

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

**APPLICATION NO. A/HSK/332**

- Applicant** : Mr. TANG Shun Tin Andy represented by Metro Planning and Development Company Limited
- Site** : Lots 641S.B ss.2 (Part), 641S.B ss.3 (Part), 641S.B ss.4 (Part) and 641S.B RP (Part) in D.D. 125, San Wai, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 2,530 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use) and Building Licences No. BL 10637 & BL 10638
- 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 (Convenient Store) and Eating Place for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (convenient store) and eating place for a period of 5 years (**Plan A-1**). According to the Notes of the OZP for the “V” zone, both ‘Shop and Services’ and ‘Eating Place’ are Column 2 uses requiring planning permission from the Town Planning Board (the Board) unless they are provided at the ground floor of a New Territories Exempted House (NTEH). The Site is currently partly occupied by 2 NTEHs and partly vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 As shown on the proposed layout plan at **Drawing A-2**, there are two NTEHs on the Site and their ground floor is proposed to be used as eating place which is always permitted under the “V” zone. 6 temporary structures attached to the NTEHs or stand freely on the Site (all not exceeding 3.5m high) are proposed for covered car park, rain shelter, guard room, eating place and shop and services purposes. A signage above the roof of one of the temporary structures with height not more than 5.4m is also proposed. The total gross floor area of the applied use including the eating place on ground floor of the 2 NTEHs is about 1,146m<sup>2</sup>. The

Site is accessible from San Sik Road via a local track, with the ingress/egress located at the south-eastern side of the Site (**Drawing A-2 and Plan A-2**). 15 car parking spaces are proposed within the Site. The proposed operation hours will be from 9:00 a.m. to 9:00 p.m. daily including Sundays and public holidays. The location plan, proposed layout plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.3 In support of the application, the applicant has submitted the Application Form with plans, drainage proposal and estimated traffic generation on 2.9.2021 at **Appendix I**.

## **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 proposed development comprises column 2 uses in “V” zone and it will provide the local villagers with catering and grocery services. ‘Eating place’ is an “as-of-right” use at the ground floor of a NTEH in the zone.
- (b) The proposed development is not incompatible with the surrounding environment.
- (c) Similar applications for shop and services and eating places have been approved by the Board in the same “V” zone (e.g. A/HSK/144 and 292). The scale of the present application is even smaller than that of application No. A/HSK/144.
- (d) The development will not generate significant impacts on the surrounding area. The traffic impact would be insignificant as the proposed development is intended to serve nearby villagers and most of them are expected to visit the Site on foot. The provision of 15 parking spaces should be enough for visitors and loading and unloading of grocery purposes. Furthermore, the applicant has submitted a drainage proposal with the application to demonstrate that the drainage impact is minimal.

## **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. Town Planning Board Guidelines**

The Town Planning Board Guidelines for Application for Eating Place within “Village Type Development” Zone in Rural Areas under Section 16 of the Town Planning Ordinance (TPB PG-No. 15A) are relevant to this application (**Appendix II**).

## **5. Background**

The Site is not subject to planning enforcement action.

## **6. Previous Application**

There is no previous application at the Site.

## **7. Similar Applications**

There are five similar applications (No. A/HSK/58, 129, 144, 205 and 292) within the same “V” zone on the OZP for similar temporary shop and services (convenient store with/without real estate agency) and eating place uses between 2018 and 2021. All applications were approved by the Committee on the considerations that approval of the applications on temporary basis would not jeopardise the long-term planning intention of the area; the applied uses were not incompatible with the surrounding land uses; no adverse departmental comments; and approval of the applications were in line with the Committee’s previous decisions. For the application No. A/HSK/144, the Committee also considered that the applied use (eating place) was generally in line with the TPB PG-No. 15A in that the application site was located at the fringe of the “V” zone and adjacent to recreational uses and the applied use would unlikely cause significant adverse environmental, traffic, drainage and environmental hygiene impacts on the surrounding areas. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

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

### **8.1 The Site:**

- (a) comprises 2 existing NTEHs and vacant land; and
- (b) is accessible from San Sik Road via a local track.

### **8.2 The surrounding areas have the following characteristics:**

- (a) to its immediate north are two residential houses. Further northeast are a residential development named Grantham and some vacant land; further northwest are two warehouses as well as an open storage yard of recycling materials, all under valid planning permissions, and another open storage yard of recycling materials;
- (b) to its east are some parking of vehicles and a piece of vacant land;
- (c) to its southeast is a residential development named Sunny Villa and some vacant land; to its south across a nullah are some parking of vehicles, the village settlement of Tseung Kong Wai and a residential development named Villa Oasis; and
- (d) to its west are some parking of vehicles, a storage yard of recycling materials and a piece of vacant land.

