

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

**APPLICATION NO. A/HSK/373**

- Applicant** : Group Gain Land Development Limited (眾利土發有限公司)  
represented by Miss Hui Hang Yu (許幸如)
- Site** : Lot 121 (Part) in D.D. 128, Ha Tsuen, Yuen Long
- Site Area** : About 566 m<sup>2</sup>
- Land Status** : 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
- Zonings** : (i) “Village Type Development” (“V”) (75.4%); and  
[Restricted to maximum building height (BH) of 3 storeys (8.23m)]  
(ii) “Government, Institution or Community” (“G/IC”) (24.6%)  
[Restricted to maximum BH of 3 storeys]
- Application** : Proposed Temporary Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (selling of construction materials) for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls within an area straddling “V” (75.4%) and “G/IC” (24.6%) zones on the OZP. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use in both “V” and “G/IC” zones which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plan A-4**).
- 1.2 The Site is accessible from Kai Pak Ling Road via a local track (**Plan A-3 and Drawing A-1**) with the ingress/egress point at the south-western part of the Site. As shown on the proposed layout plan at **Drawing A-1**, a 3m high single-storey structure (with a floor area of 230m<sup>2</sup>) is proposed for shop and services use (selling construction materials). Two parking spaces for light goods vehicles (7m x 3.5m each) will be provided near a manoeuvring circle next to the entrance. The operation hours are from 9 a.m. to 7 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays. The fire service installations (FSIs) proposal and the proposed drainage plan submitted by the applicant are shown on **Drawings A-2 and A-3** respectively.

- 1.3 The Site is involved in a previous planning application (details at paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the Application Form (received on 26.4.2022) with supplementary planning statement (**Appendix I**).

## **2. Justifications from the Applicant**

The justifications put forth by the Applicant in support of the application are detailed in the supplementary planning statement at **Appendix I**. They can be summarized as follows:

- (a) The applied use, being a Column 2 use in both “G/IC” and “V” zones, does not contravene the planning intentions of these zones. It is temporary in nature and would not affect the long-term zoned uses.
- (b) A previous application (No. A/HSK/233) was approved by the Board for the same use at the same site. Similar treatment is requested.
- (c) The applied use is neither a warehouse nor open storage yard and is not incompatible with the rural setting of the surrounding areas.
- (d) Given the small size of the Site and that mitigation measures will be taken, environmental impacts from the applied use on the surrounding areas would be insignificant. No neon lights will be installed for the store and there will also be no workshop activities. No toxic nor polluting materials will be stored at the Site. With restrictive operation hours in night time and holidays, no noise nuisance will be generated to the nearby residents.
- (e) The traffic impact of the applied use would be insignificant as the Site would serve primarily for display and sale of construction materials in small amount. In case of sale in large bulk or amount, the construction materials will be directly delivered to the customers by the supplier. The proposed light goods vehicle parking spaces are for the use of the staff, instead of the customers, thus minimizing the traffic generation.

## **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. 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/233) for temporary shop and services (selling of construction materials). The application was approved with conditions by the Committee in 2020 on the considerations that the applied use would not jeopardise the long-term planning intention of the zoned uses; insignificant environmental impacts anticipated with small scale of development; and no major adverse comments from concerned government departments. However, the planning permission for this application was subsequently revoked on 15.9.2021 due to non-compliance with approval conditions regarding implementation of drainage proposal and submission and implementation of FSIs proposal. Compared with the last approved application, the current application is submitted by the same applicant for the same use at the same site with a smaller area and similar layout and development parameters. Details of this previous application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

## 6. **Similar Applications**

There are 3 similar applications (No. A/HSK/193, 255 and 291) for shop and services use within the same “V” and/or “G/IC” zones on the OZP in the past 5 years. One of these applications (No. A/HSK/291), which falls within an area straddling the “V” and “G/IC” zones, was approved with conditions by the Committee in 2021 on similar considerations as mentioned in paragraph 5 above. The other 2 applications (No. A/HSK/193 and 255), both falling entirely within the “G/IC” zone, were rejected by the Committee in 2019 and 2020 on the consideration that the applied use was not in line with the planning intention of “G/IC” zone, not compatible with the surrounding land uses and approval of the application would set an undesirable precedent for similar applications. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Kai Pak Ling Road via a local track; and
- (b) currently vacant.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north are village houses and residential dwellings within the “V” zone of Fung Kong Tsuen, and a storage yard which is a suspected unauthorized development (UD). Further north are some graves and grassland, as well as a storage facility and an open storage yard of construction materials, both are suspected UD, and some residential dwellings;
- (b) to its east are grassland and an open storage yard of construction materials which is a suspected UD;
- (c) to its south are a metal workshop, a site office, 2 open storage yards of recycling materials, and construction materials and machinery respectively, and a warehouse, all are suspected UD. Further south within the “Other Specified Uses” annotated “Port Back-up, Storage and Workshop Use” (“OU(PBUSWU)”).

zone are a warehouse and a fish farm (under valid planning permission); and

- (d) to its immediate west is an open storage yard of construction materials, which is a suspected UD. Further west across Kai Pak Ling Road is a vegetated knoll with some graves.

