

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

APPLICATION NO. A/HSK/255

- Applicant** : Lead Rise International Limited represented by R-riches Property Consultants Limited
- Site** : Lots 108 S.A (Part), 108 S.B ss.1 (Part), 108 S.B ss.2, 108 S.B ss.3 (Part), 110 (Part) and 112 (Part) in D.D.128, Ha Tsuen, Yuen Long
- Site Area** : 1,879 m² (about)
- 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** : “Government, Institution or Community” (“G/IC”)
[*Restricted to maximum building height of 3 storeys*]
- Application** : Proposed Temporary Wholesale Trade and Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary wholesale trade and shop and services for a period of 5 years (**Plan A-1**). The Site falls within the “G/IC” zone on the approved HSK and HT OZP. According to the Notes of the OZP, ‘Wholesale Trade’¹ is a Column 1 use which is always permitted within such zone while ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary planning permission of 5 years. The Site is partly vacant and partly occupied by temporary structures used for office without valid planning permission.
- 1.2 The Site is involved in two previous applications for temporary open storage and shop and services (showroom) uses. The last application No. A/HSK/193 for proposed temporary shop and services (showroom) with ancillary office (display for solar panels and ancillary facility) for a period of 3 years was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 29.11.2019 (**Plan A-1**). The current application is submitted by a different applicant at a slightly smaller site for different use for a longer period of 5 years.

¹ According to the Definitions of Terms promulgated by the Board, ‘Wholesale Trade’ means any place or premises where goods, products or foodstuff are displayed and for sale in large quantities to mainly retailers or wholesalers.

- 1.3 The Site is accessible to Kai Pak Ling Road via a local track with ingress/egress at the south-western corner of the Site (**Plans A-2 and A-3 and Drawing A-1**). The Site is currently fenced and hard-paved. As shown on the proposed layout plan (**Drawings A-2 and A-3**), 3 temporary structures with a total floor area of about 307.5m² would be provided at the Site for wholesale trade, retail, storage and display of goods and office uses, including a canopy structure of 6m high with 7 converted container structures stacking up to two storeys beneath, a rain shelter of 2.6m, and a single-storey structure near the ingress/egress points for caretaker office use.
- 1.4 According to the applicant, the proposed metalware wholesale trade business is intended for signing contract and display of metalware products for sale in large quantities to local retailers. The Site also serves as a retail point for nearby workshops. Smaller metalware items, i.e. screw, bolt, hex, etc. can be purchased in large quantity at the Site by visitors. Larger items, i.e. metal beam, metal column, etc. will be delivered direct from warehouse located elsewhere. No workshop/manufacturing activities will be carried out within the Site. Site coverage of the structures are 13% and the uncovered area (87% of the Site area) will be used for circulation and manoeuvring purposes. 4 parking spaces for private cars (5m x 2.5m each) and one loading/unloading bay for light goods vehicle (7m x 3.5m) will also be provided. There will be no open storage of goods at the uncovered area. Light goods vehicles will be used for delivery of goods. The proposed operation hours of the development are from 9a.m. to 6p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The proposed layout plan and floor plan of structures submitted by the applicant are at **Drawings A-2 and A-3**.
- 1.5 A comparison of the applied use and major development parameters of the last rejected application and the current application is given in the following table:

	Previously Rejected Application (A/HSK/193) (a)	Current Application (A/HSK/255) (b)	Difference (b) – (a)
Site Area	1,888m ²	1,879m ²	-9m ² (-0.5%)
Applied Use	Proposed shop and services (showroom) with ancillary office (display of solar panels and ancillary facilities)(3 Years)	Proposed temporary wholesale trade and shop and services (5 Years)	Addition of wholesale trade (+2 years)
Total Floor Area	505m ²	307.5m ²	-197.5m ² (-39%)
No. and Height of Structures	3 (maximum height of 4.8m)	3 (maximum height of 6m)	Same
No. of Parking Space	3 for private car	4 for private car (2.5m x 5m each)	+1 (+33%)
No. of Loading/Unloading Space	1 for light goods vehicle (7m x 3.5m)	1 for light goods vehicle (7m x 3.5m)	Same
Operation Hours	8 a.m. to 6 p.m. Mondays to Saturdays excluding Sundays and public holidays	9 a.m. to 6 p.m. Mondays to Saturdays excluding Sundays and public holidays	Shorter operation hours

- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with planning statement and plans (Appendix I) received on 21.9.2020
 - (b) Supplementary Information (SI) dated 25.9.2020 clarifying the layout and uses of structures and the open area (Appendix Ia)
 - (c) Further Information (FI) dated 7.10.2020 providing revised trip generation rate and existing situation of access road (Appendix Ib) [exempted from publication and recounting requirements]
 - (d) FI dated 2.11.2019 clarifying the operation hours of the proposed development (Appendix Ic) [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 in planning statement at Appendix I. They can be summarized as follows:

- (a) The Site is zoned “G/IC” on the OZP where wholesale trade is a Column 1 use and is in line with the planning intention while shops and services is a Column 2 use within such zone. The proposed development is on a temporary basis and will not frustrate the long term planning intention of the “G/IC” zone.
- (b) As the rent of the adjoining “Other Specified Uses” annotated “Port Back-up, Storage and Workshop Uses” (“OU (PBU&SWU)”) zone has gradually increased, it is difficult to continue the business there and therefore intends to use the Site for the proposed use.
- (c) The proposed development is not incompatible with the surrounding land use with open storage yards and temporary structure for storage and workshop uses.
- (d) The proposed development would bring convenience to the nearby workshops.
- (e) The applicant will follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. No adverse traffic, environmental, landscape and drainage impacts are anticipated to the surrounding.

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

4. **Background**

The Site was previously the subject of a suspected unauthorized development (UD) involving open storage use. Warning letter was issued to the responsible persons early this year. The suspected UD was later found discontinued. However, part of the Site is currently used as office and it would be subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/HSK/133 and 193) for proposed temporary open storage of construction machinery and shop and services (showroom) uses for a period of 3 years which were rejected by the Committee on 12.4.2019 and 29.11.2019 respectively. The reasons for rejection of the applications were that the proposed development was not in line with the planning intention of the “G/IC” zone, not compatible with the surrounding land uses which were predominantly residential in nature and setting of an undesirable precedent for similar applications. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Compared with the last application No. A/HSK/193, the current application is submitted by a different applicant at a slightly smaller site for different use for a longer period of 5 years.

6. Similar Application

There is one similar application (No. A/HSK/233) for temporary shop and services use (with a floor area of 230m²) located partly within the same “G/IC” zone and partly within the adjoining “Village Type Development” zone on the OZP which was approved with conditions by the Committee on 15.9.2020 on the considerations that the applied use was not incompatible with the surrounding areas, of small scale and could serve the needs of the nearby villagers and no major adverse comments from concerned Government departments. Details of the application are summarized at **Appendix IV** and its location is shown on **Plan A-1**.

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

- 7.1 The Site is:
 - (a) fenced, hard-paved, partly vacant and partly occupied by temporary structures used for office use without valid planning permission; and
 - (b) accessible from Kai Pak Ling Road via a local track (**Plan A-3**).
- 7.2 The surrounding areas have the following characteristics:
 - (a) to its north are a piece of unused land and a number of residential dwellings including village houses and Mountain Royal (a residential estate) within the adjoining “Village Type Development” (“V”) zone of Fung Kong Tsuen (**Plans A-2 and A-3**);
 - (b) to its immediate east is a woodland. A cluster of village houses within the “V” zone of Fung Kong Tsuen are at its further east;
 - (c) to its south are mainly hard-paved areas and an open storage yard of construction materials, while to its further south are an open storage yard of sand and a warehouse; and
 - (d) to its west are some open storage yards of containers or vehicles and vehicle repair workshops.

8. Planning Intention

The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government organizations providing social services to meet community needs, and other institutional establishments.

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) Should the application be approved, the lot owner(s) of the lot(s) will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on the Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation 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 premium 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 the public roads.
- (c) Kai Pak Ling Road leading to the Site is not under his 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 Transport Department (TD).
- (b) Adequate drainage measures should be provided to prevent surface water flowing from the Site to the nearby public road and drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Fung Kong Tsuen Road.

Environment

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

- (a) No environmental complaint pertaining to the Site has been received in the past three years.
- (b) Should the planning 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 requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Landscaping

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

- (a) With reference to the recent site photos and the aerial photo of 2019, it is observed that the Site is occupied by some structures with some existing trees at the northern portion within the Site. The Site is situated in a village landscape character disturbed by open storage yards. Significant change to the landscape character arising from the application is not envisaged.
- (b) In consideration that the Site is not facing any prominent public frontage, should the application be approved by the Committee, a condition should be stipulated requiring the applicant to maintain the existing trees within the Site in good condition for the duration of the planning approval period.

