

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

**APPLICATION NO. A/HSK/266**

- Applicant** : Mr. TANG Kwok Pong represented by Mr. YEUNG Yau Sing
- Site** : Lots 141 and 142 (Part) in D.D. 127 and Adjoining Government Land (GL), Hung Uk Tsuen, Ping Shan, Yuen Long, New Territories
- Site Area** : About 880 m<sup>2</sup> (including GL of about 84.2m<sup>2</sup> or 9.6%)
- 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 and Open Storage of Construction Materials 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 eating place and open storage of construction materials for a period of 3 years. The Site falls within an area zoned “V” on the approved HSK and HT OZP. 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), whilst for the proposed open storage use, temporary use or development of any land or buildings not exceeding a period of three years within the zone requires planning permission from the Board notwithstanding that the use or development is not provided for under the Notes for the “V” zone. The Site is currently occupied by some vacant temporary structures (**Plan A-4**).
- 1.2 The Site is accessible from Kiu Hung Road via a local track to its west (**Plans A-2 and A-3**). The proposed temporary eating place and open storage uses comprise 16 single-storey structures with a total floor area of about 284.5m<sup>2</sup> and height of 1.88m to 6m for dining, kitchen, toilet, storage and office uses (**Drawing A-2**). According to the applicant, the proposed eating place (about 29.3m<sup>2</sup>) is intended to serve the staff of the development and the general public. The remaining 8 converted container structures, a shed and the open area (about 595.5m<sup>2</sup> or

67.7%) within the Site will be used for storage/open storage of construction materials. No designated parking nor loading/unloading spaces within the Site have been provided. However, according to the applicant, the proposed development is anticipated to generate 1 to 2 trips daily for delivering food to the Site, and another 2 to 3 trips weekly for delivering of construction materials. Only light goods vehicle will be allowed to enter the Site for loading/unloading purpose. The operation hours of the proposed development will be from 9:00 am to 6:00 pm daily including Sundays and public holidays. The proposed vehicular access plan and site layout plan are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application form received on 15.10.2020 (Appendix I)
- (b) Supplementary information (SI) received on 21.10.2020 for clarifying background information of the Site (Appendix Ia)

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

The justifications put forth by the applicant in support of the application are detailed at **Appendices I** to **Ia**. They can be summarized as follows:

- (a) there are 7 Surveyed Squatter Structures (SSSs) in the Site for more than 30 years, which are in a ruinous state. They will be renovated and utilized for eating place and storage uses. It is considered that the proposed uses will not affect the environmental hygiene of the area; and
- (b) the traffic to the Site will be minimal.

## **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 notice to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPB PG-No. 31A are not applicable to the GL portion.

## **4. Background**

The Site is subject to planning enforcement action against an unauthorized development (UD) involving storage use. An Enforcement Notice (EN) was issued to the responsible persons on 18.6.2020 requiring the discontinuation of the UD. As revealed in recent site inspection on 22.9.2020, the UD was found discontinued. The Site would be kept under close monitoring for further action, if necessary.

**5. Town Planning Board Guidelines**

*For Eating Place Use*

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**.

*For Open Storage Use*

On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site falls within Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix III**.

**6. Previous Application and Similar Application**

The Site is not subject to any previous application. There is also no similar application within the subject “V” 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 occupied by some vacant temporary structures; and
- (b) accessible via a local track from Kiu Hung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate northwest are some village houses of Hung Uk Tsuen;
- (b) to the northeast and east are some unused land. Further east is Kiu Hung Road; and
- (c) to the south are a vehicle workshop, a storage site and some unused land. Further south and southwest are some open storage yards, some parking of vehicles, a storage site and some unused land.

**8. Planning Intention**

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. 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**

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

- (a) The Site comprises Old Schedule Agricultural Lots (OSALs) and GL. The OSALs are 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) No permission is given for occupation of GL (about 84.2m<sup>2</sup> subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.
- (c) Part of the Site falls within "Fung Shui Area of Hung Uk Tsuen and Kiu Tau Wai".
- (d) According to his record, there is no lease modification/land exchange application or building plan submission in relation to development at the Site approved/under processing.
- (e) Should planning approval be given to the subject planning application, the lot owner(s) of the lots will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. Also, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the above GL. Besides, given the proposed use is temporary in nature, only application or regularization or erection of temporary structures will be considered. 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.
- (f) There are no small house applications approved/under processing within the Site and its vicinity. There are 11 small house applications under processing in its vicinity of the Site.

10.1.2 Comments of the Chief Land Executive/Squatter Control (New Territories West Office), LandsD (CLE/SC(NTW), LandsD):

- (a) According to his record, there are two valid SSSs falling within the Site, which are for the use of kitchen and agricultural kitchen respectively.
- (b) His office received an objection letter from Indigenous Inhabitant Representative (IIR) of Hung Uk Tsuen in that the proposed development falls within the Fung Shui area, any change of land use would destroy the Fung Shui of the village; the proposed run-in/out of the Site is the only vehicular access of the village; and the proposed development would have environmental pollution to the surrounding areas.

