

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/470

- Applicant** : Mr. LEE Lai Ping represented by Goldrich Planners and Surveyors Limited
- Site** : Lot 297 S.C in D.D. 124 and Adjoining Government Land (GL), Yuen Long
- Site Area** : About 416m² (including GL of about 7m² or 1.7%)
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2
- Zonings** : “Open Space” (“O”)
- Application** : Proposed Temporary Shop and Services (Retail Shop for Hardware Groceries and Construction Materials) with Ancillary Facilities for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (retail shop for hardware groceries and construction materials) with ancillary facilities for a period of five years (**Plan A-1**). 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 vacant and hard-paved (**Plans A-2 and A-4**).
- 1.2 The Site is accessible from a local track leading from Hung Chi Road and the ingress/egress point is at the east of the Site (**Drawing A-2 and Plan A-2**). As shown on the proposed layout plan at **Drawing A-2**, there will be four one to two-storey structures (3.5m to 6m high) with a total floor area of about 186.5m² for retail shop for hardware groceries and construction materials, container storage, reception, ancillary office and electricity meter box. There will be one parking space for private car and one parking space for heavy goods vehicle (HGV). According to the applicant, the operation hours are from 8:30 a.m. to 6:30 p.m. daily, including Sundays and public holidays. The vehicular access plan, proposed layout plan and plan illustrating dimension of the local track submitted by the applicant are shown on **Drawings A-1 to A-3** respectively.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 19.6.2023 (**Appendix I**)

(b) Further Information (FI) received on 21.7.2023
[Exempted from publication and recounting requirements]

(Appendix Ia)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The Site will be used for retail use only. The proposed use can satisfy local residents' needs for hardware groceries and construction materials.
- (b) Customers' will only collect the ordered goods when they are ready for pick-up, and walk-in customers are not common.
- (c) No workshop activity (including cutting of metal) will be carried out on the Site.
- (d) The HGV will only visit the Site once a week for goods delivery, and only about eight vehicle trips will be generated throughout the day. Therefore, the traffic impact induced will be insignificant.
- (e) There are similar applications approved in the vicinity.

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 by registered post. 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. **Background**

The Site is subject to a planning enforcement action (No. E/YL-HSK/98) against an unauthorized development (UD) involving storage use (including deposit of containers). Enforcement Notice was issued on 22.12.2022 (**Plan A-2**). Subsequent site inspection revealed that the UD has been discontinued. Compliance Notice was issued on 6.6.2023.

5. **Previous Application**

The Site does not involve any previous application.

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 Hung Chi Road via a local track; and
- (b) vacant, hard-paved and fenced off.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is vacant and some cultivated land; to its further north across the MTR (Tuen Ma Line) are some agricultural land;
- (b) to its east is a nullah; to its further east across the nullah are Shek Po Road, residential dwellings and a public toilet of Shek Po Tsuen;
- (c) to its immediate south are vacant and a site for parking of vehicles, which is a suspected UD; to its further south and southwest are an open storage yard, storage facility and a vehicle repair workshop, which are all suspected UDs, and some residential dwellings and unused land; and
- (d) to its west are some residential dwellings (the nearest one is about 3m away) and unused land.

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 residential as well as the general public.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 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 II and III** respectively.

9.2 The following government department does not support the application:

Environment

9.2.1 Comments of the Director of Environmental Protection (DEP):

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (the closest residential dwelling being about 3m away) (**Plan A-2**) and the proposed use involves the use of heavy vehicles. Environmental nuisance is expected; and
- (b) no environmental complaint pertaining to the Site was received in the past three years.

10. Public Comment Received During Statutory Publication Period

On 27.6.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessment

- 11.1 The application is for proposed temporary shop and services (retail shop for hardware groceries and construction materials) with ancillary facilities for a period of five years at a site zoned “O” on the OZP (**Plan A-1**). Whilst the proposed use is not in line with the planning intention of the “O” zone, the Project Manager (West), Civil Engineering and Development Department and Director of Leisure and Cultural Services (DLCS) have no objection to the application, and DLCS advises that there is no plan to develop the Site into public open space in the upcoming five years. In this regard, approval of the application on a temporary basis of five years would not jeopardise the long-term development of the Site. Notwithstanding this, 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 the implementation of government projects.
- 11.2 The proposed use is generally not incompatible with the surrounding land uses which are predominantly occupied by agricultural land and unused land intermixed with some residential dwellings (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned government departments, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the closest dwelling is about 3m away) (**Plan A-2**), and the proposed use involves the use of heavy vehicles and thus environmental nuisance is expected. In this regard, it is noted that no environmental complaint pertaining to the Site has been received in the past three years. To address the concerns on the possible environmental nuisances, should the application be approved, the applicant will be advised to follow the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas. To address the technical requirements of other concerned departments, relevant approval conditions are recommended in paragraph 12.2 below.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department has no objection to the proposed temporary shop and services (retail shop for hardware groceries and construction materials) with ancillary facilities.
- 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 **11.8.2028**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:30 p.m. to 8:30 a.m., as proposed by the applicant, is allowed on the Site during the approval period;

- (b) 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 **11.2.2024**;
- (c) in relation to (b) 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 **11.5.2024**;
- (d) if the above planning condition (a) 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
- (e) if any of the above planning condition (b) or (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.

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 proposed 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 serving the needs of local residents as well as the general public. 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 19.6.2023
Appendix Ia	FI received on 21.7.2023
Appendix II	Government Departments' General Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Plan Illustrating Dimension of the Local Track
Plan A-1	Location Plan
Plan A-2	Site Plan

Plan A-3
Plan A-4

Aerial Photo
Site Photos

PLANNING DEPARTMENT
AUGUST 2023