

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/326

- Applicant** : Gainfull Construction Maintenance Limited represented by R-riches Property Consultants Limited
- Site** : Lot 1024 S.A RP (Part) in D.D. 124, Hung Chi Road, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : About 51.85 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** : “Government, Institution or Community” (“G/IC”)
[Restricted to a maximum building height of 8 storeys]
- Application** : Temporary Shop and Services (Estate and Property 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 (estate and property agency) for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “G/IC” on the approved HSK and HT OZP. According to the Notes of the OZP for “G/IC” 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 applied use without valid planning permission (**Plans A-4a and 4b**).
- 1.2 The Site is involved in a previous application (No. A/HSK/87) for the same applied use which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 17.8.2018 for a period of 3 years and the planning permission lapsed on 17.8.2021.
- 1.3 The Site is directly accessible from Hung Shui Kiu Main Street and Hung Chi Road (**Plan A-2**). As shown on the layout plan at **Drawing A-2**, a 2-storey structure (about 5.5 m high with total floor area of about 96.85m²) is proposed for estate and property agency with ancillary office uses. Neither car parking space nor loading/unloading bay is provided. According to the applicant, the proposed operation hours will be from 10:00 a.m. to 7:00 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.

- 1.4 A comparison of the major development parameters of the current application and the last approved application (No. A/HSK/87) is given below:

Major Development Parameters	Last Approved Application (A/HSK/87) (a)	Current Application (A/HSK/326) (b)	Difference (a) – (b)
Applied Use	Temporary Shop and Services (Estate and Property Agency) (3 years)		-
Site Area	48 m ²	51.85 m ²	+ 3.85 m ²
No. of Structure	1		same
Total Floor Area	96 m ²	96.85 m ²	+ 0.85 m ²
Height of Structure	7m (2-stoery)	5.5m (2-storey)	- 1.5m
Parking Space and Loading/Unloading Bay	Not provided		same
Operation Hours	10:00 a.m. to 7:00 p.m., Mondays to Fridays, 10:00 a.m. to 1:00 p.m. on Saturdays and Sundays; with no operation on public holidays	10:00 a.m. to 7:00 p.m. daily, including Sundays and public holidays	Longer operation hours

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

- (a) Application Form with plans received on 13.7.2021 **(Appendix I)**
- (b) Supplementary Information (SI) received on 15.7.2021 **(Appendix Ia)**
- (c) Further Information (FI) received on 10.8.2021 in response to Transport Department's (TD) comments **(Appendix Ib)**
[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 Site is zoned "G/IC" 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.
- (b) It is estimated that the proposed development will have 15 visitors per day and 5 staffs will be working at the Site. The Site is accessible from Hung Chi Road, therefore, no private car parking and loading/unloading space is provided at the Site.
- (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.

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

The Site is involved in a previous application (No. A/HSK/87) for temporary shop and services (estate and property agency) covering a smaller site which was approved with conditions by the Committee on 17.8.2018 mainly on the consideration that approval of the application on a temporary basis would not jeopardise the long-term development of the Site; the applied use was not incompatible with the surrounding areas; no major adverse comment from concerned Government departments; and approval of the application was in line with the Committee’s previous decisions. All time-limited approval conditions were complied with. Compared with the last application, the current application is submitted by a different applicant for the same applied use at the same site but with different configuration. 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 “G/IC” zone on the OZP.

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

7.1 The Site is:

- (a) currently occupied by the applied use without valid planning permission; and
- (b) accessible to Hung Shui Kiu Main Street (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its north and northwest are vehicle repair workshops, to its further north are warehouses, workshop, some parking of vehicles / heavy vehicles and a residential dwelling;
- (b) to its east across Hung Shui Kiu Main Street are a nullah and a site with works in progress for residential development;
- (c) to its south and southwest are logistic centre, warehouse, storage, car servicing establishment, food factories and some residential dwellings (the nearest residential dwelling is about 29m away) (**Plan A-2**); and
- (d) to its west are some storage yards.

8. Planning Intention

The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

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 Lot (OSAL) 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 lease modification/land exchange application or building plan submission in relation to the development at the Site being approved/under processing.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Traffic

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

He has no adverse comments on the application from traffic engineering view point.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drainage.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Hung Shui Kiu Main Street/ Hung Chi 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 three 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) 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

9.1.6 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 IV**.

Fire Safety

9.1.7 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 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 IV**.

Long-Term Development

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

- (a) He has no objection to the application for temporary use, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA). 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 the sites under Remaining Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that the site formation and engineering infrastructure works for the Remaining Phase development will commence in 2030.

District Officer's Comment

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 comments from the locals on the application.

9.2 The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no comment on the application.

10. Public Comments Received During Statutory Publication Period

On 20.7.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received. One of the commenters 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 III-1**) whereas another commenter queried on the compliance of conditions of the previous approved application (**Appendix III-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (estate and property agency) for a period of 3 years at a site zoned “G/IC” on the OZP (**Plan A-1**). The “G/IC” zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments. Whilst the applied use is not in line with the planning intention of the “G/IC” zone, the implementation programme of this part of the NDA is still being formulated. PM(W), CEDD has no objection to the applied temporary use for 3 years on the Site. In this regard, approval of the application on a temporary basis would not jeopardize the long-term planning of the area. 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 implementation of government projects.
- 11.2 The Site is mainly surrounded by open storage yards, logistic centres, workshops and warehouses (**Plan A-2**). The applied use is not incompatible with the surrounding land uses.
- 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 The Committee has approved a previous application (No. A/HSK/87) for the same applied use at the Site in 2018 (**Plan A-1**). All the approval conditions of the previous application were complied with. Approval of the current application is in line with the Committee’s previous decision.
- 11.5 There are two public comments received raising concerns / objection to the application during the statutory publication period as summarized in paragraph 10 above. The planning considerations and assessments in the above paragraphs are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and taking 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 **10.9.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 7:00 p.m. to 10:00 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 **10.3.2022**;
- (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 **10.6.2022**;
- (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 **10.3.2022**;
- (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 **10.6.2022**;
- (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 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 "G/IC" zone which is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. 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 13.7.2021
Appendix Ia	SI received on 15.7.2021
Appendix Ib	FI received on 10.8.2021
Appendix II	Previous Application covering the Site
Appendices III-1 and III-2	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Pedestrian Access Plan
Drawing A-2	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**