

RNTPC Paper No. A/HSK/284
For Consideration by
the Rural and New Town
Planning Committee
on 5.2.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/284

- Applicant** : Ka Long Consultant Engineering Ltd. represented by Mr. WONG Sun Wo William
- Site** : Lots 1809 RP(Part) and 1817(Part) in D.D. 124, San Lee Uk Tsuen, Tin Ha Road, Yuen Long, New Territories
- Site Area** : About 1,080 m²
- 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 (8.23 m)*]
- Application** : Proposed Temporary Shop and Services (Real Estate Agency) 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 shop and services (real estate agency) for a period of 3 years. The Site falls within an area zoned “V” on the approved HSK&HT OZP (**Plan A-1a**). According to the Notes for the “V” zone on the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant with some temporary structures (**Plans A-2 to A-4**).
- 1.2 The Site is related to seven previous applications (Nos. A/YL-PS/320, 442, 536, A/HSK/23, 60, 116 and 222). The last application No. A/HSK/222 for temporary shop and services with ancillary office use (real estate agency and decoration company with display of decoration materials) was rejected by the Rural and New Town Planning Committee (the Committee) on 12.6.2020. The last application is submitted by the same applicant with a larger site area. Details of the previous applications are summarised in paragraph 5 below and at **Appendix II**.

- 1.3 The Site is accessible via a local track connecting Tin Ha Road and the ingress/egress point is located at its southwest corner of the Site (**Plan A-2 and Drawing A-1**). The proposed development would comprise 2 single-storey temporary structures with a total floor area of about 240m², including a portable toilet (3.5m high, 15m²) and a real estate agent shop cum office use (4.5m high, 225m²). 10 private car parking spaces (3 for staffs and 7 for customers) are proposed to serve the development (**Drawing A-1**). According to the applicant, the operation hours of the proposed development will be from 8:00 am to 8:00 pm daily including Sundays and public holidays. The proposed site layout plan, landscape proposal and drainage proposal are at **Drawings A-1 to A-3**.
- 1.4 The major development parameters of the proposed development in the current application and the last approved application are shown below:

Major Development Parameters	Previous Application No. A/HSK/222 (rejected on 12.6.2020) (a)	Current Application No. A/HSK/284 (b)	Difference (b) – (a)
Site Area	About 2,628m ²	About 1,080m ²	- 1,548m ²
Applied Use	Temporary Shop and Services with Ancillary Office (for real estate agency and decoration company with display of decoration materials) for a Period of 3 Years	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	Without the proposed use for decoration company with display of decoration materials
Total Floor Area	About 792m ²	About 240m ²	- 552m ²
No. and Height of Structures	3 Single-storey (3.5m to 4.5m)	2 Single-storey (3.5m to 4.5m)	- 1 --
No. of Parking Space for Private Vehicle/Light Goods Vehicles (LGVs)	10 (Private Cars) 1 (LGV)	10 (Private Cars)	-1 (LGV)
Operation Hours	8:00 a.m. and 8:00 p.m. daily (including Sundays and public holidays)		---

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 10.12.2020 with layout (**Appendix I**) plan, drainage and landscape proposals
 - (b) Supplementary information (SI) received on (**Appendix Ia**)

14.12.2020 clarifying the background information

- (c) Further information (FI) dated 19.1.2021 in response to **(Appendix Ib)** Transport Department (TD)'s comments
[Exempted from publication and recounting requirements]

2. Justifications from the Applicant

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

- (a) Various large scale housing estates under the Hung Shui Kiu / Ha Tsuen New Development Area (HSK/HT NDA) will be developed soon, the proposed development could provide services for buying properties and rental housing in Hung Shui Kiu.
- (b) The daily traffic flow will not generate more than 10 vehicles trips.
- (c) The existing structures will be demolished shortly, the Site will be developed as the submitted layout plan once the approval has been obtained from the Board.
- (d) Fencing will be imposed to the southern side of the Site to differentiate the development nearby.

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 site notice and sending registered mail to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not the subject of any current planning enforcement action.

