

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

APPLICATION NO. A/HSK/76

- Applicant** : Mr. TANG Tsz Pan
- Site** : Lot 1089 (Part) in D.D.125, Ha Tsuen, Yuen Long
- Site Area** : 232m²
- 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 a maximum building height of 3 storeys (8.23m)]
- Application** : 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 temporary public vehicle park (private car) for a period of 3 years (**Plan A-1**). The Site falls within “V” zone on the approved HSK and HT OZP No. S/HSK/2. According to the covering Notes of the OZP for “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 currently being used for the applied use.
- 1.2 The Site is accessible from Sik Kong Wai Road via a local track and comprise of three land parcels (**Drawing A-1 and Plan A-2**). As shown on the proposed layout plan at **Drawing A-1**, the Site will provide 19 private car parking spaces. No structure is being proposed on the Site. According to the applicant, the operation hours of the Site are 24-hour daily, including public holidays. Warning signs will be posted on Site to remind drivers to slow down to prevent accident. An access of about 10ft. wide will be maintained with the Site to allow large vehicles access into the village. The applicant requests to exempt the requirements for provision of fencing and landscape planting for the Site as they would affect the vehicular access to the Site and the area as the gathering place for villagers when necessary.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 11.5.2018 with proposed layout plan **(Appendix I)**
- (b) Further Information (FI) from the applicant dated 23.5.2018 providing the trip generation rate during peak and non-peak hours **(Appendix Ia)**
- (c) FI from the applicant dated 28.9.2018 in response to public comments received **(Appendix Ib)**

1.4 The application was originally scheduled for consideration by the Rural and New Town Planning Committee (the Committee) on 6.7.2018. At the request of the applicant, the Committee on 6.7.2018 agreed to defer a decision for two months so as to allow time for the applicant to submit further information to address public comments. After the deferment, further information was received by the Board on 28.9.2018. The application is therefore scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form in **Appendices I and Ib**. They can be summarized as follows:

- (a) There is a huge deficit of parking spaces due to increase in population in the village. Vehicles have to park adjacent to or over the pavement.
- (b) It is understood that the Government would not build similar facility such as public vehicle park in the short term. The proposed vehicle park would cater for the parking needs of the family members and the villagers.

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 posting site notice and informing the land owner via Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

It is noted that some vehicles were found at the Site. Subject to the collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken in due course.

5. Previous Application

The Site is not a subject of any previous application.

6. Similar Applications

There are 4 similar applications (Nos. A/YL-HT/719 and 915, HSK/20 and 80) for temporary public vehicle park for private cars and light goods vehicles within the same “V” zone on the OZP. All these similar applications were approved the Committee between 2001 and 2018. However, two planning applications Nos. A/YL-HT/719 and 915 were subsequently revoked due to non-compliance with approval conditions. Particulars of these applications and the decisions of the Committee are summarized at **Appendix II**. The locations of these application sites are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) within the “V” zone for Sik Kong Wai and accessible from Sik Kong Wai Road via a local track (**Plan A-2**); and
- (b) currently used for the applied use.

7.2 The surrounding areas have the following characteristics:

- (a) predominately village houses and low-rise residential blocks with an orchard, some storage uses and parking of vehicles at its north; and
- (b) to the immediate east of the Site is a convenient store which is under an approved planning application no. A/YL-HT/1051 (**Plan A-2**).

8. Planning Intention

The planning intention of the “V” zone in the approved HSK and HT OZP 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.

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 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) The Site is accessible to Sik Kong Wai Road through Government Land (GL). His Office provides no maintenance works to the GL involved and does not guarantee right-of-way over the GL to the Site.
- (c) The Site does not fall within any Airfield Height Restriction Area.
- (d) According to his record, no Small House (SH) application received/under processing for the Site.
- (e) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on Site. Such application(s) 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 premium or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comment to the application from traffic engineering viewpoint.
- (b) Sufficient manoeuvring space shall be provided within the Site and its adjacent area. 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 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 Sik Kong Wai Road.

