

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

APPLICATION NO. A/HSK/226

- Applicant** : Mr. TANG Ming Hei Roy represented by Smarten Up Holdings Ltd.
- Site** : Lot 1159 (Part) in D.D.125, Ha Tsuen, Yuen Long, New Territories
- Site Area** : 1,150m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK & HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Public Vehicle Park (Private Car) 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 car) for a period of 3 years (**Drawing A-1 and Plan A-1**). The Site falls within the “V” zone on the approved HSK & HT OZP No. S/HSK/2. According to the Notes for the “V” zone, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary planning permission for 3 years. The Site is hard-paved and currently largely vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible to San Sik Road via a vehicular track with the ingress/egress located at the northern boundary of the Site (**Drawings A-1 and A-2 and Plan A-2**). A 2m high fence wall has been erected along a major part of the Site boundary. No other structure will be provided. 24 parking spaces (each of 5m x 2.5m) for private cars are proposed and manoeuvring space will be provided at the central portion of the Site. According to the applicant, the proposed car park is intended for monthly rental to serve the residents in the vicinity and to regularize the illegal parking in the area and will be operated 24 hours daily, including Sundays and public holidays. No repairing, dismantling, assembling or other workshop activity is proposed. No heavy goods vehicle, container trailer and tractor will be allowed to access the Site. The proposed drainage plan and fire service installations (FSIs) plan are at **Drawings A-3 to A-4**.

1.3 The major development parameters of the application are as follows:

Major Development Parameters	
Applied Use	Proposed Temporary public vehicle park (private car) (3 years)
Site Area	1,150m ²
No. of Structure	Nil
No. of Parking Spaces	24 for private cars (each of 5m x 2.5m)
Operation Hours	24 hours daily

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

- (a) Application form with plans received on 5.5.2020 **(Appendix I)**
- (b) Supplementary planning statement with plans **(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 in **Appendix Ia**. They can be summarised as follows:

- (a) The Site is not subject to impending Small House application. The applied use is temporary in nature and would not jeopardize the planning intention of the “V” zone. Public vehicle park is a Column 2 use in the “V” zone.
- (b) The Site is surrounded by a number of Small Houses and the proposed development is compatible with the surrounding environment and would not affect the character of the village.
- (c) Similar applications for public vehicle park within the “V” zone which share similar access leading from San Sik Road have been approved by the Board. Hence, similar preferential treatment should be given to the current application.
- (d) The proposed development is limited in size with only limited number of parking space and is target for the nearby residents and villagers. Traffic impact generated will be insignificant.
- (e) The proposed development would neither generate significant environment nor noise disturbance to the residents in the area. A number of preventive and mitigation measures, including erection of 2m fence wall, hardpaving of the Site and no workshop activity and no parking of other types of vehicle have been proposed.
- (f) The proposed development would not generate significant drainage impact. All the runoff would be intercepted by the proposed surface U-channel along the site periphery.

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

The applicant is not the “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 site notice and publishing notices in local newspapers. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Application

The Site is not the subject of previous application.

6. Similar Applications

There are 5 similar applications (No. A/HSK/20, 76, 80, 169 and 191) for temporary vehicle park use for private cars and/or light goods vehicles within the same “V” zone on the OZP, which were all approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2017 and 2019. However, the earlier 3 applications were subsequently revoked due to non-compliance with approval conditions regarding the submission and implementation of drainage/run-in/FSIs proposals and/or implementation of tree preservation and landscape proposal. Details of these applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) hard paved and largely vacant; and
- (b) accessible to San Sik Road via a vehicular track (**Plan A-2**).

7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) to its immediate north is vehicular track leading to the Site while further north is a cluster of residential dwellings of Tseung Kong Wai (with the closest one about 23m away);
- (b) to its immediate east is a piece of vacant land with the northern portion approved for a proposed private club under a valid planning permission (No. A/HSK/202) while to its further east are residential dwellings, a storage area, an office and open storage of vehicles;
- (c) to its south is vacant while to its further south is an open storage of construction material under a valid planning permission (No. A/HSK/123); and
- (d) to its west is a cluster of temporary structures and some vacant land.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised 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. 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 an Old Schedule Agricultural Lot 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) Should the application be approved, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or to 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. 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 rent or fee, as may be imposed by the LandsD.
- (c) There are no Small House applications approved/under processing within the Site, and there are 9 Small House applications approved and no Small House applications under processing in the vicinity of the Site.