5. Previous Applications

- 5.1 The Site is involved in seven previous planning applications (No. A/YL-PS/320, 442, 536, A/HSK/23, 60, 116 and 222) for various temporary car park, open storage and storage uses, and shop and services. Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Applications No. A/YL-PS/320, A/YL-PS/442 and A/HSK/60 for temporary public vehicle park for private cars and light goods vehicles with ancillary car

beauty services were approved with conditions by the Committee for a period of 3 years on 13.8.2010, 25.4.2014 and 6.7.2018 respectively mainly on grounds that temporary use would not frustrate the long-term use planning intention of the “V” zone, the applied use was not incompatible with the surrounding land uses, and the development would unlikely generate significant adverse environmental, traffic, drainage and landscape impacts on the surrounding areas. The planning permissions for all these applications were revoked due to non-compliance with approval conditions between 2011 and 2018.

5.3 Applications No. A/YL-PS/536 and A/HSK/23 for temporary minibus seating assembling workshop, open storage of minibus and storage of vehicle seating and parts with ancillary office and temporary open storage of new vehicles (minibus) with ancillary office were rejected by the Board on review on 18.8.2017 and by the Committee on 10.11.2017 respectively for the reasons of not in line with the planning intention, not compatible with surrounding land uses, failure to demonstrate no adverse environmental impact, not comply with the then TPB PG-No. 13E in that the application site fell within Category 4 areas, and no strong planning justification to demonstrate exceptional circumstances, and undesirable precedent. Application No. A/HSK/116 for temporary public vehicle park use was rejected by the Board on review on 14.6.2019 due to repeated non-compliances with approval conditions.

5.4 The last application No. A/HSK/222 for proposed temporary shop and services with ancillary office use (real estate agency and decoration company with display of decoration materials) for a period of 3 years was rejected by the Committee on 12.6.2020 due to the reasons of not in line with the planning intention, not compatible with surrounding land uses, insufficient information provided by the applicant that the need for such a large site area of 2,628m² and an extensive shed (about 660m²) for displaying the decoration materials, and undesirable precedent. Compared with the last application, the current application is submitted by the same applicant for a similar applied use on a smaller site area.

6. Similar Application

There is one similar application (No. A/HSK/278) for proposed temporary shop and services (pet goods and food) with ancillary pet garden within the same “V” zone on the approved HSK and HT OZP. The application was rejected by the Committee on 22.1.2021 on the grounds that the proposed development is not in line with the planning intention of the “V” zone and approval of the application would set an undesirable precedent for similar applications within the same “V” zone. Details of the application are summarized in **Appendix III** and its location is shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) fenced, hard paved and currently vacant with some temporary structures; and

- (b) accessible via a local track from Tin Ha Road (**Plan A-2**).

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

- (a) to the north is vacant;
- (b) to the east are an open storage yard and some residential dwellings; to its southeast are some agricultural land;
- (c) to the south are some vacant sites under planning application No. A/HSK/276* (**Plan A-2**) while to its further south is the village cluster of San Lee Uk Tsuen intermixed with some agricultural land;
- (d) to its south-east is an open storage yard of construction materials;
- (e) to the west across the local track and the nullah are some open storage yards, vehicle repair workshops and an approved planning application No. A/HSK/259 for shop and services (vehicle decoration and maintenance materials); and
- (f) to its immediate southwest are some storage facilities, warehouse, residential dwellings and a factory.

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 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):

* Application No. A/HSK/276 for temporary shop and service (household products and hardware accessories) has been deferred by the Committee upon the applicant’s request on 8.1.2021.

- (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 covered by Short Term Waiver (STW) are as follows:

Lot(s) No. in D.D.124	STW No.	Purposes
1817	3915	Temporary Public Vehicle Park for Private cars and LGV (Not Exceeding 5.5 Tonnes) with Ancillary Car Beauty Service

- (c) According to his record, there is no lease modification/land exchange application or building plan submission in relation to commercial development at the Site approved/under processing.
- (d) There is no small house application approved/under processing within the Site.
- (e) Should planning approval be given to the subject planning application, the STW holders should apply to his office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW should 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 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 LandsD.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (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 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 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 Site and Tin Ha Road.