## **8. Planning Intentions**

- 8.1 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. 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 New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.
- 8.2 The planning intention of the “G/IC” zone is primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory.

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

All departments consulted have no objection to or no adverse comments on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

## **10. Public Comments Received During Statutory Publication Period**

On 6.5.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals (**Appendices V-1 to V-2**) were received objecting to the application on the grounds that the proposed development will cause environmental nuisance, pose fire safety hazard to the villagers and have adverse impact on the living quality of the villagers; and the applicant should not be granted with another approval as the previous application was revoked due to non-compliance with approval conditions.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services for a period of 3 years at the Site falling within an area partly zoned “V” (75.4%) and “G/IC” (24.6%) on the OZP. The planning intention of the “V” zone is primarily for development of Small House by indigenous villagers while that for the “G/IC” zone is primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory. Whilst the applied use is not entirely in line with the above planning intentions, the proposed shop and services can serve such demand in the nearby areas. The Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) envisages that the site formation and engineering infrastructure works for this part of the NDA will commence in 2030 and the District Lands Officer/Yuen Long, Lands

Department, advises that there is no Small House application approved/under processing within 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 part of the Site falling within the “G/IC” zone may be resumed by the Government at any time during the planning approval period for implementation of government projects.

- 11.2 The Site is located at the fringe of the “V” zone. While the proposed temporary use of shops and services for the selling of construction materials is not entirely compatible with the surrounding land use, in particular the village houses within the zone, the applied use is of small scale with transportation of goods using only light goods vehicles within restrictive hours. Significant environmental impact to the surrounding areas is not anticipated.
- 11.3 There is no adverse comment from the concerned government departments. It is anticipated that no significant adverse traffic, environmental, drainage and fire safety impacts would be generated from the proposed use. To minimize any possible environmental impacts and nuisance on the surrounding areas, and to address the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 12.2 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.
- 11.4 The Site is involved in a previous approved application (No. A/HSK/233) for the same applied use. Although the planning permission was revoked on 15.9.2021 due to non-compliance with approval conditions, the applicant has submitted a FSIs proposal and a drainage proposal in the current application. The Director of Fire Services considers the FSIs proposal acceptable and the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application. In this regard, sympathetic consideration may be given to the application. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of planning permission, sympathetic consideration would not be given to any further applications.
- 11.5 In addition to the previous planning approval at the Site, there is another approval for similar application (No. A/HSK/291) at a site straddling the same “V” and “G/IC” zones on the OZP (**Plan A-1**). Approval of the current application is in line with the Committee’s previous decisions. The Committee has rejected two similar applications for shop and services which fall entirely within the same “G/IC” zone on the OZP in 2019 and 2020. For the current application, the Site falls mainly within the “V” zone (75.4%) with minor portion within “G/IC” zone (24.6%) on the OZP. It is also noted that the applied use of the current application is of small scale and can serve the nearby villagers.
- 11.6 Two public comments objecting the application were received during the statutory publication period as summarised in paragraph 10. 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 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 permission shall be valid on a temporary basis for a period of 3 years until **24.6.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) the submission of a revised 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 **24.12.2022**;
- (b) in relation to (a) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **24.3.2023**;
- (c) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted 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 **24.3.2023**;
- (e) if the above planning condition (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
- (f) if any of the above planning condition (a), (b) or (d) 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 intentions of the "V" and "G/IC" zones, which are primarily for development of Small House by indigenous villagers, and for the provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory, respectively. There is no strong planning justification in the submission for a departure from the planning intentions, 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**

<b>Appendix I</b>	Application Form received on 26.4.2022
<b>Appendix II</b>	Previous and Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendices V-1 to 2</b>	Public Comments
<b>Drawing A-1</b>	Proposed Vehicular Access Plan and Layout Plan
<b>Drawing A-2</b>	Proposed FSIs Proposal
<b>Drawing A-3</b>	Proposed Drainage Plan
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2022**