**Traffic**

10.1.3 Comments of the Commissioner for Transport (C for T):

- (a) He has no adverse comment to 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 Transport Department (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.

10.1.4 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 Kiu Hung Road.

**Environment**

10.1.5 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**

10.1.6 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 Board be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

### **Building Matters**

10.1.7 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) The applicant should be reminded of his detailed comments at **Appendix V**.

### **Fire Safety**

10.1.8 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.
- (c) The applicant should be reminded of his detailed comments at **Appendix V**.

### **Food Safety**

10.1.9 Comments of Director of Food and Environmental Hygiene (DEFH):

- (a) He has no objection to the application.
- (b) Proper licence/permit issued by his Department is required if there

is any food business/catering service/activities regulated by DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.

- (c) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

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

10.1.10 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 received an objection letter from IIR of Hung Uk Tsuen objecting the application as mentioned by CLE/SC (NTW), LandsD in paragraph 10.1.2 above.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD); and
- (c) Director of Electrical and Mechanical Services (DEMS).

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

On 23.10.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received. Two of them were individuals raising objection to the application for reasons that the proposed development falls within "V" zone and the proposed open storage use would increase the traffic flow and air pollution in the area. They also raised concerns on pedestrian safety and quality of life of the villagers. The remaining comment was from the solicitor representing the registered owner of Lot 142 in D.D. 127 to object the application as his client had not given consent to the applicant in making the application (**Appendices IV-1 to IV-3**).

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

11.1 The application is for temporary eating place and open storage of construction 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 recognized and other villages, and to provide land considered suitable for village expansion and

reprovisioning of village houses affected by Government projects. The proposed uses are not in line with the planning intention of the “V” zone and 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 Site is situated in an area predominated by unused land to its east and village houses to its north and west within the “V” zone of Hung Uk Tsuen (the nearest existing residential dwelling is located about 10m away) (**Plan A-2**). Although there are open storage yard and parking of vehicles in the vicinity of the Site, most of them are suspected unauthorized developments that will be subject to enforcement actions by Planning Authority. The open storage use, occupying a significant part of the Site (about 595.5m<sup>2</sup> or 67.7%) is considered not compatible with the surrounding environment.

11.3 The Site falls within the HSK/HT NDA. For applications in NDAs, the following considerations under the TPB PG-No. 13F are relevant to the consideration of the proposed storage/open storage use:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses. Applications will normally be rejected unless under exceptional circumstances.

11.4 The proposed open storage use is not in line with the TPB PG-No.13F in that the Site is not subject to any previous approval for open storage use and there are objections from local residents to the proposed development. New open storage use is generally not encourage to infiltrate into the NDA. In particular, there is a general presumption against such use at sites with land use compatibility issue. For the current application, the proposed open storage use located in the central location of the existing village of Hung Uk Tsuen should not be encouraged.

11.5 The proposed eating place use is not entirely in line with the TPB PG-No.15A in that the Site is situated amidst the existing village houses instead of being located at the fringe of the village area and there are objections from local residents to the proposed development. Besides, no information has been included in the submission on the scale of the eating place such as seating plan and capacity of



the proposed use. Approval of the application without sufficient details would set an undesirable precedent for other similar applications, the cumulative effect of approving these applications would result in a general degradation of the environment of the area.

- 11.6 Other relevant departments, including C for T, CE/MN, DSD and D of FS, have no objection to or adverse comment on the application.
- 11.7 There is no previous application for eating place, open storage or other use at the Site and there has not been any planning approval for similar use in the subject “V” zone. Approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.
- 11.8 There are three public comments received with concerns stated in paragraph 10 above. For the consent from the registered land owner, it is suggested to add an advisory clause reminding the applicant to resolve any land issue relating to the development with the concerned owner(s) of the Site should the application be approved. For other concerns raised, the planning considerations and assessments in the above paragraphs are relevant.

## 12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:
  - (a) the proposed uses are not in line with the planning intention of the “V” zone which is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. No strong planning justification has been given in the submission for a departure from such planning intention, even on a temporary basis; and
  - (b) the proposed open storage use does not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ in that there is no previous approval for open storage granted for the Site; and there are local objections to the application.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis of 3 years until **4.12.2024**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) no operation between 6:00 p.m. and 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 public roads at any time during the planning approval period;
- (c) 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;
- (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 4.6.2021;
- (e) in relation to (d) above, the implementation of the drainage proposal as proposed 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 4.9.2021;
- (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 4.6.2021;
- (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 4.9.2021;
- (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 V**.

**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 15.10.2020
<b>Appendix Ia</b>	SI received on 21.10.2020
<b>Appendix II</b>	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)
<b>Appendix III</b>	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
<b>Appendices IV-1 to IV-3</b>	Public Comments
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Vehicular Access
<b>Drawing A-2</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2020**