

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/395

- Applicant** : Mr TANG Yau Tak (鄧有德) represented by Miss HUI Hang Yu (許幸如)
- Site** : Lots 1498 S.A RP (Part), 1549 (Part), 1550 (Part) and 1551 (Part) in D.D 125, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 292 m²
- 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
- Zoning** : “Open Space” (“O”)
- Application** : Proposed Temporary Eating Place (Canteen) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary eating place (canteen) for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “O” on the OZP. According to the Notes of the OZP, ‘Shop and Services’ in “O” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for residential use without valid planning permission (**Plan A-4**).
- 1.2 The Site is accessible from Ha Tsuen Road via a local track (**Drawing A-1 and Plans A-2 and A-3**) and the ingress/egress point is at the south-western part of the Site. As shown on the layout plan at **Drawing A-2**, a two-storey temporary structure (not exceeding 4m high) with a floor area of about 208m² for eating place and ancillary storage purpose is proposed at the major portion of the Site. A single-storey temporary structure (not exceeding 4m high) is also proposed at the north-eastern part of the Site for ancillary toilet. No parking facility will be provided on Site. The proposed canteen will provide about 30 seats to only serve the site workers in the vicinity and they will come to the canteen on foot. According to the applicant, the operation hours are from 8:00 a.m. to 8:00 p.m. daily. The proposed layout plan submitted by the applicant is shown on **Drawing A-2**.
- 1.3 In support of the application, the applicant has submitted the Application Form (received on 26.7.2022) with supporting information (**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, easy to reinstate and would not jeopardise the long-term planning intention of the zone.
- (b) The proposed development is a Column 2 use in “O” zone. A similar application for temporary eating place (canteen) in “O” zone in the adjoining area was approved by the Board.
- (c) Given the nature and small scale of the proposed development, the impacts to the environment are expected to be insignificant. The proposed development does not involve tree felling, filling of land or any workshop activities.
- (d) The traffic impacts of the proposed development would be minimal as it would only serve the site workers in the vicinity and they will come to the canteen on foot. No parking facility will be provided on Site.
- (e) The proposed development will put rural land resources under good management. The applicant pledges to provide good management to the Site to avoid mosquito and dumping/littering problems. The proposed development would be compatible with the surrounding areas.
- (f) The applicant pledges to suspend the applied use half year before the commencement of the infrastructural works of relevant government projects for the Hung Shui Kiu/Ha Tsuen development.

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.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application within the same “O” zone on the OZP.

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

7.1 The Site is:

- (a) accessible from Ha Tsuen Road via a local track; and
- (b) currently used for residential use without valid planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) to its north is a logistics centre and some temporary structures for storage which are suspected unauthorized developments (UDs). Further northeast are a parking site for vehicles which is suspected UD and some village houses;
- (b) to its east are a temporary structure for storage and an open storage yard which are suspected UD and some village houses of San Uk Tsuen;
- (c) to its south and southeast are a shop and services (sale of auto audio system) which is a suspected UD, 2 vehicle workshops and some vacant land. Further south across Ha Tsuen Road is a warehouse, an open storage yard of heavy vehicles and a car wash service shop which are suspected UD; and
- (d) to its west and northwest are a storage yard, a warehouse and 2 open storage yards of containers and heavy vehicles, which are permitted under the “Other Specified Uses” annotated “Logistics Facility” (“OU(LF)”) zone. Further southwest across Ha Tsuen Road are a vehicle depot and a centre for inspection of new vehicles, vehicle repair workshop and open storage of vehicles and a logistic centre, which are either covered by planning permission or permitted under the “OU(LF)” zone.

8. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

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 II and III** respectively.

10. Public Comments Received During Statutory Publication Period

On 2.8.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from two individuals were received (**Appendices IV-1 and IV-2**) objecting to the application on the grounds that the applied use will cause environmental nuisance, pose fire safety hazard to the villagers and adversely affect their living quality; and there is insufficient justification in the submission for the proposed development.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary eating place (canteen) for a period of 3 years at the Site zoned “O” on the OZP. The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses. Whilst the applied use is not in line with the above planning intention, the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) and the Director of Leisure and Cultural Services (DLCS) have no objection to the application. 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 the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects.
- 11.2 The applied use is not incompatible with the surrounding land uses which are predominantly used for open storage yards, warehouses, logistics centres (with some of them permitted under the OZP or covered by planning permission), village houses/residential dwelling and some shop and services uses (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned government departments including Director of Environmental Protection, Commissioner for Transport, Director of Fire Services and Chief Engineer/Mainland North of Drainage Services Department on the application. The applied use would unlikely create significant adverse environmental, traffic, fire safety and drainage impacts to the surrounding area. To address the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 12.2 below.
- 11.4 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 **23.9.2025**. 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 the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **23.3.2023**;
- (b) in relation to (a) above, the implementation of 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 **23.6.2023**;

- (c) in relation to (b) above, the implemented drainage facilities on the 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 **23.3.2023**;
- (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 **23.6.2023**;
- (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 III**.

- 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 "O" zone, which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses respectively. There is no strong planning 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
Appendix II
Appendix III

Application Form received on 26.7.2022
Government Departments' General Comments
Recommended Advisory Clauses

Appendices IV-1 and IV-2
Drawing A-1
Drawing A-2
Plan A-1
Plan A-2
Plan A-3
Plan A-4

Public Comments
Location Plan
Proposed Layout Plan
Location Plan
Site Plan
Aerial Photo
Site Photos

PLANNING DEPARTMENT
SEPTEMBER 2022