

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/167

- Applicant** : Mr Hui Yick-hang (許亦恒) represented by Wah Tung Development Company Limited
- Site** : Lots 67 (Part), 68 (Part) and 69 (Part) in D.D. 124, Ha Tsuen, Yuen Long
- Site Area** : 610 m²
- 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”) (83.2%); and
[*restricted to maximum building height of 3 storeys (8.23m)*]
“Open Space” (“O”) (16.8%)
- Application** : Proposed Temporary Eating Place (Canteen) 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 eating place (canteen) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for “V” and “O” zones, ‘Eating Place’ is a Column 2 use within both zones which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for such use for a period of 3 years. The Site is currently paved and vacant (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Tin Ha Road via a local track to its southeast (**Drawings A-1 and A-2 and Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-2**, the temporary eating place comprises a single-storey structure (not exceeding 3.5m high) with a total floor area of not exceeding 210m². About 30 seats will be provided in the canteen. According to the applicant, the canteen is intended to serve the staff of nearby warehouse (得寶實業公司) to the west of the Site which falls within “Other Specified Uses” annotated “Logistics Facility” (“OU(LF)”) (**Plan A-2 and Appendix Ib**). 3 private car parking spaces (each of 2.5m x 5m) and 1 light goods vehicle parking space (3.5m x 7m) are proposed at

the southwestern portion of the Site. The private car parking spaces will be used by canteen staff while the remaining parking space will be used for transportation and loading/unloading of goods/food by light goods vehicle. No parking facility for customer will be provided. According to the applicant, the operation hours are from 9:00 a.m. to 7:00 p.m. daily.

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

- (a) Application Form with planning statement and proposed vehicular access and layout plan received on 14.6.2019 (Appendix I)
- (b) Supplementary information dated 19.6.2019 by the applicant providing rectification on the parking provision of the proposed development and replacement pages (Appendix Ia)
- (c) Further Information (FI) received from the applicant on 17.7.2019 providing a clarification on the vehicle access arrangement of the proposed development (Appendix Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are provided in the supplementary planning statement at **Appendix I**. They can be summarized as follows:

- (a) The development, on a temporary basis and is of small scale, does not contravene and will not jeopardize the long-term planning of “V” zone. In view of the temporary nature and scale of the proposed development, it is not incompatible with the surrounding environment.
- (b) A paved vehicular access of 4.5m wide is currently connecting the Site with Tin Ha Road.
- (c) The proposed use will not cause adverse traffic impact on the local road network. The proposed parking provision is for light goods vehicle for the delivery of food supply and for private cars of canteen staffs only, no parking space will be provided for customer.
- (d) The applicant commits to provide a number of mitigation measures, including restriction of the operation hours to 9:00 a.m. to 7:00 p.m. daily, no night time illumination and neon-lights signboards will be installed and no workshop activity would be carried out on the Site.
- (e) The applicant would follow the environmental measures recommended in the relevant Code of Practice (August 2005) issued by the Environmental Protection Department

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 subject to an on-going planning enforcement action (No. E/YL-HSK/30) against an unauthorized development (UD) involving use for place for parking of vehicles. Enforcement Notice was issued on 3.12.2018 to the concerned parties requiring discontinuation of the UD. Subsequent site inspections revealed that the UD has discontinued.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Eating Place within “V” Zone in Rural Areas under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 15A) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

6. Previous Application

6.1 The Site is related to a previous application No. A/YL-HT/1034 for temporary open storage of metal ware for a period of 3 year rejected by the Committee on 15.7.2016 mainly on the grounds of not in line with the planning intention of the “Residential (Group D)” (“R(D)”) and “V” zones; failed to demonstrate that the proposed development would not generate adverse traffic, drainage, landscape and environmental impacts, setting of undesirable precedent, and local objections. Details of the application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

6.2 Compared with the last Application No. A/YL-HT/1034, the current application is submitted by a different applicant for a different use on a smaller site.

7. Similar Application

There is no similar application within the same “V” and “O” zones on the OZP.

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

8.1 The site is:

- (a) paved and vacant; and
- (b) accessible from Tin Ha Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are several large logistics centres with the northwest one within

“OU(LF)” zone;

- (b) to its east is a yard for open storage of recycled materials, while to its further east are some vacant structures;
- (c) to its southeast across a local track are a vehicle servicing establishment, a warehouse, the San Sang Village Office, and the San Sang Tsuen sitting-out area. To its further southeast is a residential development (Ben Sing Garden);
- (d) to its immediate south is a yard for parking of vehicles. To its further south are an yard for open storage, a temporary structure for residential and storage uses, a vehicle repair workshop and a piece of woodland;
- (e) to its southwest are some temporary structures for residential use and a vehicle repair workshop, a warehouse and a logistic centre; and
- (f) to its west are warehouses and a yard for open storage of construction materials and machinery.

9. Planning Intention

- 9.1 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 New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.
- 9.2 The planning intention of the “O” zone is intended 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.

10. Comments from Relevant Government Departments

- 10.1 The following Government departments have been consulted and their views on the application and public comments are summarized as follows:

Land Administration

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

- (a) The Site comprises Old Scheduled Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.

- (b) The private lot which is covered by Short Term Waiver (STW) is listed below:

<u>Lot No. in D.D.124</u>	<u>STW No.</u>	<u>Purposes</u>
67	1962	Storage and Repair of Container Boxes

- (c) The Site is accessible from Tin Ha Road through GL and private lots. His office does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given, the lot owner(s) of lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularity on site, if any. 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) of any of the above will be considered by the LandsD acting in the capacity as 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/fees, as may be imposed by LandsD.
- (f) There are no small house applications approved/under processing within the Site and in its vicinity (30m).

