

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/292

- Applicant** : Mr. TANG Yau Tak represented by Metro Planning and Development Company Limited
- Site** : Lot 1046 RP (Part) in D.D. 125 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 275m² (includes GL of about 104m² or 37.8%)
- 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** : Temporary Shop and Services (Convenient Store and Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning approval to use the application site (the Site) for temporary shop and services (convenient store and real estate agency) for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “V” on the approved HSK and HT OZP. According to the Notes of the OZP for “V” zone, ‘Shop and Services’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently used for the same applied use with valid planning permission.
- 1.2 The Site is related to five previous applications for various temporary shop and services uses (**Plan A-1**). The last application No. A/HSK/58 for the same applied use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 6.4.2018 with validity up to 6.4.2021. All time-limited approval conditions have been complied with. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site but with larger floor area designated for convenient store.
- 1.3 The Site is accessible from San Sik Road via local track, with the ingress/egress located at the north-western side of the Site (**Drawing A-1 and Plan A-2**). As

shown on the proposed layout plan at **Drawing A-1**, an open shed (3.6 m high with floor area not exceeding 210m²) is proposed with three temporary structures underneath (including two single-storey structures with floor area of about 65m² and 45m² for convenient store and a single-storey structure with floor area of about 45m² for conference room of real estate agency). Neither car parking space nor loading/unloading bay are proposed. According to the applicant, light van will be used to deliver goods to the Site twice a week. The proposed operation hours will be from 8:00 a.m. to 10:00 p.m. daily including Sundays and public holidays. The proposed layout plan, as-built drainage plan and fire service installations (FSIs) plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

- (a) Application Form with plans received on 21.1.2021 **(Appendix I)**
- (b) Supplementary Information (SI) received on 25.1.2021, **(Appendix Ia)** confirming no change in layout and proposed use of the Site and enclosing a FSIs plan and related certificate
- (c) Further Information (FI) received on 3.2.2021 enclosing an **(Appendix Ib)** estimated trip generation report
[exempted from publication and recounting requirements]
- (d) FI received on 16.2.2021 enclosing a map which indicates **(Appendix Ic)** the route of vehicular access
[exempted from publication and recounting requirements]
- (e) FI received on 3.3.2021 providing minor clarification on **(Appendix Id)** the use of proposed structure on the FSIs plan
[exempted from publication and recounting requirements]

2. Justifications from the Applicant

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

- (a) The Site is the subject of five previous planning permissions for similar use, which were all approved since 2005. All approval conditions attached in the last planning application have been complied with.
- (b) Similar applications have been approved by the Board in the same “V” zone (e.g. A/HSK/62).
- (c) The proposed development is in line with the planning intention of the “V” zone which is primarily for the convenience of the nearby villagers. Shop and services is an “as-of-right” use at the ground floor of a New Territories Exempted House (NTEH) in the zone.
- (d) The proposed development is compatible with the surrounding environment.
- (e) The development will have insignificant noise and environmental impacts. No traffic impact would be generated as the proposed development is intended to serve nearby villagers. The applicant has implemented drainage proposal to mitigate drainage

impacts.

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 the Ha Tsuen Rural Committee by registered mail. 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 Government land portion.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site is related to five previous applications (No. A/YL-HT/418, 560, 739, 926 and A/HSK/58) for various temporary shop and service uses. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 All five previous applications for temporary shop and services (convenient store) uses with/without real estate agency were approved with conditions by the Committee on the considerations that the applied use was not incompatible with the surrounding areas, no major adverse comment from concerned Government departments and approval of the application on a temporary basis would not jeopardise the long-term development of the area.
- 5.3 The last application No. A/HSK/58 for the same applied use was approved with conditions by the Committee on 6.4.2018 for a period of 3 years, with validity up to 6.4.2021. All time-limited approval conditions have been complied with. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site but with larger floor area designated for convenient store.

6. Similar Applications

- 6.1 There are ten similar applications (No. A/HSK/13, 62, 97, 111, 120, 130, 143, 212, 244 and 248) within the same “V” zone on the OZP for similar temporary shop and services use (real estate agency with/without convenient store and/or showroom) between 2017 and 2020. All applications were approved by the Committee on similar considerations as mentioned in paragraph 5.2 above. Details of the applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 For members’ information, application No. A/HSK/290 for temporary shop and services (real estate agency and interior design service) for a period of 3 years within the same “V” zone will also be considered at this meeting (**Plans A-1 and**

A-2).

