

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/212

- Applicant** : Sum Kwan Villa Limited
- Site** : Lots 1028 S.A ss.1 (Part) and 1030 S.D in D.D. 125, Sik Kong Tsuen, Yuen Long
- Site Area** : 98 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** : Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for temporary shop and services (real estate agency) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for the use for a period of 3 years. The Site is currently being used for the applied use with a valid planning permission.
- 1.2 The Site is related to two previous applications No. A/YL-HT/889 and 1069 for the same applied use for a period of 3 years which were approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions on 21.3.2014 and 17.3.2017 respectively. All the time-specific approval conditions for both applications including the implementation of accepted drainage proposal/submission of condition record of drainage facilities as well as submission and implementation of fire services installations (FSIs) proposals have been complied with. The permission for the last application No. A/YL-HT/1069 is valid up to 21.3.2020.

- 1.3 The Site is accessible from San Sik Road via a local track (**Plan A-2**) and the ingress/egress point is at southwestern side of the Site. As shown on the layout Plan at **Drawing A-1**, there would be one temporary single-storey structure (not exceeding 3.5m high with a gross floor area of 60m²) for real estate agency and conference room. No parking space and vehicular ingress/egress are proposed. The as-planted landscape and tree preservation plan and as-built drainage plan are at **Drawings A-2** and **A-3** respectively. The applicant indicates that the operation hours are from 9:00 a.m. to 8:00 p.m. everyday including Sundays and public holidays.
- 1.4 The development parameters of the current application and the last approved application are totally the same.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 13.1.2020 **(Appendix I)**
 - (b) Supplementary Planning Statement with proposed layout plan, as-planted landscape & tree preservation plan and as-built drainage plan **(Appendix Ia)**
 - (c) Further Information (FI) received on 25.2.2020 from the applicant providing revised as-built drainage plan **(Appendix Ib)**
[accepted and exempted from publication and recounting requirements]

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 Ia**. They can be summarized as follows:

- (a) The Site is subject to two previous planning permissions No. A/YL-HT/889 and 1069 for temporary shop and services (real estate agency) which will be expired on 21.3.2020. The current application aims to renew the planning permission for another period of 3 years. All time-specific approval conditions for the two previous planning applications have been fulfilled.
- (b) The proposed development meets the planning intention of the “V” zone which aims to serve the daily needs of residents.
- (c) The proposed use is a Column 2 use in the “V” zone which is always permitted on the ground floor of a New Territories Exempted House. The Site is yet to apply for New Territories Exempted House and is temporary in nature, the proposed development would not jeopardize the planning intention of the “V” zone in the long run.
- (d) The proposed development, which is for shop and services, is clean, tidy and free from nuisance. Considering the scale, nature, form and layout of the proposed development, they are compatible with the surrounding environment and would not affect the character of the village.
- (e) A number of similar uses have been approved on temporary basis by the Board in “V” zone.

- (f) Neither parking space, loading/unloading bay nor vehicular ingress/egress is proposed for the development. No adverse traffic impact will be generated.

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 obtaining the owner’s consent. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The use is not subject to planning enforcement action. Follow up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

6. Previous Applications

- 6.1 The Site is the subject of two previous applications No. A/YL-HT/889 and 1069 for the same applied use for a period of 3 years which were approved by the Committee of the Board with conditions on 21.3.2014 and 17.3.2017 respectively for a period of 3 years.
- 6.2 Compared with the last approved application (No. A/YL-HT/1069), the current application is submitted by the same applicant on the same site with the same layout and development parameters. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

7. Similar Applications

There are 14 similar applications (No. A/YL-HT/931, 955, 973, 980, 996 and 1013 and A/HSK/13, 58, 62, 97, 111, 120, 130 and 143) involving nine sites for temporary shop and services (real estate agency) use within the same “V” zone between 2015 and 2019 all approved by the Committee. However, two of the approved applications (No. A/YL-HT/931 and 1013) were subsequently revoked due to non-compliance with approval conditions. Particulars of these applications and the decisions of the Committee are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

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

- 8.1 The Site is:

- (a) currently used by its applied use under a valid planning permission No/ A/YL-HT/1069; and
- (b) accessible from San Sik Road through both private lots and Government Land (GL).

