

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

APPLICATION NO. A/HSK/91

- Applicant** : Mr. LAM Kuen
- Site** : Lots 557, 563 and 564 in D.D. 124, Shek Po Tsuen, Hung Shui Kiu, Yuen Long
- Site Area** : 2,596 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : “Village Type Development” (“V”)
[Restricted to maximum building height (BH) of 3 storeys (8.23m)]
- Application** : Temporary Public Vehicle Park (excluding container vehicle) 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 (excluding container vehicle) for a period of 3 years. The Site falls within an area zoned “V” on the draft HSK and HT OZP (**Plan A-1**). 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 Site is currently being used for the applied use without valid planning permission (**Plan A-2**).
- 1.2 The Site is accessible from Shek Po Road via a local track and the ingress/egress are located at the southern boundary of the Site (**Plans A-2, A-3** and **Drawing A-1**). As shown on the proposed layout plan at **Drawing A-2**, the Site will provide 60 private car parking spaces. A 3m high single-storey structure (18m²) for guard room is being proposed. According to the applicant, the operation hours of the Site are 24-hour daily, including public holidays.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 18.7.2018 with proposed layout plan and proposed vehicular access plan (**Appendix I**)
- (b) Letter from the applicant dated 21.8.2018 in response to Transport Department's comments (**Appendix Ia**)

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 **Appendix I**. They can be summarized as follows:

- (a) The proposed development aims to meet the increasing needs of the Shek Po Tsuen villagers' demand for parking of vehicles.

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 sending notice 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 actions (No. E/YL-HSK/6 and E/YL-HSK/11) against unauthorized development (UD) involving parking of vehicles. Enforcement Notices were issued to the concerned parties on 17.10.2017 and 8.1.2018 respectively requiring the discontinuation of the UD. Since both UD's have not been discontinued upon expiry of the notices, prosecution action may be taken.

5. **Previous Application**

There is no previous application within the Site.

6. **Similar Applications**

There are 3 similar applications (Nos. A/YL-HT/149 and 1022, and A/HSK/64) involving temporary vehicle park for private cars within the same "V" zone on the OZP, which were approved with conditions by the Committee on 19.5.2000, 13.5.2016 and 18.5.2018 respectively. However, planning application No. A/YL-HT/149 was subsequently revoked due to non-compliance with approval conditions. Particulars of these applications and the decisions of the Committee are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

7. **The Site and Its Surrounding Areas** (Plan A-1 to Plan A-4c)

7.1 The Site is:

- (a) currently being used for the applied use without valid planning permission; and
- (b) accessible from Shek Po Road via a local track

7.2 The surrounding areas have the following characteristics:

- (a) predominately residential with other mixed uses including parking of vehicles, fallow agricultural land; and cultivated agricultural land;
- (b) residential structures are found in the vicinity of the Site with the nearest one located about 5m to its southeast; and
- (c) there is parking of coaches and buses to its northeast covered by a valid planning permission granted under No. A/YL-HT/1011.

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.

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 the prior approval of the Government.
- (b) The Site is accessible from Shek Po Road through Government Land (GL) and private lot(s). His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) According to his record, no Small House (SH) application is under processing within 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. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

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 point of view.
- (b) Sufficient manoeuvring spaces 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 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 Shek Po Road.

Environment

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

- (a) There is no substantiated environmental complaint concerning the Site received over the past 3 years for the applied use.
- (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

Open Storage and Temporary Uses' (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.

Building Matters

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Department (BD), they are unauthorized building works (UBW) under the Building Ordinance (BO) and should not be designated for any proposed use under the captioned application.
- (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) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 5 and 41D of the Building (Planning) Regulation respectively.
- (e) 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 Building (Planning) Regulation 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 the satisfaction of D of FS.
- (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) However, 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.

District Officer's Comments

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

10. Public Comments Received During Statutory Publication Period

On 27.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 17.8.2018, 6 public comments (**Appendix IIIa to IIIf**) were received from the members of the public objecting to the application mainly on air and noise pollution, pedestrian and road safety, drainage issues, the planning intention of the "V" zone, and efficient use of land.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary public vehicle park (excluding container vehicle) in the “V” zone of Shek Po Tsuen for a period of 3 years. Whilst the applied use is not for development of Small Houses by indigenous villagers. DLO/YL of LandsD advises that there is no SH application under processing or approved on the Site. 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. The applied use could provide parking facilities to meet any such demand in the area.
- 11.2 The Site is located at the fringe of the village clusters. The applied development is considered not incompatible with the surrounding land uses which mainly comprise rural residential use (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned Government departments, including DEP, AC for T/NT of TD and CE/MN of DSD. The applied use will unlikely create significant adverse environmental, traffic 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 3 similar applications 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 Six public comments were received objecting to the application mainly on grounds stated in paragraph 10 above. The planning considerations and assessments in the above paragraphs are relevant. To address public concerns, relevant approval conditions are recommended in paragraph 12.2 below.

12. Planning Department’s Views

- 12.1 Based on the assessments 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 (excluding container vehicle) 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 **7.9.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicles 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 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 remind drivers on pedestrian safety on the access road to the Site, as proposed by the applicant, at any time during the planning approval period;
- (d) 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, 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public roads at any time 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 **7.3.2019**;
- (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 **7.6.2019**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 **7.3.2019**;
- (j) in relation to (i) 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 **7.6.2019**;
- (k) the provision of fencing of the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **7.3.2019**;
- (l) 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;

- (m) if any of the above planning conditions (f), (g), (i), (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 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 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 18.7.2018 with proposed layout plan and proposed vehicular access plan
Appendix Ia	Letter from the applicant dated 21.8.2018 in response to Transport Department's comments
Appendix II	Similar Applications within the same "V" Zone on the draft HSK and HT OZP
Appendix IIIa to IIIf	Public Comments received during statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plan A-4a to 4c

Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2018**