

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/425

<u>Applicant</u>	: Fairoy Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 1583 RP (Part) in D.D. 125, Tin Ha Road, Hung Shui Kiu, Yuen Long, New Territories
<u>Site Area</u>	: About 93m ²
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
<u>Zoning</u>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height (BH) of 3 storeys (8.23m)]</i>
<u>Application</u>	: Proposed Temporary Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of five years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “V” on the OZP. According to the Notes of the OZP, ‘Shop and Services’ in “V” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission (**Plan A-4**).
- 1.2 The Site is accessible from Tin Ha Road (**Plans A-2 and A-3**) with the ingress/egress points at the south-western part of the Site. As shown on the submitted layout plan at **Drawing A-2**, there is one single-storey temporary structure (with a total floor area of about 71m²; about 3.5m in height) as shop and services and washroom uses. No parking space will be provided. According to the applicant, the operation hours are from 9:00 a.m. to 7:00 p.m. daily (including public holidays). The location plan and layout plan are submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.3 In support of the application, the applicant has submitted an Application Form with attachments received on 23.11.2022 (**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 summarised as follows:

- (a) The applied use is to provide plumbing and engineering services to serve the nearby residents, while goods to support the operation (i.e. pipes, valves, tanks, etc.) would be stored elsewhere. Traffic impact would be minimal as the Site is accessible from Tin Ha Road via a footpath and does not provided parking space and loading/unloading space.
- (b) The applied use is not incompatible with the surrounding environment which is mainly occupied by New Territories Exempted Houses (NTEHs). It is temporary in nature and would not affect the long-term use of the Site.
- (c) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and ‘Professional Persons Environmental Consultative Committee Practice Notes’ issued by Environmental Protection Department to minimise adverse environmental impacts and nuisance to the surrounding area.

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 any active planning enforcement action.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

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

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

7.1 The Site is:

- (a) accessible from Tin Ha Road; and
- (b) currently used for the applied use without valid planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) to its west across Tin Ha Road is a piece of vacant land. Further west is the village cluster of San Uk Tsuen. To its northwest is a warehouse which is a suspected unauthorized development (UD);
- (b) to its immediate northeast and southwest are two an open storage yards of construction materials which are suspected UD. Further beyond are some residential dwellings and an open storage yard of vehicles and trailers which is a suspected UD; and
- (c) further southeast is a car service establishment which is a suspected UD.

8. 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.

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 Comment Received During Statutory Publication Period

On 2.12.2022, 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 IV-1 and IV-2**) objecting to the application on the grounds that parking spaces are provided on the Site which is not aligned with the planning application and structures were erected before planning permission sought.

11. Planning Considerations and Assessments

11.1 The application is for temporary shop and services for a period of five years at the Site zoned “V” on the OZP. Whilst the applied use is not entirely in line with the planning intention of the “V” zone which is primarily intended for the development of SH by indigenous villagers, it could provide retail services to meet any such demand in the area. District Lands Officer/Yuen Long, Lands Department advises that there is currently no SH application approved or under processing at the Site. Approval of the application on a temporary basis of five years would not frustrate the planning intention of the “V” zone and will not jeopardise the long-term development of the Site.

- 11.2 The applied use is not incompatible with the surrounding land uses, which mainly comprise residential dwellings of the recognized village (San Uk Tsuen) with some warehouse and open storage uses (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North of Drainage Services Department on the application. The applied use would unlikely create significant adverse traffic, environmental, 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. Any non-compliance with these approval conditions would result in revocation of the planning permission and any UD on the Site would be subject to planning enforcement action. 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 Two public comments objecting to the application were received during the statutory publication period as summarized in paragraph 10 above. In this regard, it is noted that according to the application, no parking facilities would be provided within the Site. The planning considerations and assessments in paragraphs 11.1 to 11.3 are also relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment 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 five years until **13.1.2028**. 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 **13.7.2023**;
- (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 **13.10.2023**;
- (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 **13.7.2023**;
- (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 **13.10.2023**;

- (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 "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

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	Application Form with Attachments received on 23.11.2022
Appendix II	Government Departments' General Comments
Appendix III	Recommended Advisory Clauses
Appendix IV-1 and IV-2	Public Comments
Drawing A-1	Location Plan with Pedestrian Access
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2023**