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 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. The applicant shall 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 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

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

- (a) There was no environmental complaint 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 Environment Aspects of Temporary Uses and Open Storage Sites".

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, conditions should be stipulated requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (c) Detailed comments on the submitted drainage proposal at **Appendix IV**.

Building Matters

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

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site.

- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, 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 the prevailing 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 Building Authority should be obtained, otherwise they are UBW. An Authorised Person 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 (B(P)R) respectively.
- (f) The Site does not abut 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.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The FSIs proposal included in the application is considered acceptable. Please be advised that the installation/maintenance/modification/repair work of the FSIs shall be undertaken by an Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/maintenance/modification/repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to the D of FS.
- (c) In addition, the applicant should be 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.

Landscape

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

- (a) With reference to the site visit conducted by his office on 15.5.2020 and the aerial photo of 2018, the Site is vacant and no existing vegetation is observed within the Site. Some existing trees are observed along the south west boundary outside the Site. The Site is in an area of village landscape character disturbed by open storage yards and temporary structures. Residential dwellings are found to the north of the site. The proposed use is not incompatible with the planned landscape character.
- (b) In consideration that the Site is not situated in any landscape sensitive zone, nor facing any prominent public frontage, it is considered not necessary to impose any landscape condition should the application be approved.

District Officer's Comments

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

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

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

- (a) Commissioner of Police (C of P);
- (b) Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comment Received During Statutory Publication Period

On 12.5.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments from individuals and a district councillor were received (**Appendices III-1 to 4**). One individual supported the application as it will increase the supply of carparking spaces while another individual who is a nearby villager objected the application since the generated traffic would have safety hazard to villagers and affect *Fung Shui*. The third individual requested that the development should follow the zoning intention. The district councillor worried that the proposed carpark will affect the surrounding rural environment and the potential of the agriculture land.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary public vehicle park (private car) for a period of 3 years at a Site zoned "V". 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. According to

DLO/YL, there is no Small House application approved/under processing within the Site. Whilst the applied use is not entirely in line with the planning intention of the “V” zone, the proposed public vehicle park can meet the parking demand from the locals and approval of the application on a temporary basis of 3 years would not affect the processing of Small House development nor frustrate the long-term development of the area.

- 11.2 The Site is located at the fringe of the “V” zone of Tseung Kong Wai and its surrounding areas are predominantly rural in character with a number of residential dwellings and village houses in the vicinity and some unused land nearby. The applied use is considered not incompatible with the surrounding land uses.
- 11.3 There is no adverse comment from the concerned Government departments including AC for T/NT, TD on the application. Relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental 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 unauthorized 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 minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 There are 5 similar planning applications for temporary public vehicle park use within the same “V” zone on the OZP (**Plan A-1**). They were approved by the Committee on considerations that they could provide parking facilities to meet such demand despite not in line with planning intention of the “V” zone; not incompatible with the surrounding land uses; and no adverse comment from the concerned Government departments. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 There are four public comments received on the application during the statutory publication period as summarised in paragraph 10. The planning considerations and assessments in the above paragraphs are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taking into consideration the public comments mentioned in paragraph 10, the Planning Department has no objection to the proposed temporary public vehicle park (private car) 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 **26.6.2023**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle without valid license issued under the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) no light, medium and heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) a notice shall be posted at a prominent location of the Site to indicate that no light, medium and heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to enter/be parked on the Site at all times during the planning approval period;
- (d) no vehicles are allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (e) the existing trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (f) 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 **26.12.2020**;
- (g) in relation to (f) 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 **26.3.2021**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the approval period;
- (i) the submission of a 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 **26.12.2020**;
- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **26.3.2021**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) 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 (f), (g), (i) or (j) 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 IV**.

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

the applied use is not in line with the planning intention of the "V" zone, which is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such 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 5.5.2020
Appendix Ia	Supplementary planning statement with plans
Appendix II	Similar Applications within the same "V" zone on the OZP
Appendices III-1 to 4	Public comments
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage Plan
Drawing A-4	Proposed FSIs Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2020**