

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/376

- Applicant** : Full View Union Development Limited represented by R-riches Property Consultants Limited
- Site** : Lots 2061, 2062 (Part), 2063 RP (Part) and 2064 (Part) in D.D. 124 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long
- Site Area** : 3,624m² (about) (including GL of 152m² or 4%)
- 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”)
- Application** : Proposed Temporary Shop and Services and Eating Place with Ancillary Facilities for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services and eating place with ancillary facilities for a period of 5 years at the application site (the Site) (**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, ‘Eating Place’ and ‘Shop and Services’ uses are Column 2 uses (except on the ground floor of a New Territories Exempted House (NTEH)) requiring planning permission from the Town Planning Board (the Board). The Site is currently used as a warehouse without planning permission (**Plans A-4a and 4b**).
- 1.2 The Site is accessible from Tin Ha Road with the ingress/egress point at the eastern side of the Site (**Plan A-2**). As shown on the proposed layout plan at **Drawing A-2**, the applied use comprises 6 temporary structures, with a total floor area of not more than 1,196m². These include 5 single-storey (4m in height) temporary structures for eating place and shop and services use (including retail shop, barber shop, convenience store, medical consulting room, real estate grocery, showroom, etc.), and one two-storey (7m in height) temporary structure for office and fire service installations. 16 parking spaces for private car and 2 loading/unloading spaces for light goods vehicle will be provided within the Site. The operation hours will be between 9:00 a.m. and 9:00 p.m. daily. The site plan and layout plan

submitted by the applicant are at **Drawings A-1 and A-2** respectively.

- 1.3 The Site is involved in one previous planning application (details at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted an application form with attachments received on 28.4.2022 (**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 applied use is temporary in nature and will serve the needs of the nearby villagers. Therefore, approval of the application will not jeopardize the long-term planning intention of the “V” zone.
- (b) Sufficient manoeuvring space is provided within the Site. Minimal traffic will be generated and thus adverse traffic impact is not anticipated.
- (c) The applicant will strictly follow the ‘Control of Oil Fume and Cooking Odour from Restaurant and Food Business’ and ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department (EPD) to minimize all possible environmental impacts and nuisance.
- (d) The proposed development will not generate adverse environmental, landscape and drainage impacts to the surrounding areas.

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 Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPG PG-No.31A are not applicable to the GL portion.

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 the application. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is currently not subject to any active planning enforcement action. However, storage use was observed within the Site. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

6. Previous Application

Part of the Site is involved in a previous application (No. A/YL-PS/30) for temporary open storage of waste paper and scrap metal. The application was rejected by the Rural and New Town Planning Committee (the Committee) on 24.4.1998 for the reasons that the development was not in line with the planning intention for the site; not compatible with the surrounding land uses; not in line with the Town Planning Board Guideline; and setting of undesirable precedent. Details of the application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

7. Similar Application

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

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

8.1 The Site is:

- (a) being used as a warehouse without valid planning permission; and
- (b) abutting Tin Ha Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are some scrubland and a vehicle assembly workshop;
- (b) to its east across Tin Ha Road are a church, a number of open storage yards for recycling materials and construction materials, some storage facilities, car services establishments and some parking of vehicles. Further east are the village dwellings of San Lee Uk Tsuen;
- (c) to its south are the village houses of Tin Sam Tsuen and some parking of vehicles; and
- (d) to its west across the nullah are a warehouse, a car services establishment and an open storage yard of construction machinery.

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 (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 a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

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

11. Public Comments Received During Statutory Publication Period

On 13.5.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received (**Appendix VI**). An individual objects to the application on the grounds that the applied use being in the vicinity of residential dwellings will generate environmental nuisances, pose fire safety hazards, and adversely affect the safety and living quality of the villagers. The other individual expresses concerns about the hygienic condition of the proposed use, and the approval of the application may legitimize warehouse operation on the Site.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services and eating place with ancillary facilities for a period of 5 years at the Site within the “V” zone. Whilst the applied use is not entirely in line with the planning intention of “V” zone which is primarily intended for the development of SH by indigenous villagers, it could provide catering and retail services to meet any such demand in the area. According to the District Lands Officer/Yuen Long, Lands Department, there is currently no SH application approved or under processing at the Site. Approval of the application on a temporary basis of 5 years would not frustrate the planning intention of the “V” zone and will not jeopardise the long-term development of the Site.
- 12.2 The Site is sandwiched between the village houses of Tin Sum Tsuen at its south and some storage and workshop uses to its north. The proposed use is considered not incompatible with the surrounding land uses which mainly comprise rural residential dwellings/structures (**Plan A-2**). The proposed building height of 1 to 2 storeys (4m to 7m) is also considered compatible with the existing village houses to its south.
- 12.3 The application is generally in line with TPB PG-No. 15A in that the proposed eating place use is located at the fringe of the “V” zone and directly accessible from Tin Ha Road. In addition, there is no adverse comment from the concerned Government departments, including Director of Environmental Protection, Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Director of Food and Environmental Hygiene. Significant environmental, traffic, drainage, fire safety and environmental hygiene impacts to the surrounding areas is not expected. Nevertheless, in accordance with TPB PG-No.15A, under normal circumstances only a temporary approval for a maximum of 3 years should be considered so as to retain planning control on the development at the Site and to cater for changing circumstances in future.
- 12.4 To minimize any possible environmental impacts and nuisance on the surrounding developments, and 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 Two public comments objecting the application or raising concerns were received during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in the above paragraphs 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 on paragraph 11, the Planning Department has no objection to the proposed temporary shop and services and eating place with ancillary facilities 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 24.6.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 24.12.2022;
- (b) in relation to (a) above, the implementation of the 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 (b) above, the implemented drainage facilities on Site shall 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 planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.12.2022;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.3.2023;
- (f) 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
- (g) if any of the above planning condition (a), (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 proposed 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 28.4.2022
Appendix II	Relevant Extracts of Town Planning Board Guidelines for 'Application for Eating Place within "V" Zone in Rural Areas under Section 16 of the Town Planning Ordinance' (TPB PG-No. 15A)
Appendix III	Previous Application
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendices VI-1 and VI-2	Public Comments
Drawing A-1	Site Plan
Drawing A-2	Proposed 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
JUNE 2022**