

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/HSK/349

- Applicant** : Mr. TANG Fook Chuen Joseph represented by Metro Planning and Development Company Limited
- Site** : Lot 650 RP (Part) in D.D. 125, Sik Kong Tsuen, Yuen Long, N.T.
- Site Area** : 171m² (about)
- 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** : Renewal of Planning Approval for Temporary Shop and Services (Convenience Store) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary shop and services (convenience store) 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, ‘Shop and Services’ is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently being used for the applied use with valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was involved in 2 previous applications (No. A/YL-HT/998 and A/HSK/129) for the same applied use. The last application (No. A/HSK/129) (**Plan A-1**) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 22.2.2019 for a period of 3 years with validity to 22.2.2022.
- 1.3 The Site is accessible from San Sik Road (**Drawing A-1 and Plan A-2**). As shown on the layout plan at **Drawing A-2**, a 2-storey temporary structure (7.5m high) with a floor area of 176m² for convenience store, and 3 other single-storey structures (3m high) for ancillary facilities, including store room, pump room and water tank, are proposed. No parking space or loading/unloading bay will be provided at the Site. The operation hours are 8:00 a.m. to 8:00 p.m. from Mondays to Sundays, including public holidays. The as-built drainage plan submitted by the applicant is at **Drawing A-3**.

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

- (a) Application Form received on 29.11.2021 with drawings (Appendix I)
- (b) Further Information (FI) received on 21.12.2021 (Appendix Ia)

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 applied use is in line with the planning intention of the “V” zone and would cater for the demand for grocery of the nearby villagers.
- (b) The Site is the subject of two previous planning approvals for similar shop and services use since 2016. A similar application No. A/HSK/62 for shop and services within the same “V” zone was approved by the Board.
- (c) All time-limited approval conditions in relation to previous planning permission No. A/HSK/129 have been complied with.
- (d) The applied use is compatible with the surrounding environment. No traffic impact is anticipated as the applied use is intended to serve the nearby villagers. Noise and environmental impacts are expected to be insignificant. The applicant has implemented drainage proposal to mitigate drainage impact.

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. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is currently not subject to any planning enforcement action.

6. Previous Applications

- 6.1 The Site was the subject of two previous applications (No. A/YL-HT/998 and A/HSK/129) for temporary shop and services (convenience store). Both applications were approved with conditions by the Committee for a period of 3 years on the

considerations that approval of the applications would not jeopardize the long-term development of the Site; the applied use was not incompatible with the surrounding land uses; and approval of the applications being generally in line with previous decisions of the Committee. Details of the applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

- 6.2 The last application No. A/HSK/129, which was submitted by the same applicant for the same applied use at the same site, was approved with conditions by the Committee for a period of 3 years on 22.2.2019 with validity to 22.2.2022. All time-limited approval conditions were complied with. The layout and development parameters of the current application are the same as the last planning approval. The current application is a renewal application.

7. Similar Applications

- 7.1 There are 17 similar applications (No. A/HSK/13, 58, 62, 97, 111, 120, 130, 143, 205, 212, 244, 248, 290, 292, 332, 335 and 343) within the same “V” zone on the OZP for various temporary shop and services. They were all approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.1 above. However, the permission under the application No. A/HSK/111 was subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 There is a similar application involving the same “V” zone for renewal of temporary shop and services (real estate agency) (No. A/HSK/350) (**Plan A-1**) scheduled for the consideration by the Committee at this meeting.

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

- 8.1 The Site is:
- (a) currently used for the applied use with valid planning permission; and
 - (b) accessible from San Sik Road.
- 8.2 The surrounding areas have the following characteristics:
- (a) predominately occupied by residential dwellings of Sik Kong Tsuen and King’s Garden;
 - (b) to its immediate north, east and southeast are a convenient store, a refuse collection point, a pavilion and a temporary structure for real estate agency use under valid planning permission. Further north across San Sik Road are 2 temporary structures for real estate agency use (both under valid planning permissions), a latrine, a village office, a car park and a piece of woodland; and
 - (c) to its south are village houses, a temporary structure for real estate agency purpose (under valid planning permission) and vacant land. Further south across the nullah are some residential dwellings intermixed with an open storage yard, vacant land and a floodwater pond.

