

RNTPC Paper No. A/HSK/54
For Consideration by
the Rural and New Town
Planning Committee
on 16.3.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/54

- Applicant** : Leung Hung Tang
- Site** : Lots 2404 RP (Part) and 2405 RP (Part) in D.D. 124, Hung Shui Kiu Tin Sam Road, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : About 470 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hing Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : “Residential (Group A) 4” (“R(A)4”) [a maximum plot ratio of 5 and a maximum building height of 140mPD]
- Application** : 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**). The Site is currently being used for the applied use without valid planning permission.
- 1.2 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 currently seeks temporary permission for a period of 3 years.
- 1.3 The major development parameters of the application are as follow:

Site area	About 470 m ²
Maximum floor area	14.50 m ²
No. of structures	1 (switch room)
Maximum height of structures	1 storey (2.2m)
No. of Parking Spaces	21 (5m x 2.5m, for private cars)

	2 (7m x 3.5m, for light goods vehicles (LGV))
Operation hours	24 hours daily

1.4 The location plan, proposed layout plan and drainage plan are at **Drawings A1 to A3** respectively.

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

- (a) Application form received on 30.1.2018 (Appendix I)
- (b) Letter dated 1.2.2018 providing traffic flow information, location plan, proposed layout plan and proposed drainage plan (Appendix Ia)
- (c) Letter dated 8.3.2018 clarifying that no medium and heavy goods vehicles will be parked/stored at the Site and no vehicle repair and vehicle washing will be carried out at the Site (Appendix Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I, Ia and Ib**. 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.
- (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 8:30 a.m. and 5:00 p.m. to 7:00 p.m. There is no queue back to the vehicular access.
- (c) No medium and heavy goods vehicles will be parked/stored at the Site. No vehicle repair and vehicle washing will be carried out at the Site.

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 Site is subject to on-going enforcement action (No. E/YL-HSK/14) against an unauthorised development (UD) involving parking of vehicles (**Plan A-2**). An Enforcement Notice (EN) was issued to the concerned parties on 8.1.2018 requiring the discontinuation of the UD. If the requirement of the EN is not complied with upon expiry

of the compliance period of the notice, the concerned parties will be subject to further enforcement action.

5. Previous Application

- 5.1 The site is involved a previous planning application (No. A/YL-PS/12). 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 (36,300m²) of the then “Comprehensive Development Area” (“CDA”) was approved with conditions on 8.8.1997. However, the approved scheme had not been executed and the planning permission was lapsed on 9.8.2003.

6. Similar Applications

- 6.1 There are 5 similar applications (No. A/YL-PS/288, 331, 354, A/HSK/2 and 39) for vehicle park for private cars and light goods vehicles on temporary basis for 3 years within the “R(A)4” zone. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 All the above applications were approved by the Committee with conditions for a period of 3 years on 24.10.2008, 29.10.2010, 7.10.2011, 11.8.2017 and 26.1.2018. However, Applications Nos. A/YL-PS/288, 331 and 354 were revoked on 24.4.2009, 29.10.2011 and 7.8.2013 respectively for failing to comply with time-specific approval conditions.

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

- 7.1 The Site is:
- (a) currently occupied by the applied use without 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 is Hung Fuk Estate;
 - (b) to the east across Hung Tin Road is a knoll covered by vegetation;
 - (c) to the south are open storage yards and the MTR Hung Shui Kiu Bus Depot; and
 - (d) to the west are an office, eating place and open storage yards.

8. Planning Intention

The planning intention of “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.
- (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. Such application(s) will be considered by the 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.

Building Matters

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

- (a) Before any new building works (including containers/open sheds

as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorised Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.

- (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) 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.
- (d) 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.

Traffic

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

- (a) He has no adverse comment on the 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.

9.1.4 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.

