

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/293

- Applicant** : Chun Lik Construction Engineering Limited represented by Mr. KWOK Chi Man
- Site** : Lots 2377RP (Part), 2404RP (Part), 2405RP (Part), 2406RP (Part), 2407RP (Part), 2408RP, 2409 (Part) in D.D.124 and Adjoining Government Land (GL), Yuen Long, New Territories
- Site Area** : 1,985 m² (including 80m² of GL (about 4%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK&HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Residential (Group A) 4” (“R(A)4”)
[Restricted to a maximum plot ratio of 5 and a maximum building height of 140 mPD]
- Application** : Proposed Temporary Shop and Services (Household Products and Food Retail Shop) 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 (household products and food retail shop) for a period of 3 years. The Site falls within the “R(A)4” zone on the approved HSK&HT OZP (**Plan A-1**). According to the Notes of 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 being used for parking of vehicles without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is subject to a previous planning application (No. A/YL-PS/12) for proposed comprehensive development with minor relaxation on building height which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 8.8.1997 (**Plan A-1**). The approved scheme had not been executed and the planning permission lapsed on 8.8.2003.
- 1.3 The Site is accessible from Hung Tin Road (**Drawing A-1 and Plan A-2**). The proposed development would comprise 2 single-storey temporary structures with a total floor area of about 626m², including one for retail use (5m high, 190m²) and another structure for receiving online orders and subsequent pick up by customers (5m high, 436m²). There is an open-air area of about 320m² in the

centre of the Site for customers to inspect and check whether their goods are in order. 2 private car parking spaces (for staffs) and 2 light goods vehicles (LGVs) parking spaces for loading/unloading are proposed to serve the development (**Drawing A-1**). According to the applicant, the operation hours of the proposed development will be from 9:00 am to 7:00 pm daily including Sundays and public holidays. The proposed site layout plan is at **Drawing A-2**.

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

- (a) Application Form with plans received on 28.1.2021 (**Appendix I**)
- (b) Further information (FI) dated 18.3.2021 providing (**Appendix Ia**) clarification on background information
[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 at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed development is compatible with the surrounding area. Moreover, the current application is temporary in nature which is for short-term development only, the applicant will hand over the Site to Government once the Hung Shui Kiu / Ha Tsuen New Development Area (HSK/HT NDA) commences.
- (b) The proposed development is for temporary shop and services use (household products and food retail shop) which will mainly be for distributing online orders for household goods, fruits, clothing, toys and crafts (70% of the business), whereas the remaining business will be for traditional retail of selling dried fruits, canned food and seasoning. The proposed temporary structures are for customers' pick up and food retail respectively.
- (c) The proposed development will generate a daily traffic flow of about 12 trips of traffic inbound and outbound of the Site. Only LGV and vehicle not exceeding 5.5 tonnes will be used for transporting goods to the Site, and the private car parking spaces are for staff only.
- (d) The applicant will comply with the approval conditions and ensure the proposed development will not have environmental impact to the surrounding area.

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 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 Government land portion.

4. Background

The Site is not the subject of any current planning enforcement action.

5. Previous Application

The Site is subject to a previous application No. A/YL-PS/12 for proposed comprehensive development with minor relaxation on building height covering a much larger site which was zoned “Comprehensive Development Area” on the then Ping Shan OZP No. S/YL-PS/1. The application was approved with conditions by the Committee on 8.8.1997. However, the approved scheme had not been executed and the planning permission lapsed on 8.8.2003. Details of the application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Application

There is no similar application within the same “R(A)4” 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 hard-paved;
- (b) currently used for public vehicle park without valid planning permission; and
- (c) accessible to Hung Tin Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north is a public vehicle park under valid planning permission;
- (b) to the east is Hung Tin Road; to its further east across Hung Tin Road is Hung Shiu Kiu Vegetable Co-operative Society;
- (c) to the south and south-west are some residential dwellings, parking of vehicles and storage yard and the MTR Hung Shui Kiu Bus Depot;
- (d) to the west are office, restaurant and a public vehicle park under valid planning permission; to its further north and north-west across Hung Shui Kiu Tin Sam Road are bus terminus, Hung Fuk Shopping Centre and Hung Fuk Market.

8. Planning Intention

The planning intention of the “R(A)” zone is primarily for high-density residential developments. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purpose-designed non-domestic building up to five storeys.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application and the public comments 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 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 from the Government.
- (b) No permission is given for occupation of the GL included in the Site (about 80m² subject to verification). The act of occupation of GL without Government's prior approval is not allowed.
- (c) 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.
- (d) Should the application be approved, the lot owners(s) of the lot(s) will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on Site, if any. 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 premium 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 comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces 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's (TD) 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 Hung Tin Road.

Environment

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

- (a) This was no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' ('COP') to minimize any potential environmental nuisance.

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 application from drainage point of view.
- (b) 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 drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application 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 the detailed comments at **Appendix IV**.

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 for the existing structures at the Site.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Long Term Development

9.1.8 Comments of Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

- (a) He has no objection to the proposed temporary use, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) According to the Planning and Engineering Study (P&E Study) for the HSK/HT NDA and the latest plan, to ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot(s) concerned falls within sites under Second Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that site formation and engineering infrastructure works for Second Phase development will commence in 2024. In this regard and subject to the necessary approvals as required, the Government plans to acquire these relevant sites by end 2023 for the development of HSK/HT NDA.

District Officer's Comments

9.1.9 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 Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no

comment on the application.

10. Public Comments Received During Statutory Publication Period

On 5.2.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. One commenter objecting to the application on the grounds that commercial activities in the dense residential area would possibly lead to environmental pollution and potential fire hazard affecting villagers' safety and living quality; whilst the other objected to the application as the Site falls within the HSK/HT NDA which is for residential development (**Appendices III-1 and III-2**).

11. Planning Considerations and Assessment

- 11.1 The application is for proposed temporary shop and services (household products and food retail shop) for a period of 3 years at a site zoned "R(A)4" on the OZP. The planning intention of the "R(A)" zone is primarily for high-density residential developments. Whilst the proposed development is not in line with the planning intention of "R(A)" zone, the implementation programme for this part of NDA is still being formulated, and PM(W) of CEDD has no objection to the temporary use for a period of 3 years at the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government projects.
- 11.2 The Site is mainly surrounded by restaurant, Hung Fuk Market, shopping centre, bus terminus, MTR Hung Shui Kiu Bus Depot and public vehicle parks (**Plan A-2**). The applied use is not incompatible with the surrounding land uses.
- 11.3 Relevant Government departments, including C for T, CE/MN, DSD and DEP 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 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and any unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the latest "Code of Practice on Handling Environmental aspects of Temporary Uses and Open Storage Sites" in order to minimize the potential environmental impact.
- 11.4 The Site is involved in a previous application for proposed comprehensive development, which is considered not relevant to the applied use under the current application.
- 11.5 Two public comments were received during the statutory publication period as summarized in paragraph 10 above. The planning considerations and assessments in the above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11, 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 planning permission shall be valid on a temporary basis for a period of 3 years until **26.3.2024**. 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 9:00 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, as proposed by the applicant, 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 a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Board **by 26.9.2021**;
- (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 Board **by 26.11.2021**;
- (f) in relation to (e) above, the implemented drainage facilities 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 26.9.2021**;
- (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 Board **by 26.11.2021**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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 IV**.

- 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 "R(A)" zone which is primarily for high-density residential developments. There is no strong planning 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 28.1.2021
Appendix Ia	FI dated 18.3.2021 providing clarification on background information
Appendix II	Previous applications covering the Site
Appendix III-1 to III-2	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout 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**