

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/194

- Applicant** : Mr. TANG Kam Chak represented by Metro Planning and Development Company Limited
- Site** : Lots 136 RP (Part) and 137 RP (Part) in D.D. 127 & Adjoining Government Land, Ping Shan, Yuen Long, New Territories
- Site Area** : 1,220 m² (including Government land of about 90m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Village Type Development” (“V”)
[Restricted to maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Public Vehicle Park (Private Cars) 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 public vehicle park (private cars) for a period of 3 years (**Plan A-1**). According to the Notes for the “V” zone on the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use within “V” zone requiring planning permission from the Town Planning Board (the Board). The applicant seeks temporary permission for a period of 3 years. The Site is currently used for the applied use without a valid planning permission.
- 1.2 The Site is related to a previous application No. A/HSK/36 for the same applied use for a period of 3 years approved with conditions by the Rural and New Town Planning Committee (the Committee) on 12.1.2018 but the permission was subsequently revoked on 12.2.2019 due to non-compliance with approval conditions on prohibiting parking / storing of goods vehicle without valid licence, requirement for posting notices indicating the type of vehicle allowed to enter/be parked at the site and to remind drivers on pedestrian safety on the access road to the Site. Compared with this approved application, the current application is submitted by a different applicant for the same applied use with a different layout.

- 1.3 According to the applicant, the Site is directly accessible from Kiu Hung Road. No light goods vehicles and vehicles exceeding 5.5 tonnes, medium goods vehicles, heavy goods vehicles, container tractors/trailers will be allowed to enter/be parked on the Site. No vehicle repairing, dismantling and workshop uses will be carried out at the Site. The operation hours of the temporary public vehicle park are 24 hours daily including public holidays. The applicant will provide a proper run-in/out at the Site. The proposed layout plan and proposed drainage plan are at **Drawings A-1 to A-2** respectively.
- 1.4 A comparison of the major development parameters of the current application and the last approved application is given in the following table:

	Last Approved Application (A/HSK/36) (a)	Current Application (A/HSK/194) (b)	Difference (b) – (a)
Site Area	1,220 m ²	1,220 m ²	same
Applied Use	Proposed temporary public vehicle park (private cars) (3 years)	Proposed temporary public vehicle park (private cars) (3 years)	same
No. of Structures	2	1	-1
Total Floor Area	Not exceeding 40 m ²	About 20 m ²	-20m ² (-50%)
Private Car Parking Spaces	10	28	+18
Operation Hours	24 hours daily	24 hours daily	same

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

- (a) Application Form received on 14.10.2019 **(Appendix I)**
 (b) Supplementary Planning Statement with proposed layout plan, proposed landscape plan and proposed 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 proposed development is a community use to serve the villager's demand for parking. The proposed development, with such nature and size, would not affect the character of the village. The proposed development conforms to the planning intention of the "V" zone.

- (b) There is no privately run public vehicle park at Hung Uk Tsuen. The public vehicle park at the junction of Kiu Fat Street and Ping Ha Road is mostly occupied by residents of nearby public housing estates and is not close to Hung Uk Tsuen. There is insufficient supply to meet existing parking demand in Hung Uk Tsuen.
- (c) The proposed development will generate limited impact to its surroundings. The proposed development is compatible with the surrounding environments.
- (d) Part of the Site is owned by Tso Tong, where fragmented landownership discourages transfer of land ownership and hence development of small houses. Alternative temporary use which generates no significant nuisance should be encouraged in the interim to make economic use of scarce land resources.
- (e) The traffic generated by the proposed development is not significant due to limited size of the Site. The Site is directly linked to Kiu Hung Road with significant reserve capacity. The proposed development would not aggravate the traffic condition in the vicinity.
- (f) No light goods vehicles, medium goods vehicles and container tractors/trailers are allowed to enter/be parked on the Site. With the Site being hard paved, and no workshop uses being carried out, the proposed development would not generate significant environmental nor noise disturbance to both the environment and residents in the area.
- (g) The proposed development would not generate adverse drainage impact. Drainage facilities will be provided and maintained at the Site.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” of the private land portion of the Site 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 notice of the application outside the Site and sending a notice to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent / Notification Requirements” are not applicable to the Government land portion.

4. Background

The Site is subject to an on-going planning enforcement action (No. E/YL-HSK/45) against an unauthorized development (UD) involving use for place for parking of vehicles. Enforcement Notice (EN) was issued on 10.9.2019 to the concerned parties requiring discontinuation of the UD. If the requirement of the EN is not complied with upon expiry of the compliance period of the notice, the concerned parties will be subject to further enforcement action.