Drainage

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

He has the following comments on the submitted drainage proposal:

- (a) Peripheral surface channel along the boundary of the whole Site shall be provided to collect the surface runoff accrued on site and to intercept the overland flow, especially that from the knoll to the north.
- (b) It appeared that a 150mm diameter U-channel will be too small for the Site whose area is about 470m². The applicant has to demonstrate whether the proposed drainage facilities are adequate to collect, convey and discharge the surface runoff accrued on site and the overland flow intercepted from the adjacent land.
- (c) The gradients and the sizes of the proposed U-channels should be shown on the drainage plan.
- (d) The cover levels and invert levels of the proposed U-channels, catchpits/sand traps should be shown on the drainage plan.
- (e) Cross sections showing the existing and proposed ground levels of the Site with respect to the adjacent areas should be given.
- (f) Sand trap or provision alike should be provided before the collected runoff is discharged to the public drainage facilities.
- (g) Where walls or hoarding are erected are laid along the site boundary, adequate opening should be provided to intercept the existing overland flow passing through the Site.
- (h) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
- (i) The applicant should consult DLO/YL and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.
- (j) Despite the above, 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 revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Environment

9.1.6 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.

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) 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.

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 aerial photo of 2017, it is observed that the Site is hard paved and already in operation. The Site is situated in an area of rural landscape character disturbed by vehicle parks. Significant change to the landscape character arising from the application is not envisaged.
- (b) The applicant is advised to make precautionary measures to prevent damage to the trees adjoining the Site, in particularly the tree of significant size.
- (c) The applicant is advised that approval of the s.16 application by

the Board does not imply approval of the tree works such as pruning, transplanting and/or felling. Application for tree works should be submitted direct to DLO for approval.

- (d) Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解(http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: http://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html) published by the GLTM Section, DEVB.

9.1.9 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

As the Site is paved and disturbed, he has no comment on the application from nature conservation point of view. Nevertheless, should the application be approved, the applicant is advised to adopt appropriate measures to avoid affecting the existing mature trees immediately adjacent to the Site during operation.

Long Term Development

9.1.10 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 New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK 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 a site under Advance Works stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

Others

9.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.

- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

- 9.1.12 Comments 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 Leisure and Cultural Services (DLCS);
- (b) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (c) Director of Food and Environmental Hygiene (DFEH);
- (d) Commissioner of Police (C of P); and
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 6.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.2.2018, two objecting comments (**Appendices IVa to IVb**) were received on the grounds of not in line with the planning intention of “R(A)4” zone, inefficient use of land use, should not approve “destroy first, apply later” application, undesirable precedent and the parking of goods vehicles and its 24-hour operation would affect the residents of Hung Fuk Estate.

11. Planning Considerations and Assessments

- 11.1 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. 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. The applied development would also provide parking spaces to meet any such demand in the area. In this regard, approval of the application on a temporary basis of 3 years would not jeopardise the long term planning of 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 developments, 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 AC for T/NT, TD, 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. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 Within the same “R(A)4” zone, there are 5 approved applications (A/YL-PS/288, 331, 354, A/HSK/2 and 39) for similar temporary public vehicle park use.
- 11.5 There are two public comments received objecting to the application on land use planning grounds as summarized in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary public vehicle park for private cars and light goods vehicles could be tolerated 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 16.3.2021. 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, as proposed by the applicant, 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 washing, vehicle repair, dismantling, paint spraying or other workshop activity is allowed on the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the provision of boundary fencing within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **16.9.2018**;
- (g) the submission of a revised 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 **16.9.2018**;
- (h) in relation to (g) 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 **16.12.2018**;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) 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 **16.9.2018**;
- (k) in relation to (j) 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 **16.12.2018**;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e) or (i) 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;

- (m) if any of the above planning conditions (f), (g), (h), (j) or (k) 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; and
- (n) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

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

Appendix I	Application form received on 30.1.2018
Appendix Ia	Letter dated 1.2.2018 providing traffic flow information, location plan, proposed layout plan and proposed drainage plan
Appendix Ib	Letter dated 8.3.2018 clarifying that no medium and heavy goods vehicles will be parked/stored at the Site and no vehicle repair and vehicle washing will be carried out at the Site
Appendix II	Previous Application covering the Site
Appendix III	Similar applications within the same "R(A)4" Zone on the Draft Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/1
Appendices IVa to IVb	Public Comments Received During Statutory Publication Period
Appendix V	Advisory Clauses

Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**