

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

APPLICATION NO. A/YL-SK/246

<u>Applicant</u>	: Golden Honest Investment Development Limited represented by Kwok Chi Man
<u>Site</u>	: Lots 580 (Part) and 598 (Part) in D.D.114, Shek Kong, Yuen Long
<u>Site Area</u>	: About 1,050 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Industrial (Group D)” (“I(D)”)
<u>Application</u>	: Proposed Temporary Logistics Centre 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 logistics centre for a period of 3 years. The Site falls within an area zoned “Industrial (Group D)” (“I(D)”) on the approved Shek Kong OZP No. S/YL-SK/9 (**Plans A-1**). According to the Notes of the OZP, ‘Cargo Handling and Forwarding Facility (Container Freight Station, Logistics Centre only)’ is a Column 2 use within “I(D)” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently being used for vehicle repair workshops. (**Plans A-2 and A-4a to A-4b**).
- 1.2 The Site is subject to one previous planning application (No. A/YL-SK/71) for temporary open storage of building materials use. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 12 months on 5.2.1999. All the approval conditions have been complied with and the planning permission lapsed on 6.2.2000.

- 1.3 According to the applicant's submission, the proposed development will involve a 1-storey temporary structure (about 9.2m in height) with a total floor area of 884 m² for storage and logistics uses. The proposed operation will mainly involve packing, labelling and sorting of goods. One loading/unloading space for light goods vehicle will be provided on site. The operation hours will be 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays. The Site is via a local track from Kam Tin Road. The plan showing the layout and vehicular access to the Site submitted by the applicant is shown on **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and plans received on 27.11.2018 **(Appendix I)**
 - (b) Further Information (FI) received on 28.12.2018 in response to departmental comments **(Appendix Ia)**
 - (c) FI received on 22.1.2019 in response to departmental comments **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement at **Appendix I** and FI at **Appendices Ia to Ib**. They are summarized as follows:

- (a) The proposed use is under Column 2 of the "I(D)" zone and is in line with the planning intention. It also does not contravene with the Town Planning Board Guidelines No. 13E (TPG PG-No. 13E) on the "Application for Open Storage and Port Back-up Uses".
- (b) The Site is not incompatible with the surrounding areas. The operation of the proposed use will be clean and tidy and no dangerous goods will be stored at the Site. There will only be one 5.5 tonnes light goods vehicle for the proposed use and the average usage of the proposed development will be once a week so the traffic impact brought by the proposed use will be insignificant.
- (c) No tree-felling, filling and/or excavation of land and blockage of water resource will be carried out and no ecological and environmental impact brought by the proposed use is anticipated. Trees, landscape, drainage facilities and fire service installations will also be provided at the Site.
- (d) No workshop related activities such as repairing, paint-spraying and car washing will be carried out within the Site. The applicant will follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open

Storage Sites” (the COP) to minimize any nuisance generated from the proposed use to the surrounding area.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not the “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 application notice at the Site and sending notification to the Pat Heung District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E) promulgated by the Board on 17.10.2008 is relevant to the application. The Site falls within the Category 1 areas under the TPB PG-No. 13E. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not a subject of any active enforcement case. However, if the proposed development takes place without prior planning approval obtained, or should there be sufficient evidence to prove that the said use is an unauthorized development under the Town Planning Ordinance, appropriate enforcement action will be instigated.

6. Previous Application

6.1 Part of the Site is the subject of one previous planning application (No. A/YL-SK/71) for temporary open storage of building materials use at a larger site area. Detail of this application and its location are shown in **Plan A-1** and **Appendix III**.

6.2 It was approved with conditions by the Committee on 5.2.1999 for a period of 12 months for the reasons that the proposed development was not incompatible with the surrounding land uses; there was no adverse comment from the relevant Government departments; the environmental concerns could be addressed by appropriate approval conditions; and similar applications have been approved in the vicinity of the Site. All the approval conditions have been complied with and the planning permission lapsed on 6.2.2000.

7. Similar Application

There is one similar application (No. A/YL-SK/239) for temporary logistics centre use to the northeast of the Site (**Plan A-2**) within the same “I(D)” zone on the OZP. It was approved with conditions by the Committee on 17.8.2018 for a period of 3 years for the reasons that the application was not in conflict with the planning intention of the “I(D)” zone and was in line with TPB PG-No. 13E in that the site fell within Category 1 areas which were considered suitable for open storage and port back-up uses; the development was not incompatible with the surrounding land uses; there was no adverse comments from the relevant Government departments except for Environmental Protection Department (EPD); and the environmental concerns could be addressed by appropriate approval conditions. Detail of the application is summarized in **Appendix IV** and its location is shown on **Plan A-1**.