Traffic

10.1.2 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 viewpoint.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to public road or reverse onto/from the public road.
- (c) The local track leading to the Site is not under TD's purview.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public

roads/drains.

- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Tin Ha Road.

Environment

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

- (a) No substantiated environmental complaint against the site has been received over the past 3 years.
- (b) Should the planning application be approved, the applicant shall be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.

Drainage

10.1.5 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) Should the application be approved, he would suggest imposing a planning condition requiring the applicant to submit a drainage proposal including to demonstrate how the existing watercourse within the Site would not be affected by the proposed development, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Building Matters

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site.
- (b) If the existing structures (not being a NTEH) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed 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 Site under the BO.

- (d) 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 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) Regulation 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 Building (Planning) Regulation at the building plan submission stage.

Fire Safety

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

- (a) He has no objection to the proposal subject to fire services 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 BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

Long Term Development

10.1.8 Comments of the Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD):

- (a) He has no objection to the proposed temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P & E Study) for the HSK NDA and the latest plan, to ensure timely and orderly implementation, the development

of HSK NDA and relevant site formation and infrastructure works would be implemented in five stages, via. Advance Works and Stage 1 to Stage 4. The lots concerned fall within a site under Stages 2 Works Stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site will not be arranged before the first population intake of the HSK NDA expected in 2024.

Other Aspects

10.1.9 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) Since the Site involves private lot only, he has no in-principle objection to the application.
- (b) The Site is zoned “V” and “O” on the HSK & HT OZP. The portion zoned “O” is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.

10.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No Food and Environmental Hygiene Department’s (FEHD) facilities will be affected and such activity and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from such work/operation, the applicant should arrange disposal properly at their own expenses.
- (c) Proper licence/permit issued by his department is required if there is any food business/catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

District Officer’s Comment

10.1.11 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) He has not received any comment from the locals on the application.

10.2 The following Government departments have no comment on the application.;

- (a) Commissioner of Police (C of P); and
- (b) Chief Engineer/Development (Construction), Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 21.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.7.2019, a public comment from a private individual (**Appendices VI**) was received. The commenter opined that the subject application is part of a larger brownfield site which is a suspected unauthorized development and the application is an attempt to split the site and gain approval in stages. Moreover, the district is lacking recreational facilities and brownfield activities should be eliminated in order to achieve the planning intention of the “O” zone.

12. Planning Considerations and Assessment

- 12.1 The application is for the development of an “Eating Place (Canteen)” for a period of 3 years at a site zoned “V” and “O” on the approved HSK & HT OZP. The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion, whereas the planning intention of “O” zone for provision of outdoor open-air public space for active and/or passive recreation uses. Although the temporary eating place use is not entirely in line with the planning intentions of the “V” and “O” zones, it could provide catering service to meet any such demand in the area. DLO/YL of LandsD advises that there are no Small House (SH) applications approved/under processing within the Site and in its vicinity (30m). Furthermore, PM/NTW of CEDD and DLCS have no objection to the proposed temporary use for a period of 3 years on the Site. In this regard, the 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.
- 12.2 The Site is located at the fringe of the “V” zone and is considered not incompatible with the surrounding areas of the Site which are predominantly rural in character inter-mixed with logistics centres, warehouses, open storage yards, and workshops. According to the applicant, the proposed canteen intends to serve the workers from a nearby warehouse.
- 12.3 The application is generally in line with TPB PG-No. 15A in that the eating place is located at the fringe of the “V” zone and readily accessible from Tin Ha Road via a vehicular track to its south. In addition, there is no adverse comment from the concerned Government departments, including AC for T/NT of TD, DEP, CE/MN of DSD, D of FS and DFEH. Significant traffic, environmental, drainage and environmental hygiene impacts to the area are not expected.
- 12.4 There is no major adverse comment from concerned Government departments. To minimize possible nuisances, relevant approval conditions have been recommended in paragraph 13.2 to minimize any possible nuisances or to address the technical requirements of the concerned Government departments. Approval conditions in paragraphs 13.2 (a) to (g) below are included to prohibit queuing back and reversing movement of vehicles on public road, submission and implementation of drainage proposal and FSIs proposals for addressing the relevant concerns. The applicant will also 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.

- 12.5 There is one public comment received with concerns stated in paragraph 11 above. The planning considerations and assessment in the above paragraphs are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 above and having taking consideration the public comment mentioned in paragraph 11, the Planning Department has no objection to the proposed temporary eating place (canteen) for a period of 3 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 3 years until **2.8.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from the public road at any times during the planning approval period;
- (b) 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 **2.2.2020**;
- (c) in relation to (b) 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 **2.5.2020**;
- (d) in relation to (c) above, the implemented drainage facilities 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 **2.2.2020**;
- (f) in relation to (d) 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 **2.5.2020**;
- (g) if any of the above planning conditions (a) 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 (b), (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**.

13.3 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 intentions of the "Village Type Development" and "Open Space" zones which are primarily to designate both existing recognized villages and areas of land considered suitable for village expansion, and for provision of outdoor open-air public space for active and/or passive recreation uses respectively. There is no strong justification to deviate from the planning intentions, 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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 14.6.2019 and supplementary planning statement with proposed vehicular access plan, and layout plan
Appendix Ia	Supplementary information dated 19.6.2019 providing rectification on the parking provision of the proposed development and replacement pages
Appendix Ib	Further Information (FI) received from the applicant on 17.7.2019 providing clarification on the vehicle access arrangement of the proposed development
Appendix II	Relevant extracts of Town Planning Board Guidelines for 'Application for Eating Place within "V" Zone in Rural Areas under Section 16 of the Town Planning Ordinance' (TPB PG-No. 15A)
Appendix III	Previous Application covering the Application Site
Appendix IV	Public comment received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2019**