Environment

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

- (a) There is no substantiated environmental complaint pertaining to the Site received over the past 3 years.
- (b) Should the application be approved, the applicant is advised to follow

the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' (COP).

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, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Fire Safety

9.1.6 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. 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 to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Other Aspect

9.1.7 Comments of the Commissioner of Police (C of P):

- (a) His office has no particular comment on the application.
- (b) The subject location is not a Crime Blackspot which concerned by Police.
- (c) Regarding the emergency access issue, the Site with 2m in width that a Police vehicle can access.

District Officer's Comment

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

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 Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Director of Electrical and Mechanical Services (DEMS); and
- (f) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD)

10. Public Comments Received During Statutory Publication Period

On 18.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 8.6.2018, a total of 26 public comments were received (**Appendices IIIa – IIIz**). Two of the public comments (from a District Councillor and an individual) support the application for the reasons of helping to meet the car parking demand and the need for a proper public carpark to avoid safety hazard (**Appendices IIIa to b**). The remaining 24 public comments objecting to the application were received from the villagers and private individuals (**Appendices IIIc to IIIz**). The major grounds of objection are summarized as follows:

- (a) The applied use would cause environmental nuisances including air, noise and light pollutions to the surrounding area.
- (b) The proposed development would generate adverse traffic, road safety, drainage, sewage and security impacts to the surrounding areas.
- (c) There are already sufficient vehicle parks in the surrounding area to meet the demand of car parking spaces.
- (d) Emergency access of the village would be obstructed.
- (e) Unauthorized structure is found within the same land lot.

11. Planning Considerations and Assessments

11.1 The application is for temporary public vehicle park (private car) in the “V” zone of Sik Kong Wai. Whilst the applied use is not entirely in line with the planning intention of “V” zone which is primarily intended for development of SH by indigenous villagers, DLO/YL of LandsD advises that there is no SH application received/under processing on the Site. The applied use could provide parking facilities to meet any such demand in the area. Approval of the application on a temporary basis will not frustrate the planning intention of the “V” zone and will not jeopardize the long term development of the Site.

11.2 The Site is located within the village clusters. The applied use is considered not incompatible with the surrounding land uses which mainly comprise rural residential dwellings/structures (**Plan A-2**).

- 11.3 There is no adverse comment from the concerned Government departments, including C of P, DEP, AC for T/NT of TD, D of FS and CE/MN of DSD. The applied use will unlikely create significant adverse security, environmental, traffic, fire safety and drainage impacts to the surrounding area. To minimize any possible environmental impacts and nuisance on the surrounding developments, and to address the technical requirements of the concerned Government departments, relevant 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 unauthorized development on Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest '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.
- 11.4 The Committee has approved 4 similar applications involving 3 sites for public vehicle park use within the same "V" zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 26 public comments were received, in which 2 of them support the application and 24 of them objecting to the application mainly on grounds stated in paragraph 10 above. 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 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the temporary public vehicle park (private car) on the Site 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 **2.11.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle without valid licenses issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site during the planning approval period;
- (b) no light, medium and heavy goods vehicle, including container tractor/trailer, 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) no vehicle is allowed to queue back to or reverse onto/from public roads at any time during the planning approval period;
- (d) 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 2.5.2019;

- (e) in relation to (d) 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 2.8.2019;
- (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 planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 2.5.2019;
- (h) in relation to (g) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 2.8.2019;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (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 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 recognized 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form received on 11.5.2018 with proposed layout plan
Appendix Ia	FI from the applicant dated 23.5.2018 providing the trip generation rate during peak and non-peak hours
Appendix Ib	FI from the applicant dated 28.9.2018 in response to public comments received
Appendix II	Similar Applications within the same “V” Zone on the approved HSK and HT OZP
Appendices IIIa to IIIz	Public comments received during statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Layout 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
NOVEMBER 2018**