Fire Safety

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

- (a) He has no objection 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 are 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.

Building Matter

9.1.8 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, demolition and landfilling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator 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.
- (e) Detailed checking under BO will be carried out at building plan submission stage.

Long Term Development

- 9.1.9 Comments of the Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD);
- (a) He has no objection to the temporary use for 5 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
 - (b) The Site falls within the boundary of Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA). To ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot(s) concerned falls within the site under Remaining Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that clearance of the site in question will not be arranged before 2030.

District Officer's Comments

- 9.1.10 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) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 29.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received (**Appendix IV**). The commenter raised concern that the decision on the present application should be the same as the previous rejected application and community facilities should be provided at the Site for HSK/HT NDA.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary wholesale trade and shop and services for a period of 5 years at a site zoned “G/IC” on the OZP (**Plan A-1**). The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. According to the Notes of the OZP, ‘Wholesale Trade’ is a use always permitted in “G/IC” zone. Nevertheless, since the proposed use involving display of metalware products for

sale to local retailers is akin to a showroom whereas the proposed retail component intended for nearby workshops is a shop and services use. These uses are considered not in line with the planning intention of the “G/IC” zone and there is no strong planning justification given in the submission for a departure from the planning intention of the “G/IC” zone, even on a temporary basis.

- 11.2 The Site is situated in an area predominated by woodland and residential dwellings within the adjoining “V” zone of Fung Kong Tsuen to its immediate north and east (the nearest domestic use is located about 7m to the northeast of the Site) (**Plan A-2**). Although there are open storage yards and workshops in the vicinity of the Site, they are either suspected unauthorised developments subject to enforcement actions by the Planning Authority or within the “Other Specified Uses” annotated “Port Back-up, Storage and Workshop Uses” zone at further south, where such uses are always permitted. The applied uses, which involves storage, display and retail of metalware, are not compatible with the surrounding environment, in particular the village cluster of Fong Kong Tsuen, including Mountain Royal (**Plans A-2 and A-3**). In addition, the open area within the Site constituting to 87% of the site area (about 1,635m²) intended only for circulation, manoeuvring and parking purposes is considered not commensurate in scale with the proposed development with total floor area of about 307.5m².
- 11.3 Relevant departments consulted, including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS have no objection to or adverse comment on the application. While the Site falls within Remaining Phase development of HSK/HT NDA, PM/W of CEDD advises that the detailed implementation programme of the project is still being formulated and clearance of the Site will not be arranged before 2030.
- 11.4 The Site is related to two previously rejected applications for open storage as well as proposed shop and services (showroom) mainly on the grounds of not compatible with the surrounding land uses which are predominantly residential in nature and setting of an undesirable precedent for similar applications. Rejecting the current application is in line with the Committee’s previous decisions. Although there was a similar application No. A/HSK/233 for shop and services use partly within the subject “G/IC” zone approved by the Committee (**Plan A-1**), it is however of small scale and can serve the needs of the nearby villagers.
- 11.5 There is one public comment received with concern 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 comment mentioned in paragraph 10 above, the Planning Department does not support the application for the following reasons :
 - (a) the proposed development is not in line with the planning intention of the “G/IC” zone which is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. No strong planning justification has been given in the submission for a departure from such planning intention, even on a temporary basis; and

- (b) the proposed development is not compatible with the surrounding land uses which are predominantly residential in nature.

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 5 years until **20.11.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no manufacturing nor workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no vehicle is allowed queue back to or reverse onto/from the public road at any time during the planning approval period;
- (e) the existing fencing within the Site shall be maintained at all times during the planning approval period;
- (f) all existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (g) the submission of a 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 **20.5.2021**;
- (h) in relation to (g) above, the implementation of the 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 **20.8.2021**;
- (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 **20.5.2021**;
- (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 **20.8.2021**;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) 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; and

- (m) if any of the above planning conditions (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.

Advisory clauses

The recommended advisory clauses are 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 with planning statement and plans received on 21.9.2020
Appendix Ia	SI dated 25.9.2020 clarifying the layout and uses of the structures and the open area
Appendix Ib	FI dated 7.10.2020 providing revised trip generation rate and existing situation of access road
Appendix Ic	FI dated 2.11.2019 clarifying the operation hours of the proposed development
Appendix II	Previous Applications
Appendix III	Similar Application Within the Same “G/IC” Zone
Appendix IV	Public comment
Appendix V	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Floor Plan of Structures
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & 4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**