9. Planning Intention

The planning intention of the “V” zone 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 (SH) 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 New Territories Exempted House. 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 received 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 Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. The private lot is covered by a Short Term Waiver to permit structures for the purpose of “Temporary Shop and Services (Real Estate Agency & Convenience Store)”.
- (b) There is no SH application at the Site.
- (c) The applicant should be reminded of the detailed comments in **Appendix VI**.

Traffic

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

He has no adverse comment from traffic engineering point of view.

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

Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Environment

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

Should the application be approved, the applicant is advised to follow the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ (‘COP’).

Drainage

10.1.5 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 were implemented under approved application No. A/HSK/129 will be maintained for the subject development. She has no objection in principle to the application from a drainage point of view. Should the application be approved, a condition should be stipulated requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of her Division.
- (b) The applicant should be reminded of the detailed comments in **Appendix VI**.

Building Matters

10.1.6 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 in **Appendix VI**.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire services installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to him for approval.
- (c) The applicant should be reminded of the detailed comments in **Appendix VI**.

District Officer's Comments

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

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

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

11. Public Comment Received During Statutory Publication Period

On 7.12.2021, 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 concerned that the information provided by the applicant is inconsistent with the reality and doubted that the applied use is really intended for non-domestic purpose and does not include car parking space (**Appendix V**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary shop and services (convenience store) for a period of 3 years at the Site within the “V” zone of the OZP. Whilst the applied use is not entirely in line with the planning intention of “V” zone which is primarily for development of SH by indigenous villagers, the applied use can meet the demand of the services for convenience store in the area. DLO/YL of LandsD also advises that there is no SH application at the Site. Approval of the application on a temporary basis of 3 years would not frustrate the planning intention of the “V” zone and will not jeopardize the long-term development of the Site.
- 12.2 The applied use is considered not incompatible with the surrounding land uses which mainly comprise rural residential dwellings/structures within Sik Kong Tsuen (**Plan A-2**).
- 12.3 The current application is a renewal application of the last approved application (No. A/HSK/129) for a period of 3 years. There has been no major change in planning circumstances of the Site and the surrounding areas since the last approval. The approval of the application on a temporary basis would not jeopardise the implementation of the zoned use, and all the approval conditions under the last approved application have been complied with. Compared with the last approved application, the current application is for the same use at the same site for the same approval period and the development parameters and the layout remain unchanged. In view of the above, the renewal application is considered generally in line with the TPB PG-No. 34D.
- 12.4 Concerned government departments including DEP, C for T, D of FS and CE/MN, DSD have no objection to or no adverse comment on the application. As the applied use is of small scale, it is anticipated that the applied use would not cause any significant environmental, traffic, fire safety and drainage impacts to the surroundings. To address the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 13.2 below. 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 also be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimize the possible environmental impacts on the surrounding areas.
- 12.5 In addition to the two previous planning approvals for the same use at the Site, there are 17 similar approvals for shop and services within the same “V” zone on the OZP (**Plan A-1**). Approval of the subject application is in line with the Committee’s previous decisions.
- 12.6 One public comment objecting to the application was received during statutory publication period as summarised in paragraph 11. The planning considerations and

assessments in the above paragraphs are relevant. Regarding the concern on using the Site for other purpose not covered by planning permission, it should be noted that any unauthorized development on the Site would be subject to enforcement action by the Planning Authority.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the temporary shop and services (convenient store) could be tolerated for a further period of three years.
- 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 and be renewed from 23.2.2022 to 22.2.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (b) the existing drainage facilities on 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 commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.5.2022;
- (d) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.8.2022;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.11.2022;
- (f) if any of the above planning condition (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 condition (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.

[Conditions (a), (b), (c), (d), (e), (f) and (g) are all the same as the previous Application No. A/HSK/129; restriction on operation hours has been removed as per the latest requirement.]

Advisory clauses

The recommended advisory clauses are attached at **Appendix VI**.

- 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 for development of Small Houses by indigenous villagers. There is no strong planning 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

Appendix I	Application Form received on 29.11.2021
Appendix Ia	FI received on 21.12.2021
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D)
Appendix III	Previous Applications Covering the Site
Appendix IV	Similar Application Within the Same "V" Zone
Appendix V	Public Comment
Appendix VI	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & 4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**