

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

**APPLICATION NO. A/HSK/93**

- Applicant** : Mr. LAM Yue Pong
- Site** : Government Land in D.D. 124, Shek Po Tsuen, Yuen Long
- Site Area** : 175m<sup>2</sup> (about)
- Lease** : Unallocated Government Land
- Plan** : Draft Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : “Village Type Development” ( “V” )  
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services (Real Estate Agency) 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 (real estate agency) for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP for “V” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 The Site is accessible from Shek Po Road via local track, with the ingress/egress located at the northern side of the Site (**Plan A-2 and Drawing A-1**). As shown on the proposed layout plan at **Drawing A-1**, 2 single-storey (3m high) container structures (20m<sup>2</sup> each) are proposed for office use. 2 private car parking spaces are proposed. According to the applicant, the operation hours of the Site are from 10:00 a.m. to 7:00 p.m. on Mondays to Fridays, and from 10:00 a.m. to 1:00 p.m. on Saturdays and Sundays. No operation will be held on public holidays.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 25.7.2018 with proposed layout plan and vehicular access plan (**Appendix I**)

- (b) Further Information (FI) dated 11.9.2018 providing traffic generation rate **(Appendix Ia)**

**2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form in **Appendix I**. They can be summarized as follows:

- (a) The Site is for providing real estate agency service.

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

As the Site involves Government Land only, the “owner’s consent/notification” requirement 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) is not applicable to the application.

**4. Previous Application**

The Site is not the subject of any previous application.

**5. Similar Application**

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

**6. The Site and Its Surrounding Areas (Plan A-1 to Plan A-4)**

6.1 The Site is:

- (a) located at the fringe of the village cluster of Shek Po Tsuen;
- (b) currently vacant; and
- (c) accessible from Shek Po Road via a local track.

6.2 The surrounding areas have the following characteristics:

- (a) predominately occupied by the village settlements of Shek Po Tsuen, vacant lands, parking yards of vehicles, vehicle repairing workshops, storage yards and a real estate agency which are suspected unauthorized developments (UDs);
- (b) there is a metal ware workshop to its west which is an “existing use” tolerated under the Town Planning Ordinance.

## **7. Planning Intention**

The planning intention of the “V” zone in the draft HSK and HT OZP 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.

## **8. Comments from Relevant Government Departments**

8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

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

- (a) The Site falls entirely within Government Land (GL). No permission is given for occupation of GL (about 175m<sup>2</sup> subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (b) Under the prevailing policy, land within “V” zone or village environ is primarily reserved for development of NTEH by indigenous villagers under the NT Small House Policy. Besides, the Site abuts Hung Chi Road and is considered capable for separate alienation. Hence, LandsD would not normally consider application for unleased GL which is capable for reasonable separate alienation even approval of the Board is given.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) According to his record, there is no small house applications having been approved or under processing within the Site.
- (e) There are 35 outstanding Small House applications in Shek Po Tsuen and the 10-year forecast of Small House demand in Shek Po Tsuen is 500.

### **Traffic**

8.1.2 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.

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

- (a) The access arrangement of the Site from Shek Po Road should be commented by TD.
- (b) He does not and will not maintain any access connecting the Site and Shek Po Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

**Environment**

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

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

**Drainage**

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

- (a) He has no objection in principle to the proposed development from a drainage point of view.
- (b) Should the application 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.

**Nature Conservation**

8.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) Noting that the Site is disturbed and no tree felling would be involved according to the application, he has no adverse comment on the subject application from nature conservation point of view.
- (b) Should the application be approved, the applicant is advised to ensure that the existing trees on Government Land within and adjacent to the Site would not be affected by the proposed development.

**Fire Safety**

8.1.7 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 the satisfaction of D of FS.
- (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 incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Water Supply**

#### 8.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). A Waterworks Reserve within 1.5m from the centreline of water main shall be provided to WSD.
- (c) No structure shall be built or materials stored within this Waterworks Reserve. Free access shall be made available at all time for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (d) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main (**Plan A-2**).
- (e) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

### **District Officer's Comment**

#### 8.1.9 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

#### 8.2 The following Government departments have no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Chief Building Surveyor/New Territories West, Buildings Department

(CBS/NTW, BD

- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD).

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

On 3.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 24.8.2018, 6 public comments were received from members from the public (**Appendix IIa to IIc**) objecting to the application mainly on fung-shui, pedestrian and road safety, security, environmental and public hygiene issues, and the not in line with the planning intention of the “V” zone.

## **10. Planning Considerations and Assessments**

- 10.1 The subject application is for proposed temporary shop and services (real estate agency) on the Site falling within an area zoned “V” on the OZP. The planning intention of “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. Whilst the applicant claims that the proposed real estate agency would serve the needs of the nearby residents, shop and services uses are always permitted on the ground floor of the New Territories Exempted Houses of the subject “V” zone to cater for any such demand. Moreover, according to DLO/YL of LandsD, there are 35 outstanding Small House applications in Shek Po Tsuen and the 10-year forecast of Small House demand in Shek Po Tsuen is 500. From the latest estimate in July 2018 by PlanD, about 4.68 ha of land (equivalent to about 187 Small House sites) are available within the “V” zone covering the concerned village. Land within “V” zone should be reserved for Small House development. In view of the above, approval of the current application will affect the government land available for Small House development and there is no strong planning justification and planning merit given in the submission for the applied use in the Site which entirely within the GL, even on a temporary basis.
- 10.2 The proposed temporary use is not incompatible with the existing land uses of the area, which is predominately occupied by residential structures (**Plan A-2**).
- 10.3 Whilst concerned Government departments consulted, including DEP, AC for T, CE/MN of DSD and D of FS, have no objection to or adverse comment on the application, DLO/YL of LandsD has indicated that under the prevailing policy, land within “V” zone or village environ is primarily reserved for development of NTEH by indigenous villagers under the NT Small House Policy. Besides, the Site abuts Hung Chi Road and is considered capable for separate alienation. Hence LandsD would not normally consider application for unleased GL which is capable for reasonable separate alienation even approval of the Board is given.
- 10.4 There are 6 public comments (**Appendix IIa to IIc**) received raising objection to the application on the grounds of fung-shui, pedestrian and road safety, security, environmental and public hygiene issues, and not in line with the planning intention

of the “V” zone. The above planning considerations and assessment are relevant.

## **11. Planning Department’s Views**

11.1 Based on the assessments made in paragraph 11 and having taken into account the public comment as mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) 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. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate a reasonable prospect for securing the required government land for implementing the proposed use; and
- (c) approval of the application would set an undesirable precedent attracting other similar development in the area. The cumulative effect will jeopardize the availability of land for Small House development in the subject “V” zone.

11.2 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 **21.9.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 7:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation after 1:00 p.m. on Saturdays and Sundays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no operation on public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the public road at all times during the planning approval period;
- (e) the submission of 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 **21.3.2019**;
- (f) in relation to (e) above, the implementation of 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 **21.6.2019**;

- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 **21.3.2019**;
- (i) in relation to (h) 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 **21.6.2019**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning conditions (e), (f), (h) or (i) 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
- (l) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

#### Advisory Clauses

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

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

## **13. Attachments**

<b>Appendix I</b>	Application form received on 25.7.2018 with proposed layout plan and vehicular access plan
<b>Appendix Ia</b>	FI dated 11.9.2018 providing traffic generation rate
<b>Appendix IIa-f</b>	Public Comments received during statutory publication period
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo



**Plans A-4**

Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2018**