; and
- (e) to its west are warehouses, some open storage yards, logistics centre and some residential dwellings.

9. 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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application received 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 Old Scheduled 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 lot No. 67(Portion) in D.D.124 is currently covered by Short Term Waiver (STW) No. 1962 for storage and repair of container boxes.
- (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 lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or regularize any irregularities on site, if any. The STW holder will need to apply to his office for modification of the STW 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. 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.
- (e) There are no small house applications approved/under processing within the application site. There are 3 small house applications approved and no small house applications under processing in its vicinity of the Site.

Traffic

10.1.2 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 viewpoint.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to public road or reverse onto/from the public road.
- (c) The local track leading to the Site is not under TD's purview.

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

- (a) The access arrangement should be commented by TD.
- (b) 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

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

Should the planning application be approved, the applicant shall be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites".

Drainage

10.1.5 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 including to demonstrate how the existing watercourse within the Site would not be affected by the proposed development, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

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 (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 approval of the BA, they are unauthorized 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, demolition 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 Authorized Person 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.
- (g) If the proposed use under application is subject to the issue of a licence, the applicant should be reminded that any existing structures on the application site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

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 or referral from relevant licensing authority respectively.

District Officer's Comment

10.1.8 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) He has not received any comment 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); and
- (b) Chief Engineer/Development (Construction), Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 28.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments were received and objected to the application on the grounds that the Site lacks drainage facilities which might cause flooding; concerns on traffic, pedestrian safety and public security. The remaining commenter queried on the nature of the business and the intended customers of the development (**Appendix IV**).

12. Planning Considerations and Assessment

12.1 The application is for temporary eating place (canteen) 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. Although the temporary eating place use is not entirely in line with the planning intention of the "V" zone, it could provide catering service to meet any such demand in the area. DLO/YL of LandsD advises that there are no small house applications approved/under processing within the Site. In this regard, the approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the

Site.

- 12.2 The Site is mainly surrounded by open storage yards, residential dwellings, logistics centres and workshops (**Plan A-2**). According to the applicant, the proposed canteen intends to serve the workers from a nearby warehouse. The applied use is not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with TPB PG-No. 15A in that the eating place is located at the “V” zone and readily accessible from Tin Ha Road via a vehicular track to its south. Relevant Government departments, including AC for T/NT, TD, DEP and CE/MN, DSD have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse traffic, environmental and drainage impacts to the surrounding areas. To minimize any potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on the Site will be subject to enforcement action by the Planning Authority.
- 12.4 The Site is partly subject to a previous planning permission for the same use but with a different layout. Approval of the application is in line with the Committee’s previous decision.
- 12.5 There are five public comments received on the application during statutory publication period as summarised in paragraph 11. The planning considerations and assessments in the above paragraphs 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 proposed temporary eating place (canteen) for a 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 until **21.8.2023**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation from 7:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from the public road at any times during the planning approval period;
- (c) 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 **21.2.2021**;
- (d) in relation to (c) 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 21.5.2021;

- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) 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 21.2.2021;
- (g) in relation to (f) 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 21.5.2021;
- (h) if any of the above planning conditions (a), (b) or (e) 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
- (i) if any of the above planning conditions (c), (d), (f) or (g) 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 V**.

- 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 intentions of the "Village Type Development" zone which are 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 intentions, 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

Appendix I Application Form and planning statement with proposed vehicular access plan, and layout plan received on

Appendix Ia	29.6.2020
Appendix II	SI received on 30.6.2020 providing replacement pages Relevant extracts of Town Planning Board Guidelines for 'Application for Eating Place within "V" Zone in Rural Areas under Section 16 of the Town Planning Ordinance' (TPB PG-No. 15A)
Appendix III	Previous applications covering the Site
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2020**