8.2 The surrounding areas have the following characteristics:

- (a) to its north are a store under a valid planning permission No. A/ HSK/129, a real estate agency under another valid planning permission No. A/HSK/120, and a number of residential dwellings including a residential development named King's Garden; further north and northeast across San Sik Road are two real estate agencies under valid planning permissions Nos. A/HSK/130 and A/HSK/143 respectively, residential clusters and a car parking space;
- (b) to its immediate east are a number of residential dwellings;
- (c) to its south across the nullah are a number of residential dwellings and a residential development named Purmerend Villas, some vacant land, some parking of vehicles and a floodwater pond; further southwest are a residential cluster, some parking of vehicles and a real estate agency under a valid planning permission No. A/HSK/13; and
- (d) to its west is a site currently under construction for Small House development.

9. 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 New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application 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 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 private lots which are covered by Short Term Waiver (STW) are listed below:

Lots Nos. in D.D. 125	STW No.	Purposes
1028 S.A (now divided into 1028 S.Ass.1 and 1028 S.ARP) and 1030 S.D	3906	Temporary Shop and Services (Real Estate Agency)

- (c) According to his record, there are no Small House applications approved/under processing for the site.
- (d) Should the 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. Application(s) for any of the above will be considered by the 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

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

He has no adverse comment on the application from traffic engineering viewpoint.

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 San Sik Road.

Environment

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

Should the application be approved, the applicant is reminded 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” to minimize any potential environmental nuisance.

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) The application is for renewal of planning approval of the previous application No. A/YL-HT/1069. According to the applicant, the existing drainage facilities would be maintained. Should the application be approved, he suggests that a condition should be stipulated requiring the Applicant to maintain the proposed drainage facilities and submit condition record of the drainage facilities to the satisfaction of his Division.
- (c) The applicant should be reminded that the required condition record should include coloured 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.

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 the approval of Building Authority (BA), 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, 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) 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

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

- (a) He has no objection in principle to the proposal subject to fire 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 plan.
- (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.

Water Supply

10.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) He has no objection to the application.
- (b) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of any sub-main with the private lots to WSD's standards.

District Officer's Comment

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

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

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

- (a) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD); and
- (b) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 21.1.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 11.2.2020, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for the renewal of the temporary shop and services (real estate agency) at a site zoned “V” on the OZP. 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. Although the temporary shop and services (real estate agency) use is not entirely in line with the planning intention of the “V” zone, it could provide real estate agency service to meet any such demand in the area. DLO/YL of LandsD advises that no Small House application has been received for the site. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.
- 12.2 The proposed temporary use is not incompatible with the existing land use for the area, which is predominately occupied by village houses.
- 12.3 There is no adverse comment from the concerned Government departments, including DEP, AC for T/NT of TD and CE/MN of DSD. Significant environmental, traffic and drainage impact to the area is not expected. 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. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorised development on the Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.4 The current application is a renewal application of the last approved application (No. A/YL-HT/1069) for three more years. There has been no major change in planning circumstances of the Site and the surrounding areas since the previous temporary approval. As explained above, approval of the application on a temporary basis would not jeopardize the implementation of the zoned uses. Furthermore, there would be no adverse planning implications arising from the renewal of the temporary planning approval and that the applicant has complied with all the approval conditions under the current approval. In view of the above, the renewal application is considered generally in line with the TPB PG-No. 34C.
- 12.5 The Committee has approved two previous applications for the same applied use on the Site and 14 similar applications within the subject “V” zone on the OZP for similar temporary shop and services (real estate agency) between 2015 and 2019. Approval of the subject application is in line with the Committee’s previous decisions.

12.6 No public comment was received for the application.

13. Planning Department's Views

13.1 Based on the assessments made in paragraph 12 above, the Planning Department has no objection to the temporary shop and services (real estate agency) for a further 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 from **22.3.2020 until 21.3.2023**. 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 on the Site shall be maintained at all times during the planning approval period;
- (c) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a condition record of the existing drainage facilities within **3** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **22.6.2020**;
- (e) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **22.9.2020**;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within **9** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **22.12.2020**;
- (g) if any of the above planning conditions (a), (b) or (c) 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 (d), (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.

[Conditions (a) to (h) are the same as the previous Application No. A/YL-HT/1069.]

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 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 to deviate from the planning intention 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 reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 13.1.2020
Appendix Ia	Supplementary Planning Statement with proposed layout plan, as-planted landscape & tree preservation plan and as-built drainage plan
Appendix Ib	Further Information received on 25.2.2020 from the applicant providing revised as-built drainage plan
Appendix II	Relevant extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C)
Appendix III	Previous Applications covering the Application Site
Appendix IV	Similar Applications within the subject "V" Zone on the approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	As-planted Landscape and Tree Preservation Plan
Drawing A-3	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos