

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/130

- Applicant** : Tang Tai Tong represented by Metro Planning and Development Company Limited
- Site** : Lots 650 RP (Part) and 977 RP (Part) in D.D. 125, Sik Kong Tsuen, Ha Tsuen, Yuen Long
- Site Area** : 169 m²(about)
- 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 maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services use (real estate agency) for a period of 3 years (**Plan A-1**). The Site falls within the “V” zone on the approved HSK and HT OZP No. S/HSK/2. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use in the “V” zone requires planning permission from the Town Planning Board (the Board). The Site is currently being used for the applied use without valid planning permission.
- 1.2 The Site is the subject of one previous planning application No. A/YL-HT/996 for temporary shop and services use (real estate agency) for a period of 3 years approved with conditions by the Rural and New Town Planning Committee (the Committee) on 8.1.2016. The applicant has complied with all the approval conditions. However, the planning permission has lapsed on 8.1.2019. The current application is submitted by the same applicant for the same use at the same site with two additional structures.

1.3 The Site is abutting San Sik Road. As shown on **Drawing A-1**, six temporary structures with a total floor area of 146m² are proposed. These include a two-storey (7.5m high) temporary structure for shop and services use (real estate agency) (80m²), two single-storey (4m high) structures for conference room use (total 40m²), a single-storey (4m high) structure for toilet and meter room uses (20m²) and two single-storey (2.5m high) structures for water tank use (3m²) and pump room use (3m²) respectively as parts of fire service installations. The operation hours are from 9 a.m. to 8 p.m. daily, including Sundays and public holidays. The proposed tree preservation plan and as-built drainage plan submitted by the applicant are at **Drawings A-2 to A-3**.

1.4 Compared with the last approved planning application No. A/YL-HT/996, the current submission is submitted by the same applicant for the same applied use on the same site with two additional structures. The major development parameters of the previously approved scheme and the current application are summarized as follows:

Major Development Parameters	Previously Approved Application No. A/YL-HT/996 (a)	Current Application No. A/HSK/130 (b)	Difference (b) - (a)
Applied Use	Proposed Temporary Shop and Services (Real Estate Agency) (3 Years)	Temporary Shop and Services (Real Estate Agency) (3 Years)	No change
Site Area	169m ²	169m ²	No change
Total floor area	140m ²	146m ²	+6m ² (+4%)
No. and Height of Structure	4 - 1 shop for real estate agency (7.5m high) - 2 conference rooms (4m high) - 1 toilet and metre room (4m high)	6 - 1 shop for real estate agency (7.5m high) - 2 conference rooms (4m high) - 1 toilet and metre room (4m high) - 1 water tank (2.5m high) - 1 pump room (2.5m high)	+2 (for water tank and pump room)
Operation Hours	9 a.m. to 8 p.m. daily		No change

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

- (a) Application Form received on 8.1.2019 (Appendix I)
- (b) Supplementary Planning Statement with proposed layout plan, proposed tree preservation plan and as-built drainage plan (Appendix Ia)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement at **Appendix Ia**. They can be summarized as follows:

- (a) The applied use is the subject of a previous planning permission for the same use and the applicant had managed to comply with all the planning conditions imposed by the Board.
- (b) The applied use is in line with the planning intention of the “V” zone to serve the needs of the nearby residents and it would not jeopardize the building of New Territories Exempted House (NTEH) in the village in the long run. Shop and services is a Column 2 use in “V” zone and always permitted at the ground floor of a NTEH.
- (c) The applied use is primarily to serve the villagers and the nature and size of the proposed development, which is a kind of shop and service use, would not affect the character of the village. The applied use is compatible with the surrounding areas, which are mostly occupied by NTEH.
- (d) There are also similar applications on the “V” zones in the surrounding areas that have been approved by the Board for temporary use.
- (e) There is no adverse traffic, environmental and drainage impact from the development. The opening hours are proposed to be restricted from 9:00 a.m. to 8:00 p.m. daily.

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. 31) 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 not subject to any planning enforcement action. Notwithstanding, as the previous planning approval (No. A/YL-HT/996) on the Site has expired on 8.1.2019, enforcement action would be instigated subject to sufficient evidence collected.

5. Previous Application

The Site is the subject of a previous planning application No. A/YL-HT/996 for proposed temporary shop and services use (real estate agency) for a period of 3 years approved with conditions by the Committee on 8.1.2016. All the time-specific approval conditions had been complied with. However, the planning approval expired on 8.1.2019. The current application is submitted by the same applicant for the same applied use at the same site. Details of the application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

There are 13 similar applications (No. A/YL-HT/889, 931, 955, 973, 980, 1013, 1069, A/HSK/13, 58, 62, 97, 111 and 120) involving nine sites for temporary shop and services (real estate agency) uses within the same “V” zone. All these applications were approved by the Committee since 2005 taking into consideration that the applied uses were not incompatible with the surrounding uses. However, two of these approved applications (No. A/YL-HT/931 and 1013) were subsequently revoked due to non-compliance with approval conditions. Particular of these applications and the decisions of the Committee are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently being used for the applied use without valid planning permission; and
- (b) abutting San Sik Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are some village houses, a latrine, and a village office while to its further north is a cluster of village houses at San Wai;
- (b) to its immediate east is a real estate agency. A cluster of village houses of Sik Kong Tsuen is at its east and southeast. To its further southeast is a car park; and
- (c) to its immediate south is a woodland. To its further south and southwest across San Sik Road are a pavilion, a refuse collection point, a convenient store and two real estate agencies under valid planning permissions (Nos. A/YL-HT/1069, A/HSK/120 and 129 respectively) and some residential dwellings including King’s Garden.