## **9. 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.

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

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

### **Land Administration**

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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) Building Licences No. BL10637 & BL 10638 were granted to Lots No. 641 S.B ss.4 and 641 S.B ss.3 in D.D. 125 respectively. According to the conditions of the BLs, except for the building site, the remainder of the lots shall not be built upon and shall continue to be used for agricultural or garden purposes.
- (c) No Small House application is under processing within the Site. He has no adverse comment on the subject planning application.
- (d) The applicant should be reminded of the detailed comments in **Appendix V**.

### **Traffic**

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

- (a) He has no adverse comments on the application from traffic engineering viewpoint.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to or reverse onto/from public roads.
- (c) The applicant should be reminded of the detailed comments in **Appendix V**.

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

- (a) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.
- (b) The applicant should be reminded of the detailed comments in

## **Appendix V.**

### **Environment**

#### 10.1.4 Comments 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**

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

- (a) She has no objection in principle to the application from a drainage point of view. The drainage proposal submitted with the application is acceptable.
- (b) Should the application be approved, a condition should be stipulated requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of her Division.

### **Building Matters**

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

The applicant should be reminded of the detailed comments at **Appendix V.**

### **Fire Safety**

#### 10.1.7 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 the detailed comments at **Appendix V.**

### **Food and Environmental Hygiene**

#### 10.1.8 Comments of the Director of Food and Environmental Hygiene (DEFH):

- (a) He has no adverse comments on the application.

- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

**District Officer's Comment**

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

His office has not received any local comment on the application.

10.2 The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.

**11. Public Comments Received During Statutory Publication Period**

On 10.9.2021, 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 (**Appendices IV-1 to 2**). The individuals raise concerns/object 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; and the application seems suspicious with a large site area for convenience store development and that a parking lot already exists next to the Site.

**12. Planning Considerations and Assessments**

- 12.1 The application is for temporary shop and services (convenient store) and eating place for a period of 5 years at the 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 eating place is not entirely in line with the planning intention of the “V” zone, they could provide convenient store and catering 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 and he has no adverse comment on the application. Approval of the application on a temporary basis would not adversely affect the land availability for village type development and jeopardise the long-term development of the area.
- 12.2 The applied use is not incompatible with the surrounding area, which is rural in character intermixed with residential dwellings, open storage yards and warehouses (**Plan A-2**).
- 12.3 The Site is located at the fringe of the “V” zone and abuts a local track. There is no objection to or adverse comment on the application from the concerned government departments, including C for T, CE/MN, DSD, DEP, DFEH 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 13.2 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.

- 12.4 For the proposed 'shop and services' use which will be provided at a single storey structure about 80m<sup>2</sup>, given its small scale, its possible impact on the surroundings is considered insignificant. For the proposed eating place, it is generally in line with TPB PG-No.15A in terms of location, land use compatibility and impacts in respect of traffic, drainage, environment as well as fire safety. Sympathetic consideration could be given to the application. Nevertheless, in accordance with TPB PG-No.15A, a shorter approval period of three years, instead of five years sought, is recommended so as to retain planning control on the development at the Site and to cater for changing circumstances in future.
- 12.5 The Committee has approved five similar applications for temporary shop and services or eating place uses at the Site 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.
- 12.6 Two objecting public comments were received during statutory publication period as summarised in paragraph 11. The planning considerations and assessments in the paragraphs above are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 above, and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the proposed temporary shop and services and eating place for a period of 3 years, instead of 5 years as sought by the applicant.
- 13.2 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 **29.10.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) no operation from 9:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the implementation of the accepted 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 **29.7.2022**;
- (c) in relation to (b) above, the implemented drainage facilities on the Site should be maintained at all times during the planning approval period;
- (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 **29.4.2022**;

- (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 **29.7.2022**;
- (f) if any of the above planning conditions (a) or (c) 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 (b), (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**.

- 13.3 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.

### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

### **15. Attachments**

<b>Appendix I</b>	Application Form with plans, drainage proposal and estimated traffic generation received on 2.9.2021
<b>Appendix II</b>	Town Planning Board Guidelines for Application for Eating Place within "Village Type Development" Zone in Rural Areas under Section 16 of the Town Planning Ordinance (TPB PG-No. 15A)
<b>Appendix III</b>	Similar Applications Within the Same "V" Zone
<b>Appendices IV-1 to 2</b>	Public Comments
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Location and Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan



<b>Drawing A-3</b>	Proposed Drainage Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2021**