5. Previous Application

- 5.1 The Site is related to a previous application No. A/HSK/36 for the same applied use for a period of 3 year approved with conditions by the Committee on 12.1.2018. However, the application was subsequently revoked on 12.2.2019 due to non-compliance with approval conditions on prohibiting parking / storing of goods vehicle without valid licence, requirement for posting notices indicating the type of vehicle allowed to enter/be parked at the site and to remind drivers on pedestrian safety on the access road to the Site. Details of the application are summarized at **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 Compared with this approved application, the current application is submitted by a different applicant for the same applied use with a different layout.

6. Similar Application

There is no similar application for temporary public vehicle park within the same “V” zone on the OZP.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Site is:

- (a) hard-paved and currently used for the applied use without a valid permission; and
- (b) accessible directly from Kiu Hung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is an orchard and a local road. To the further north across the local road are the village settlement of Kiu Tau Wai, a pond and a stormwater pumping station;
- (b) to the east is Kiu Hung Road, a nullah and Light Rail track. To the further southeast across the nullah is a low rise development of La Mansion (**Plan A-3**);
- (c) to the south and southwest are agricultural land and the village settlement of Hung Uk Tsuen; and
- (d) to the immediate west is an orchard, a playground, shrine and some residential dwellings.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and

reprovisioning of village houses affected by Government projects. 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. 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 summarised as follows:

Land Administration

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

- (a) The Site consists of Old Schedule Agricultural Lots 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) No lease modification / land exchange application or building plan submission in relation to development at Site had been received by DLO/YL.
- (c) Site inspection was conducted by his office in November 2019. The vehicular bridge (**Plans A-2 and A-4**) was still found over a portion of unleased Government Land (G.L.) within the Site.
- (d) No permission is given for occupation of G.L. of about 90m² in area included in the Site. The act of occupation of GL without Government's prior approval is not allowed. With the implementation of the tightened arrangements for handling regularization applications, LandsD will no longer accept application for regularization of new or extension of unlawful occupation of G.L. or erection of new structures which is found commenced on or after 28 March 2017.
- (e) The Site is accessible from Kiu Hung Road through G.L. His office does not guarantee any right-of-way over the G.L. to the Site and provides no maintenance work for the G.L. involved.
- (f) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (g) Should planning approval be given to the planning application, the lots owners will need to apply to his office to permit the structures to be erected or regularize any irregularities on 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the G.L. portion from the Site or apply for a formal approval prior to the actual occupation of the G.L. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord 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 premium or fee, as may be imposed by the LandsD.

Building Matters

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

- (a) Noting that there is no record of approval by the Building Authority for the existing structures at the Site, he 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 New Territories Exempted House) are erected on lease 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 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 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 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 (AP) should be appointed as the co-ordinator 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 respectively.
- (f) 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.

Traffic

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

- (a) He has no adverse comment on the planning application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to public road or reverse onto/from the public road.

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

- (a) The access arrangement should be commented by TD.
- (b) If the proposed run-in/out is agreed by TD, the applicant should provide the run-in/out at Kiu Hung Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) If provision of run-in/out involved removal of railings, agreement from TD should be sought before commencement of the works. If the removal of railings is agreed by TD, the applicant should remove the railing and reinstate the road surface in accordance with HyD standard. Handing over inspection should be arranged before HyD taking up the maintenance of the constructed works.
- (d) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (e) HyD shall not be responsible for the maintenance of any access connecting the Site and Kiu Hung Road. The sloped area at the back of the footpath of Kiu Hung Road and the drain at the toe are not maintained by HyD.

Drainage

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

- (a) According to the applicant's submission, the existing drainage facilities which was implemented under a previous application No. A/HSK/36 will be maintained for the current application. He has no objection in principle to the proposed application from a drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to his satisfaction.
- (b) The applicant is reminded that the required condition record should include colour photos showing the current condition of the drainage

facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catch pits, sand traps, manholes, terminal catch pits/manholes and the downstream discharge path as indicated on the submitted drainage proposal.

- (c) His recent site inspection revealed that the steel bridge at the entrance of the Site was about 3m wide and at a height of about 2m above an existing covered surface channel. The associated catchpit was not under the footprint of the steel bridge. He observed that the flow of the channel was not impeded and its maintenance works underneath the steel bridge would still be feasible.