Landscape

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

- (a) The Site is hard paved with trees generally along the northern site boundary within the Site. The Site is in an area of rural landscape character dominated by brownfield uses to the north and village houses to the south. Significant change to the landscape character arising from the application is not envisaged.
- (b) Should the Board approve this application, he would recommend the inclusion of the condition to maintain all existing trees within the Site in good condition during the planning approval period.
- (c) The applicant should be reminded of the detailed comments at **Appendix V**.

Environment

9.1.5 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

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

- (a) He has no objection in principle to the proposed application from a drainage point of view.
- (b) 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 revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (c) The applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

9.1.7 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) The applicant should be reminded of the detailed comments at **Appendix V**.

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 proposed 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 applicant should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

9.1.9 Comments of the 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.

- 9.2 The following Government departments have no comment on the application:
- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
 - (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

10. Public Comment Received During Statutory Publication Period

On 22.12.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual. The commenter raised concerns on the application as the proposed development is excessive for a village setting, and the Site was subject to a previous application No. A/HSK/222 which is now divided into two planning applications No. A/HSK/276 and 284, the combined area could provide more supply of Small Houses (**Appendix IV**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (real estate agent) for a period of 3 years at a site within an area zoned “V” on the OZP (**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. The proposed use is not in line with the planning intention of the “V” zone and there is no strong planning justification given in the submission for a departure from the planning intention of the “V” zone, even on a temporary basis.
- 11.2 The proposed use is considered not incompatible with the surrounding area which is predominated by unused / vacant land, open storage, workshops and village houses (the nearest existing residential dwelling is located about 4m away) (**Plan A-2**). Despite the applicant claims that the proposed development is intended to serve as a real estate agency for the nearby potential development in Hung Shui Kiu, the private property developments in HSK/HT NDA are mainly within the Second Phase development programme and the site formation works for them will only commence after 2024. Moreover, the proposed real estate agency structure occupies about 225m² with building height of 4.5m and there are 10 private car parking spaces at the Site. No information has been included in the submission on the need for such a large scale of the proposed temporary use.
- 11.3 Relevant departments consulted, including DEP, CE/MN, DSD and D of FS, have no objection to or adverse comment on the application from environmental, drainage and fire safety perspectives.
- 11.4 The Site is the subject of seven previous planning applications for various temporary uses submitted by different applicant between 2010 and 2020. Four of them were rejected by the Committee or the Board on review. Another three planning approvals for temporary public vehicle park were subsequently revoked

due to non-compliance with the approval conditions. The last application (No. A/HSK/222) submitted by the same applicant as the current application for a similar shop and services use on a larger site area was rejected by the Committee on 12.6.2020. Rejection of this application is in line with the Committee's previous decision.

- 11.5 There is one public comment raising concern on the excessive scale of the proposed development for the village setting as summarised in paragraph 10 above. The above planning considerations and assessments are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) the proposed use is not in line with the planning intention of the "V" zone which 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. No strong planning justification has been given in the submission for a departure from such planning intention, even on a temporary basis; and
- (b) approval of the application would set an undesirable precedent for similar applications within the same "V" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

- 12.2 Alternatively, 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 **5.2.2024**. 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 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the existing trees within the Site shall be maintained in good condition at all time during the planning approval period;
- (d) the submission of a revised 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 **5.8.2021**;
- (e) in relation to (d) above, the implementation of the revised drainage

proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **5.11.2021**;

- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 **5.8.2021**;
- (h) in relation to (g) 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 **5.11.2021**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application form received on 10.12.2020
Appendix Ia	SI received on 14.12.2020
Appendix Ib	FI received on 19.1.2021
Appendix II	Previous Applications covering the Site

Appendix III	Similar Application within the same “V” zone
Appendix IV	Public Comment
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Proposed Landscape Proposal
Drawing A-3	Proposed Drainage Proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
February 2021