

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/HSK/259

- Applicant** : Mr. TANG Ka Lin represented by Mr. KWOK Chi Man
- Site** : Lot 1169 RP in D.D. 124, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 115m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK&HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Open Space” (“O”) (about 30%); and
area shown as ‘Road’ (about 70%)
- Application** : Proposed Temporary Shop and Services (Vehicle Decoration and Maintenance Materials) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (vehicle decoration and maintenance materials) for a period of 3 years. The Site falls mainly within an area shown as ‘Road’ (about 70%) and partly within an area zoned “O” (about 30%) on the approved HSK&HT OZP No. S/HSK/2 (**Plan A-1**). According to the Notes for the “O” zone, ‘Shop and Services’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). In any area shown as ‘Road’, all uses or developments require planning permission from the Board. The Site is currently hard-paved and vacant (**Plan A-2** and **A-4**).
- 1.2 The Site is abutting Tin Ha Road and the ingress/egress is located at its southern part (**Plan A-2** and **Drawing A-1**). As shown on the proposed layout plan at **Drawing A-2**, a temporary single-storey structure with a total floor area of about 115m², is proposed for the retail shop use (4m high). According to the applicant, no parking space will be provided within the Site as the proposed development aims to serve mainly the local residents. The proposed operation hours are from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The proposed location with vehicular access plan and layout plan are shown at **Drawings A-1** to **A-2** respectively.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with plans received on 23.9.2020 (Appendix I)
- (b) Further Information (FI) received on 19.10.2020 (Appendix Ia) clarifying the background information and traffic arrangement

2. **Justifications from the Applicant**

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

- (a) ‘Shop and Services’ is a Column 2 use within the “O” zone. The proposed development is small in scale with an area of 115m² to be covered by a temporary structure for retail of vehicle decoration and maintenance commodities. The proposed development will be a roadside shop that aims to serve the local residents, and it will be compatible with surrounding environment.
- (b) The applicant will apply for Short Term Waiver (STW) from Lands Department (LandsD) and commence the development once the planning approval is obtained from the Board. No workshop activity will be carried out on-site and the development will not cause air and noise pollution.
- (c) No night time commercial activity will be carried out. A maximum of two staffs will be employed for the shop routine. As they live nearby, they will go to work on foot or by bicycle.
- (d) The proposed development will generate one trip in two weeks for delivering goods to the Site. The delivery will drop the goods off at an adjacent site (**Appendix Ia**) and staff will use trolley to transport back the goods to the Site. The whole process will finish within 15 minutes.

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 not subject to planning enforcement action.

5. **Previous and Similar Application**

The Site is not subject to any previous application. There is also no similar application within the subject “O” zone and area shown as ‘Road’ on the OZP.

6. The Site and Its Surrounding Areas (Plan A-1a to Plan A-4)

6.1 The Site is:

- (a) hard-paved and vacant; and
- (b) abutting Tin Ha Road (**Plans A-2 and A-3**).

6.2 The surrounding areas have the following characteristics:

- (a) to its north are some vehicle repair workshops and an open storage yard of recycling metal; to its further north is the West Rail track;
- (b) to its east across the nullah are a piece of vacant land, some storage and workshop; to its southeast are a factory and some residential dwellings;
- (c) to its south is Tin Ha Road; to its southwest are a sitting-out area, some vacant land and grassland; and
- (d) to its west across the West Rail track overhead are some storage yards, residential dwellings and vacant land (**Plan A-2**).

7. 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.

8. Comments from Relevant Government Departments

8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) According to his record, there is no lease modification / land exchange application or building plan submission in relation to development at the Site approved / under processing.
- (c) Should the application be approved, the lot owner(s) of the lot(s) without Short Term Waiver (STW) will need to apply to his office for permitting the structures to be erected or regularize any irregularities on the Site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above

will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

8.1.2 Comments of the Commissioner for Transport (C for T):

He has no adverse comment to the application from traffic engineering point of view.

8.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by Transport Department (TD).
- (b) It is noted that the run-in/out to the Site is from Sha Chau Lei Road which is not maintained by HyD.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (d) HyD shall not be responsible for the maintenance of any access connecting the Site and Tin Ha Road.

Environment

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

- (a) He has no comment on the application.
- (b) There was no environmental complaint pertaining to the Site received in the past 3 years.

Drainage

8.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Fire Safety

8.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to him for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

8.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) There is no building plan submission in relation to the development at the Site was approved or under processing.
- (b) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorized Building Works (UBW) under the Buildings Ordinance (BO). An Authorised Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (c) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (e) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (f) Detailed checking under BO will be carried out at building plan submission stage.

Long Term Development

8.1.8 Comments of Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

- (a) He has no objection to the application for temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) However, the Site falls within the boundary of the Hung Shui Kiu/ Ha Tsuen New Development Area (HSK/HT NDA). According to the Planning and Engineering Study for the HSK/HT NDA, to ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot concerned falls within a site under Remaining Phase development in the latest programme of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that the site formation and engineering infrastructure works for the Remaining Phase development will commence in 2030.

District Officer's Comments

8.1.9 Comments of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

- (a) He has no comment on the application from departmental point of view.
- (b) His office has not received any comment from the locals on the application.

8.2 The following Government departments have no comment on /no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Leisure and Cultural Services (DLCS); and
- (c) Director of Electrical and Mechanical Services (DEMS).

9. Public Comment Received During Statutory Publication Period

On 6.10.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual raising concerns on the application as the proposed development may delay the progress for HSK/HT NDA and it is not in line with the planning intention of the "O" zone (**Appendix II**).

10. Planning Considerations and Assessments

10.1 The application is for proposed temporary shop and services (vehicle decoration and maintenance materials) for a period of 3 years at a site mainly within an area shown as 'Road' (70%) and partly zoned "O" (30%) 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 serving the needs of local residents as well as the general public. Whilst the proposed development is not in line with the planning intention of “O” zone, both DLCS and PM/W, CEDD have no objection to the proposed development for temporary use. 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 the implementation of government projects.

- 10.2 The Site is mainly surrounded by open storage yards, rural workshop, warehouses intermixed with some residential dwellings (**Plan A-2**). The applied use, which is small scale with transportation of goods using only trolley, is considered not incompatible with the surrounding land uses.
- 10.3 Relevant Government departments, including C for T, DEP and CE/MN, DSD have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse traffic, environmental and drainage impacts to the surrounding areas. To minimize any potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 11.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and any unauthorised development on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 10.4 There is one public comment received on the application during the statutory publication period as summarised in paragraph 9 above. The planning considerations and assessments in the above paragraphs are relevant.

11. Planning Considerations and Assessments

- 11.1 Based on the assessments made in paragraph 10 above and having taken into account the public comment mentioned in paragraph 9, the Planning Department has no objection to the proposed temporary shop and services (vehicle decoration and maintenance materials) for a period of 3 years.
- 11.2 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 **20.11.2023**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;

- (c) no workshop activity, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) 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 **20.5.2021**;
- (e) in relation to (d) 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 **20.8.2021**;
- (f) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 **20.5.2021**;
- (h) in relation to (g) 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 **20.8.2021**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) is not complied with by the 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**.

- 11.3 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 serving the needs of local residents as well as the general public. There is no strong planning justification to depart from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.

12.3 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.

13. Attachments

Appendix I	Application form with plans received on 23.9.2020
Appendix Ia	FI received on 14.10.2020 clarifying the background information and traffic arrangement
Appendix II	Public Comment received during statutory publication period
Appendix III	Advisory Clauses
Drawing A-1	Proposed Location Plan with Vehicular Access
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan with Previous Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**