Environment

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

- (a) There was no complains pertaining to the Site received in the past 3 years.
- (b) Should the application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Landscape

9.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

With reference to the aerial photo of 2018, the Site is hard paved with existing trees outside the Site. This Site is situated in an area of village landscape character. Significant change to the landscape character arising from the application is not envisaged.

Fire Safety

9.1.8 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 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 Comments

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

His office has received two letters from the locals on the application. One letter was jointly submitted by the indigenous villagers of Kiu Tau Wai objecting to the application; while another letter was received from the village representative of Hung Uk Tsuen supporting the application. (The two letters have been submitted as public comments (**Appendix III-5** and **Appendix III-7**)).

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Commissioner of Police (C of P);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC);
- (d) Director of Food and Environmental Hygiene (DFEH);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

- 10.1 On 22.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 12.11.2019, seven public comments were received (**Appendix III**).
- 10.2 Six comments from individuals, indigenous villagers and village representative of Kiu Tau Wai object to the application (**Appendices III-1 to 6**); while the remaining one from the village representative of Hung Uk Tsuen supports the application (**Appendix III-7**). The grounds of objections are that the proposed development would threaten the safety of pedestrians, nearby residents and animals; create air and noise pollution to nearby residents; result in pedestrian-vehicular conflicts; disrupt the tranquillity of the rural environment and the daily activities of residents; threaten the safety of residents due to the existence of UBW at the Site; developments within the Fung Shui area should be forbidden; additional vehicle park is deemed unnecessary; and the proposed ingress/egress would block the drain and sand pit and lead to flooding.
- 10.3 The village representative of Hung Uk Tsuen supports the application by emphasizing that there is existing parking demand in Hung Uk Tsuen.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary public vehicle park (private cars) for a period of 3 years at a site zoned “V” (**Plan A-1**). The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. While the proposed development is not entirely in line with the planning intention of the “V” zone, it could provide vehicle parking spaces to meet any such parking demand in the area. Approval of the application on a temporary basis will not frustrate the planning intention of the “V” zone.
- 11.2 The Site is mainly surrounded by orchards, agricultural land and residential dwellings (**Plan A-2**). The proposed use is not incompatible with the surrounding land uses.
- 11.3 Relevant Government departments, including C for T, CHE/NTW of HyD, DEP and CE/MN of DSD have no objection to or no adverse comment on the application. The proposed 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 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized 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 the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Site is the subject of a previous planning permission (Application No. A/HSK/36) for the same applied use submitted by a different applicant which was granted in 2018. The last approval was revoked due to non-compliance with the approval conditions regarding the prohibition of parking /storage of goods vehicle without valid licence, requirements for posting notices indicating the type of vehicle allowed to enter/be parked on the Site and to remind drivers on pedestrian safety on the access road to the Site. On the other hand, the applicant had fulfilled other approval conditions including the provision of drainage facilities, FSIs proposal and boundary fencing apart from the provision of run-in/out. In view of the above, sympathetic consideration may be given to this application. Nevertheless, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of the planning permission, sympathetic consideration would not be given to any further application.
- 11.5 Seven public comments were received during the statutory publication period. Six of them object to the application as summarised in paragraph 10.2 above. Regarding the concerns raised by the public, concerned Government departments have no adverse comment on the application. The planning considerations and assessments above are also relevant.

12. Planning Department's Views

- 12.1 Based on the assessment 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 proposed temporary public vehicle park (private cars only) for a period of 3 years.
- 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 13.12.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) only private cars as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to enter/be parked on the Site at all times during the planning approval period;
- (b) a notice shall be posted at a prominent location of the Site at all times to indicate that only private cars as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to enter/be parked on the Site during the planning approval period;
- (c) a notice shall be posted at a prominent location of the Site to remind drivers on pedestrian safety on the access road to the Site at all times during the planning approval period;
- (d) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (e) no vehicle repairing, dismantling and workshop uses, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the submission of a record on 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 13.3.2020;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.3.2020;

- (j) in relation to (i) above, the implementation of the 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 **13.6.2020**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (h) 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
- (l) if any of the above planning conditions (g), (i) or (j) 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 at **Appendix IV**.

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

The proposed development is not in line with the planning intention of the "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. No strong planning justification has been given 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 received on 14.10.2019
Appendix Ia	Supplementary planning statement
Appendix II	Previous application covering the application site
Appendix III	Public comments
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Layout Plan

Drawing A-2	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2019**