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 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 Town Planning Board.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval from the Government.
- (b) The private land of Lot 650 RP in D.D.125 is covered by Short Term Waiver (STW) No. 4699 for the purpose of “Temporary Shop and Services (Real Estate Agency and Convenience Store)” while Lot 977 RP in D.D.125 is covered by STW No. 4752 for “Temporary Shop and Services (Real Estate Agency)”.
- (c) The Site is accessible from San Sik Road through both private lot and Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) According to his record, there is no Small House application approved/under processing for the Site.
- (f) Should the planning application be approved, the STW holders will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of

New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by the Lands Department (LandsD) acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/ New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) The loading/unloading activities associated with the applied use shall not cause obstruction to public roads.

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

- (a) He notes that no vehicular access is proposed or to be granted under the application.
- (b) He has no comments from highways maintenance point of view.
- (c) Should the application be approved, the applicant is reminded that there is and will be no vehicular access to/from the Site.

Environment

9.1.4 Comment of the Director of Environmental Protection (DEP):

Should the applicant be approved, the applicant is reminded to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' to minimize any potential environmental nuisance.

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) According to the information submitted by the applicant, the existing drainage facilities which was implemented under an

approved application No. A/YL-HT/996 will be maintained for the subject development. Should the application be approved, he would suggest imposing planning conditions requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the structures existing at the Site, BD is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a NTEH) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the 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 application site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) 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.
- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

9.1.7 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 structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department 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.

District Officer's Comment

9.1.8 Comment of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

9.2 The following Government departments have no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Project Manager (New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD);
- (c) Chief Engineer/ Construction, Water supplies Department (CE/C, WSD);
and
- (d) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD).

10. Public Comments Received During Statutory Publication Period

On 15.1.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 8.2.2019, two public comments from private individuals were received. The commenters object to the application on the grounds that applied use will disturb the prevailing ecological environment and the noise created will affect the surrounding residential area (**Appendices IVa to IVb**).

11. Planning Considerations and Assessments

11.1 The planning intention of the "V" zone is to designate both existing recognized

villages and areas of land considered suitable for village expansion. 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. Whilst the applied development is not in line with planning intention of the “V” zone, it could provide shop and services to meet any such demand in the area. DLO/YL advises that there is no Small House application has been approved/under processing for the Site. Approval of the application on a temporary basis of 3 years would not frustrate the long-term development of the area.

- 11.2 The proposed temporary use is not incompatible with the surrounding land use, which is predominately occupied by village houses.
- 11.3 There is no adverse comment from the concerned Government departments on the application. Given the small-scale of the proposed development, it is not expected to create any significant adverse environmental, visual, traffic or drainage impact on the surrounding areas. The technical concerns raised by relevant departments could also be addressed by approval conditions as recommended in paragraph 12.2 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 latest ‘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.
- 11.4 The Site is the subject of a previous application for the same use of real estate agency (Application No. A/YL-HT/996) which lapsed on 8.1.2019. All the approval conditions have been complied with and there has been no major change in planning circumstances of the Site and the surrounding areas since the previous temporary approval. The Site is located at the fringe of the village cluster at Sik Kong Wai and San Wai.
- 11.5 The Committee has approved 1 previous application for the same applied use at the Site and 13 similar applications for temporary shop and services use (real estate agency) within the same “V” zone on the OZP since 2005. In this regard, approval of the current application is in line with the Committee’s previous decisions.
- 11.6 Two public comments were received objecting to the application mainly on grounds stated in paragraph 10 above. 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 **8.3.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the existing trees and landscape plants on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of condition record of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **8.6.2019**;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 **8.9.2019**;
- (f) in relation to (e) 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 **8.12.2019**;
- (g) if any of the above planning conditions (a), (b) or (d) 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
- (h) if any of the above planning conditions (c), (e) or (f) 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 V**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "Village Type Development" zone which is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion. There is no strong justification given in the submission to deviate 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 8.1.2019
Appendix Ia	Supplementary planning statement with proposed layout plan, proposed tree preservation plan and as-built drainage plan
Appendix II	Previous s.16 Application Covering the Application Site
Appendix III	Similar Applications within the subject "V" Zone on the Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan
Appendices IVa to IVb	Public Comments received during Publication Period
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Tree Preservation Plan
Drawing A-3	As-built Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
MARCH 2019**