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

7.1 The Site is:

- (a) currently used for the applied use with valid planning permission; and
- (b) accessible from San Sik Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are two floodwater ponds;
- (b) to its immediate south is a real estate agency under valid planning permission; to its east and further south are the village settlements of Sik Kong Wai (the nearest residential dwelling is about 10m away); and
- (c) to its west, northwest and southwest are some parking of vehicles, vacant land and residential dwellings.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot (OSAL) and GL. The OSAL is 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 land of Lot No. 1046 RP in D.D. 125 is covered by Short Term Waiver (STW) No. 4163 to permit structures for the purpose of “Temporary Shop and Services (Convenient Store)”.
- (c) No permission is given for occupation of the GL included in the Site

(about 104m² subject to verification). The act of occupation of GL without Government's prior approval is not allowed.

- (d) According to his record, there are no Small House (SH) application under processing within the Site.
- (e) Should the application be approved, the STW holders will need to apply to his office for modification of the STW conditions where appropriate. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) 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 rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comments on the application from traffic engineering viewpoint.
- (b) 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.

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

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

Environment

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

- (a) There was no environmental complaint pertaining to the Site received in the past 3 years.
- (b) Should the application be approved, the applicant is reminded 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” to minimize any potential environmental nuisance.

Drainage

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

- (a) According to the applicant’s submission, the existing drainage facilities which was implemented under the previous application No. A/HSK/58 will be maintained. He has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, he would suggest to stipulate a condition requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (c) The applicant should be reminded of the detailed comments at **Appendix V**.

Water Supply

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

- (a) Existing water mains will be affected (**Plan A-2**). A waterworks reserve within 1.5 meters from the centreline of the water mains shall be provided to WSD.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

9.1.7 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

9.1.8 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 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 applicant should be reminded of his detailed comments at **Appendix V**.

District Officer's Comment

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

- (a) He has no comment on the application from departmental point of view.
- (b) His office has not received any comments from the locals on the application.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD); and
- (b) Director of Agriculture, Fisheries and Conservation (DAFC).

10. Public Comments Received During Statutory Publication Period

On 29.1.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from an individual and a Yuen Long District Council (YLDC) member respectively (**Appendices IV-1 to 2**). The YLDC member supported the application without providing further justification, while the individual raised concerns/objected to the application on the reasons that commercial activities within dense residential area are likely to cause environmental degradation and potential fire hazard, thereby affecting the safety and living quality of villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (convenient store and real estate agency) 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 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. Although the temporary shop and services (convenient store and real estate agency) is not entirely in line with the planning intention of the “V” zone, it could provide convenient store and real estate agency services to meet any such demand in the area. In addition, DLO/YL, LandsD advises that there is no Small House application under processing within the Site. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.
- 11.2 The applied use is not incompatible with the surrounding area, which is predominately occupied by village houses (**Plan A-2**).
- 11.3 There is no objection to or adverse comment on the application from the concerned Government departments, including C for T, CE/MN, DSD, DEP and D of FS. Significant traffic, drainage, environmental and fire safety impacts on the surrounding area are not expected. Relevant approval conditions have been

recommended in paragraph 12.2 below to minimize any possible nuisances or to address the technical requirements of the concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorised development on the Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the possible environmental impacts on the surrounding areas.

- 11.4 The Committee has approved five previous applications for similar temporary shop and services (convenient store) uses at the Site and ten similar applications within the same "V" zone on the OZP (**Plan A-1**). Approval of the current application is in line with the Committee's previous decisions.
- 11.5 There were two public comments received during statutory publication period as summarised in paragraph 10. The planning considerations and assessments in the paragraphs above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above, and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **12.3.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference

Approval conditions

- (a) no operation from 10:00 p.m. to 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the existing drainage facilities within the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **12.6.2021**;
- (d) 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 **12.9.2021**;
- (e) in relation to (d) 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 **12.12.2021**;
- (f) if any of the above planning conditions (a) or (b) 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

- (g) if any of the above planning conditions (c), (d) or (e) 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**.

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

the applied use is not in line with the planning intention of the "V" zone which is primarily 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. There is no strong justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

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

14. Attachments

Appendix I	Application Form received on 21.1.2021
Appendix Ia	SI received on 25.1.2021
Appendix Ib	FI received on 3.2.2021
Appendix Ic	FI received on 16.2.2021
Appendix Id	FI received on 3.3.2021
Appendix II	Previous Applications
Appendix III	Similar Applications Within the Same "V" Zone
Appendices IV-1 to 2	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	Fire Service Installations Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**