

RNTPC Paper No. A/HSK/208  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 20.3.2020

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

**APPLICATION NO. A/HSK/208**

<b><u>Applicant</u></b>	:	Leung Hung Tang
<b><u>Site</u></b>	:	Lots 2404 RP (Part) and 2405 RP (Part) in D.D. 124, Tin Sam Road, Hung Shui Kiu, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 470 m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2
<b><u>Zoning</u></b>	:	“Residential (Group A) 4” (“R(A)4”) [a maximum plot ratio of 5 and a maximum building height of 140mPD]
<b><u>Application</u></b>	:	Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles) 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 public vehicle park for private cars and light goods vehicles for a period of 3 years (**Plan A-1**). According to the Notes for the “R(A)4” zone on the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). The applicant seeks temporary permission for a period of 3 years. The Site is being used for the applied use without valid planning permission.
- 1.2 The Site is subject to a previous application (No. A/HSK/54) for the same applied use for a period of 3 years approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 16.3.2018. However, the approval was subsequently revoked on 19.7.2019 due to non-compliance of approval conditions regarding the submission and implementation of drainage proposal and fire service installations (FSIs) proposal. Compared with this approved application, the current application is submitted by the same applicant for the same use with the same layout.

- 1.3 The Site is accessible from Hung Shui Kiu Tin Sam Road and the ingress/egress point is located at its west (**Plans A-1 and 2 and Drawing A-1**). A single-storey structure for switch room with a total floor area of about 14.5 m<sup>2</sup> and height of about 2.2m, is proposed at the eastern part of the Site. 21 private car parking spaces and 2 light goods vehicles (LGVs) parking spaces are provided (**Drawing A-1**). According to the applicant, the operation hours of the Site are 24-hour daily, including public holidays.
- 1.4 The major development parameters of the current application are identical to the last approved application are shown in the following table:

<b>Major Development Parameters</b>	<b>Last Approved Application (A/HSK/54) (a)</b>	<b>Current Application (A/HSK/208) (b)</b>	<b>Difference (b) - (a)</b>
<b>Applied Use</b>	Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years		same
<b>Site Area</b>	470 m <sup>2</sup>		same
<b>No. of Structures</b>	1		same
<b>Total Floor Area</b>	14.5 m <sup>2</sup>		same
<b>Car Parking Spaces</b>	21 (private car) 2 (LGVs)		same
<b>Operation Hours</b>	24 hours daily, including public holidays		same

- 1.5 In support of the application, the applicant has submitted the following document:
- (a) Application form including drainage and fire services installations (FSIs) plans received on 9.12.2019 **(Appendix I)**
  - (b) Further information (FI) received on 23.12.2019 **(Appendix Ia)**  
*[accepted and exempted from publication and recounting requirements]*
- 1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.2.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendix I**. They can be summarised as follows:

- (a) The proposed use is temporary in nature and will not jeopardise the long term planning intention of the Site. The current application is the same as the last planning approval (No. A/HSK/54) and the applicant will comply with all the approval conditions this time.
- (b) The vehicle park will be operated 24 hours daily. All the parking spaces are monthly parking spaces. The trip generation at the daytime is insignificant. Most of the trips generated are during 7:00 a.m. to 8:00 a.m. and 5:00 p.m. to 7:00 p.m. There will be no queue back to the vehicular access.

### **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 notice of the application outside the Site and sending registered mail to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The parking of vehicles on the Site will be subject to planning enforcement action.

### **5. Previous Applications**

- 5.1 The Site is involved in two previous planning applications (No. A/YL-PS/12 and A/HSK/54). Details of the previous application are summarised at **Appendix II** and the location is shown on **Plan A-1**.
- 5.2 Application No. A/YL-PS/12 for comprehensive development with minor relaxation of building height covering a much larger area (36,300m<sup>2</sup>) was approved with conditions on 8.8.1997 when the Site was zoned “Comprehensive Development Area” (“CDA”) on the then Ping Shan OZP. However, the approved scheme had not been implemented and the planning permission lapsed on 9.8.2003.
- 5.3 Application No. A/HSK/54 for the same applied use for a period of 3 years approved with conditions by the Committee on 16.3.2018. However, the approval was subsequently revoked on 19.7.2019 due to non-compliance of approval conditions regarding the submission and implementation of drainage proposal and FSIs proposal. Compared with this approved application, the current application is submitted by the same applicant for the same use with the same layout.

### **6. Similar Applications**

- 6.1 There are 10 similar applications (No. A/YL-PS/267, 277, 288, 296, 331, 354,

368, 471 and A/HSK/2 and 39) for various vehicle park uses on temporary basis for 3 years within the current “R(A)4” zone on HSK/HT OZP. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

- 6.2 The above applications were approved by the Committee with conditions for a period of 3 years in between 2007 to 2018. However, Applications No. A/YL-PS/267, 277, 288, 331, 354 and 471 were revoked on 13.1.2008, 24.7.2008, 24.4.2009, 29.10.2011, 7.8.2013 and 12.5.2017 respectively for failing to comply with time-specific approval conditions.
- 6.3 A similar application for temporary public vehicle park (excluding container vehicle) use for a period of 5 years (Application No. A/HSK/209) will be considered by the Committee at this meeting.

