

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

APPLICATION NO. A/HSK/469

- Applicant** : Smart Happiness Limited represented by Ever United Planning and Development Limited
- Site** : Lots 1119 (Part), 1120 (Part) and 1121 RP (Part) in D.D. 125 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 1,054m² (including about 9m² GL (about 0.9%))
- 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 a maximum building height of 3 storeys (8.23m)*]
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for temporary shop and services (real estate agency) for a period of three years (**Plan A-1a**). According to the Notes of the OZP for “V” zone, ‘Shop and Services’ 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 with valid planning permission until 4.9.2023.
- 1.2 The Site is accessible from San Sik Road via a local track, and the ingress/egress point is at the northwestern part of the Site (**Plans A-2 and A-3**). According to the applicant, the existing two-storey temporary structure (not more than 6.5m high) with a floor area of about 160m² is used for real estate agency. Two other one-storey temporary structures (not more than 3m high) with a total floor area of not more than 18m² are used for electricity meter rooms. Four parking spaces for private cars (each of 5m x 2.5m) are provided (**Drawing A-2**). The operation hours are from 9:00 a.m. to 8:00 p.m. daily including Sundays and public holidays. Plans showing the access leading to the Site, site layout, as-built drainage facilities and fire service installations (FSIs) submitted by the applicant are at **Drawings A-1**

to A-4 respectively.

- 1.3 The Site is involved in five previous planning applications for temporary vehicle park and shop and services (real estate agency) approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2011 and 2020 (details at paragraph 6 below). Compared with the last application No. A/HSK/244 approved with conditions on 4.9.2020, the current application is submitted by the same applicant for the same use with the same layout and development parameters.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 13.6.2023 **(Appendix I)**
 - (b) Further Information (FI) received on 12.7.2023 **(Appendix Ia)**
[accepted and exempted from publication and recounting requirements]

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) Two previous applications for the same use at the Site submitted by the same applicant have been approved by the Board since 2017. The current application is to seek renewal of planning approval under the last approved application No. A/HSK/244. All time-limited approval conditions of the previous application have been fulfilled.
- (b) The applied use is not incompatible with the surrounding environment. Similar planning applications for shop and services (real estate agency) have been approved by the Board in the adjoining areas.
- (c) The applied use is temporary in nature and would not jeopardise the long-term planning intention of the concerned zone. The impacts on environment, traffic and drainage aspects are expected to be insignificant.

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 publishing notices in local newspapers. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPB PG-No. 31A are not applicable to the GL portion.

4. Town Planning Board Guideline

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 is involved in five previous applications (No. A/YL-HT/719, 915 and 955 and A/HSK/13 and 244) for temporary vehicle park and temporary shop and services (real estate agency) respectively. All the applications were approved by the Committee/the Board between 2011 and 2020. For those three applications involving temporary shop and services (real estate agency), they were approved mainly on considerations that the applied/proposed uses were not incompatible with the surrounding areas and there were no major adverse comments from concerned government departments. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 The last application No. A/HSK/244 was approved with conditions by the Committee on 4.9.2020 for a period of three years with validity up to 4.9.2023. All time-limited approval conditions have been complied with.

7. Similar Applications

- 7.1 There are 19 similar applications (No. A/HSK/97, 111, 120, 129, 130, 143, 205, 212, 248, 290, 292, 332, 335, 343, 349, 350, 364, 382 and 431) for temporary shop and services use including real estate agency, interior design sample showroom and convenience store within/straddling the subject “V” zone in the past five years. All of them were approved with conditions by the Committee between 2018 and 2023 on similar considerations as stated in para. 6.1. However, two of the planning permissions were subsequently revoked due to non-compliance with approval condition. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.
- 7.2 Application No. A/HSK/466 for proposed temporary shop and services (grocery store) at a site within the same “V” zone will be considered at the same meeting.

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

- 8.1 The Site is:
- (a) accessible from San Sik Road via local track; and
 - (b) currently used for the applied use with valid planning permission.
- 8.2 The surrounding areas have the following characteristics:
- (a) to its north and northwest are some residential dwellings. To its further northeast across the nullah are a real estate agency under valid planning permission and vacant land;
 - (b) to its immediate southeast is a site for parking of vehicles under valid planning

permission. To its further east and southeast are an open storage yard and a woodware workshop which are suspected unauthorized developments (UDs), a residential estate named Purmerend Villas, cultivated land and vacant land;

- (c) to its south and southwest are two open storage yards and a storage facility which are suspected UD, another open storage yard under valid planning permission, residential dwellings, cultivated land and unused land; and
- (d) to its west and northwest are a cluster of residential dwellings and fallow agricultural land.

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.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 below, other 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.

10.2 The following government department has adverse comments on the application:

Land Administration

10.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) he has grave concerns on the application since there are unauthorized building works and/or uses on Lots 1120 and 1121 RP in D.D. 125 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD;
- (b) according to his record, there is no SH application approved or under within the Site;
- (c) there is no lease modification/land exchange application or building plan submission in relation to development at the Site approved/under processing; and
- (d) his advisory comments are at **Appendix V**.

11. Public Comment Received During Statutory Publication Period

On 20.6.2023, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary shop and services (real estate agency) for a period of three 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, it could provide real estate agency service to meet any such demand in the area. DLO/YL, LandsD advises that no SH application has been approved or under processing at the Site. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term planning intention of the “V” zone.
- 12.2 The applied use is considered not incompatible with the surrounding land uses which are predominantly used for residential dwellings, shop and open storage yards with some of them covered by valid planning permissions (**Plan A-2**).
- 12.3 The application is considered generally in line with TPB PG-No. 34D in that there is no major change in planning circumstances; all approval conditions under the previous approval have been complied with; there is no adverse departmental comment on the renewal application and the three-year approval period sought which is the same as the last approval granted by the Committee is not unreasonable.
- 12.4 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 on the surrounding area. To address the technical requirements of the concerned departments, relevant approval conditions have been recommended in paragraph 13.2 below. Regarding DLO/YL, LandsD’s comments on unauthorized building works and/or uses on Lots 1120 and 1121 RP in D.D. 125, should the application be approved, the applicant will be advised to remedy the lease breaches or to regularise any irregularities with LandsD.
- 12.5 Three previous applications for the same applied use on the Site (**Plan A-1b**) were approved between 2015 and 2020 on the grounds that the applied/proposed uses were not incompatible with the surrounding areas and no major adverse comments from concerned government departments. In addition, there are 19 similar approvals for temporary shop and services use including real estate agency, interior design sample showroom and convenience store within/straddling the subject “V” zone on the OZP (**Plan A-1**) between 2018 and 2023. Approval of the current application is generally in line with the Committee’s previous decisions.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department has no objection to the temporary shop and services (real estate agency) 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 three years **from 5.9.2023 until 4.9.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (b) the existing trees 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 on the Site within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **5.12.2023**;
- (d) the existing fire service installations implemented on the Site shall be maintained at all times during the planning approval period;
- (e) if any of the above planning condition (a), (b) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (f) if the above planning condition (c) 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.

[Approval conditions (a), (b) and (c) are the same as those under the permission for application No. A/HSK/244; restrictions on operation hours and queuing back and reversing movement of vehicles have been removed as per the latest practice; and approval conditions on the submission and implementation of FSIs proposal under the permission for application No. A/HSK/244 are replaced by approval condition (d).]

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 applied use is not in line with the planning intention of the "V" zone which is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion. There is no strong 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 13.6.2023
Appendix Ia	FI received on 12.7.2023
Appendix II	Relevant Extract of TPB PG-No. 34D
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Location Plan with Vehicular Access
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	FSIs Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2023**