

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/306

- Applicant** : Mr. TANG Yau Tak represented by R-riches Property Consultants Limited
- Site** : Lot 13 S.A RP (Part) in D.D. 124 and Lot 1558 S.B (Part) in D.D. 125, Ha Tsuen Road, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : About 83 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 Shop and Services (Real Estate Agency) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning approval to use the application site (the Site) for proposed temporary shop and services (real estate agency) for a period of 5 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 vacant and occupied by an open shed (**Plan A-4**).
- 1.2 The Site is abutting Ha Tsuen Road (**Plan A-2**). As shown on the layout plan at **Drawing A-2**, a 2-storey structure (about 6 m high with floor area of about 166 m²) is proposed for real estate agency. Neither car parking space nor loading/unloading bay is proposed. According to the applicant, the proposed operation hours will be from 9:00 a.m. to 6:00 p.m. daily, including Sundays and public holidays. The pedestrian access plan and layout plan submitted by the applicant 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 with plans received on 22.4.2021 **(Appendix I)**

- (b) Further Information (FI) received on 4.5.2021 in response **(Appendix Ia)** to Transport Department's (TD) comments
- (c) FI received on 1.6.2021 confirming the demolition of the **(Appendix Ib)** existing structure covering the Site upon granting of planning permission
[(b) and (c) 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 and FI at **Appendices I and Ib**. They can be summarized as follows:

- (a) The proposed development is intended to serve the nearby locals and business operators.
- (b) The Site is zoned "V" on the OZP where 'Shop and Services' is a Column 2 use. The proposed development is temporary in nature, thus it would not jeopardize the long term planning intention of the zone.
- (c) The applicant will strictly follow the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize adverse environmental impacts and nuisances to the surrounding areas. Sewage treatment will also be strictly followed in accordance with the "Professional Persons Environmental Consultative Committee Practice Notes".
- (d) The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surroundings areas. Adequate mitigation measures will be provided upon granting of planning approval.
- (e) The existing shed structure covering the Site will be demolished to make way for the proposed development, and the proposed scheme will be strictly followed after obtaining the planning permission.

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.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Application

There is no previous application involved at the Site.

6. Similar Application

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

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

7.1 The Site is:

- (a) currently vacant and occupied by an open shed; and
- (b) abutting Ha Tsuen Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its north across Ha Tsuen Road are the village settlements of San Uk Tsuen (the nearest residential dwelling is about 30 m away) (**Plan A-2**) and vehicle workshops;
- (b) to its immediate east is vacant; to its further east is Tin Ha Road;
- (c) to its south and southeast are some vehicle workshops and a vehicle parking yard; and
- (d) to its west and northwest are several warehouses.

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 Old Schedule 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) According to his record, there is no Small House (SH) application, lease modification/land exchange application or building plan submission being approved/under processing within the Site.
- (c) Should the application be approved, the lots owners should apply to his office for permitting the structures to be erected or to regularize any irregularities, if any. 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 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/drainage.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and any public road.

Environment

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

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

9.1.4 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 to stipulate a condition requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Building Matters

9.1.5 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) There is no record of building plan submission in relation to the development at the Site approved/under processing.
- (b) The applicant should be reminded of his detailed comments at **Appendix III**.

Fire Safety

9.1.6 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 III**.

District Officer's Comment

9.1.7 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 comments from the locals on the application.

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

- (a) Commissioner for Transport (C for T); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comment Received During Statutory Publication Period

On 30.4.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received. The commenter objected to the application on the reasons that commercial activities within dense residential area would cause environmental degradation and pose potential fire hazard, thus affecting the villagers' safety and quality of life (**Appendix II**).

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (real estate agency) for

a period of 5 years at a site zoned “V” on the OZP (**Plan A-1**). The planning intention of the “V” zone is primarily for development of Small Houses by indigenous villagers. Although the applied use is not entirely in line with the planning intention of the “V” zone, it could provide real estate agency service to meet any such demand in the area. Further, DLO/YL, LandsD advises that there is no Small House application being approved/under processing at the Site. Approval of the application on a temporary basis of 5 years would not jeopardize the long-term development of the area.

- 11.2 The Site is situated in an area mixed with village houses, vehicle workshops and warehouses. Thus, the applied use is generally not incompatible with the surrounding areas (**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/or fire safety impacts on the surrounding areas 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 unauthorized 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 nearby sensitive receivers.
- 11.4 There is no previous application at the Site or similar application within the same “V” zone on the OZP.
- 11.5 There was one public comment objecting to the application received during statutory publication period as summarized 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 taking into account the public comment 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 5 years until **11.6.2026**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation from 6:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on Site during the planning approval period;
- (b) 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 **11.12.2021**;

- (c) in relation to (b) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **11.3.2022**;
- (d) in relation to (c) above, the implemented drainage facilities on Site shall be maintained at all times during the planning approval period;
- (e) 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 **11.12.2021**;
- (f) in relation to (e) 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 **11.3.2022**;
- (g) if any of the above planning conditions (a) or (d) 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
- (h) if any of the above planning conditions (b), (c), (e) or (f) 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 III**.

- 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 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 and plans received on 22.4.2021
Appendix Ia	FI received on 4.5.2021
Appendix Ib	FI received on 1.6.2021
Appendix II	Public Comment
Appendix III	Advisory Clauses
Drawing A-1	Pedestrian Access Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**