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

7.1 The Site is:

- (a) currently used for parking of vehicles without a valid planning permission; and
- (b) accessible directly from Hung Shui Kiu Tin Sam Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north across Hung Shui Kiu Tin Sum Road are the bus terminus and market of a public rental estate, Hung Fuk Estate;
- (b) to the east across Hung Tin Road is Hung Shui Kiu vegetable marketing co-operative society and a knoll scattered with burial grounds;
- (c) to the south are an open storage yard of recycling materials and the MTR Hung Shui Kiu Bus Depot; and
- (d) to the west are an eating place, residential dwellings and parking of vehicle.

## **8. Planning Intention**

The planning intention of the “R(A)4” zone is intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purpose-designed non-domestic building up to five storeys.

## **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 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 of the Government.
- (b) The Site is accessible to Hung Shui Kiu Tin Sam 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 to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) According to his record, there is no lease modification/land exchange application nor building plan submission in relation to commercial development at the Site approved/under processing.
- (e) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularities on site, if any. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord at his 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) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.

- (c) The local track leading to the Site is not under TD's purview. The applicant should obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

9.1.3 Comments of the Chief Highways 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 application site and Tin Sam Road.

**Environment**

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

- (a) 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 Environment Aspects of Temporary Uses and Open Storage Sites".
- (b) There was no environmental complaint pertaining to the Site received in the past 3 years.

**Drainage**

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

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 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.

**Landscape**

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

- (a) With reference to the aerial photo of 2019, it is observed that the Site is hard paved and already in operation. Existing trees are observed along the eastern and northern boundary outside the Site.

- (b) In consideration of the previous planning approval No. A/HSK/54 for the same applied use as the current application, significant change to the landscape character arising from the continued use of the application is not envisaged.

### **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 FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant should 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, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) However, the applicant should be reminded that if the proposed structure(s) is required to comply with BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (b) 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.
- (c) 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 Authorised

Person (AP) should be appointed as the coordinator for the proposed building works in accordance with 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) 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.

### **Long Term Development**

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

- (a) He has no objection to the 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 Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA). According to the Planning and Engineering Study (P&E Study) for the HSK/HT NDA and the latest plan, to ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The lot(s) concerned falls within sites under Advance Works Stage 3 in the latest programme of the HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK/HT NDA expected in 2024.

### **District Officer's Comments**

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

His office has not received any comment from locals upon the end of consultation period.

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

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



## **10. Public Comments Received During Statutory Publication Period**

On 17.12.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 7.1.2020, one public comment was received and object to the application on the ground that the application is not in line with the planning intention of “R(A)” zone; parking facilities should be accommodated in high rise buildings, underground, or in stacked facilities; and approval of the application would set an undesirable precedent for similar uses (**Appendix IV**).

## **11. Planning Considerations and Assessments**

- 11.1 The subject application is for temporary public vehicle park for private cars and light goods vehicles for a period of 3 years at a site zoned “R(A)4” on the OZP (**Plan A-1**). The planning intention of the “R(A)4” zone is intended primarily for high-density residential developments. Whilst the applied development is not entirely in line with the planning intention of the “R(A)4” zone, the implementation programme for this part of the HSK NDA is still being formulated. PM(W), CEDD has no objection to the applied temporary use for 3 years on the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardise the long term planning of the area. In addition, the applied development could also provide parking spaces to meet any such demand in the area. 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 implementation of government projects.
- 11.2 The Site is mainly surrounded by open storage yards, residential dwellings, eating place, MTR Hung Shui Kiu Bus Depot and roads (**Plan A-2**). The applied use is not incompatible with the surrounding land uses.
- 11.3 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. There was no environmental complaint pertaining to the Site received in the past 3 years. 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 unauthorised development on the Site will be subject to enforcement action by the Planning Authority.
- 11.4 The Site is the subject of a previous planning approval (Application No. A/HSK/54) for the same applied use submitted by the same applicant approved by the Committee in 2018. However, the approval was subsequently revoked on 8.3.2019 due to non-compliance with the approval conditions regarding the submission and implementation of drainage and FSIs proposals. In this connection, the applicant has submitted drainage and FSIs proposals in the application and stated that he will comply with all the approval conditions once

the application is approved (**Appendix Ia**). Besides, CE/MN, DSD and D of FS have no objection to the proposal. In view of the above, sympathetic consideration may be given to the application. Nevertheless, shorter compliance periods are recommended in order to closely monitor the progress of compliance with approval conditions. Should the application be approved, the applicant should also be advised that sympathetic consideration may not be given by the Committee to any further application should he fail to comply with the approval condition(s) resulting in the revocation of the planning permission.

- 11.5 There is one public comment received during the statutory public inspection period, raising objection to the application. The planning assessments above are relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11, the public comment mentioned in paragraph 10, the Planning Department has no objection to the proposed temporary public vehicle park for private cars and light goods vehicles 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 20.3.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (b) a notice should be posted at a prominent location of the Site to indicate that no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) 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;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a drainage proposal within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.6.2020;

- (f) in relation to (e) above, the implementation of the drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **20.9.2020**;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **3** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **20.6.2020**;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **20.9.2020**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if any of the above planning conditions (e), (f), (h) or (i) 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 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 "R(A)4" zone which is primarily for high-density residential developments. No strong planning justification has been given in the submission for a departure from the planning intentions, 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**

<b>Appendix I</b>	Application form including drainage and FSIs plans received on 9.12.2019
<b>Appendix Ia</b>	FI received on 23.12.2019
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar applications within the same “R(A)4” Zone on the approved Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2
<b>Appendix IV</b>	Public Comment
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Drainage Plan
<b>Drawing A-3</b>	Proposed FSIs Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2020**