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

8.1 The Site is:

- (a) paved, fenced and occupied by vehicle repair workshops; and
- (c) accessible via a local track from Kam Tin Road.

8.2 The surrounding areas are rural in character intermixed with logistics centre, open storage/storage yards, warehouse, workshops, domestic structures/dwellings and vacant/unused land:

- (a) to its north are some open storage/storage yards for vehicle and vehicle parts, a vehicle repair workshop and a temporary logistics centre under Application No. A/YL-SK/239 approved by the Committee on 17.8.2018;
- (b) to its east and southeast are some open storage/storage yards for vehicle, vehicle parts and construction materials. A few domestic structures/dwellings are located to its further east; and
- (c) to its south and west are some open storage/storage yards for vehicle, vehicle parts and recycling materials. A few domestic structures/dwellings are located to its west.

9. Planning Intention

The planning intention of the “I(D)” zone is intended primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

10.1.1 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 Kam Tin Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Application for any of the above will be considered by his department acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 his department.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public

road at any time during the planning approval period should be included.

- (c) The Site is connected to the public road network via a section of a local access road which is not managed by his department.
- (d) The land status of the local access road should be checked with the LandsD. Moreover, relevant management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

10.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department does not and will not maintain the access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint received in the past three years. However, according to the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“the COP”), he does not support the application since there are sensitive receivers in the vicinity (the nearest about 20m away) and environmental nuisance is expected.
- (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 the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP to minimize any potential environmental nuisance.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.

- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions should be included requiring the applicant to submit a revised drainage proposal and implement and maintain the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

Fire Safety

10.1.6 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

10.1.7 Comments of the 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 his department, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the 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 Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) 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 B(P)R at the building plan submission stage.

District Officer's Comments

10.1.8 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any comments from locals upon close of consultation and has no particular comments on the application.

10.2 The following Government departments have no comment on the application:

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Commissioner of Police (C of P); and
- (e) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

11. Public Comment Received During Statutory Publication Period

On 4.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.12.2018, one public comment was received from a member of the public (**Appendices V**). The commenter objects to the application mainly on the grounds that the proposed industrial facility would not be considered as an efficient land use and compatible with a vision of bringing such facilities into the 21st century.

12. Planning Considerations and Assessment

- 12.1 The Site falls within Category 1 areas stated in the TPB PG-No.13E. The following criteria are relevant:

Category 1 areas: Favorable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses, such as container trailer/tractor park and open storage of chemical products/dangerous goods etc., may cause significant environmental and traffic concerns.

- 12.2 The proposed temporary logistics centre is located within the “I(D)” zone which is intended primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. According to the applicant, the proposed logistics centre is for storage and logistic uses and is mainly for packing, labelling and sorting of goods. It is considered that the proposed use is not in conflict with the planning intention of the “I(D)” zone.
- 12.3 The proposed logistics centre is considered not incompatible with the surrounding area which is rural in character intermixed with logistics centre, open storage/storage yards, workshops and domestic structures/dwellings.
- 12.4 The application is generally in line with the TPB PG-No. 13E in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up uses; relevant proposals have been submitted to demonstrate that the proposed use would not generate adverse impacts; and the technical requirements and concerns of relevant Government departments could be addressed through the implementation of approval conditions.
- 12.5 Relevant departments consulted including C for T, CE/MN of DSD and D of FS, excepted DEP, have no adverse comment on the application. DEP does not support the application since there are sensitive receivers in the vicinity (the nearest about 20m away) and environmental nuisance is expected. However, no environmental complaint was received by DEP in the past three years. To mitigate any potential environmental nuisance, approval conditions restricting the operation hours and types of vehicles, and prohibiting dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are recommended in paragraph 13.2 (a) to (d) below. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorized development on site would be subject to enforcement action by the Planning Authority. Also, 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’ issued by

Environmental Protection Department in order to minimize the possible environmental impacts on the nearby sensitive receivers. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (e) to (j) below.

- 12.6 The Site is subject to one previous application (No. A/YL-SK/71) for temporary open storage of building materials which was approved with conditions by the Committee on 5.2.1999 for a period of 12 months. All the approval conditions have been complied with and the planning permission lapsed on 6.2.2000. Besides, there is one similar application (No. A/YL-SK/239) for proposed temporary logistics centre within the same “I(D)” zone approved by the Committee on 17.8.2018 for a period of 3 years as mentioned in paragraph 7 above. Approval of the current application is in line with the Committee’s previous decision.
- 12.7 One public comment objecting the application was received during the statutory publication period as mentioned in paragraph 11 above. The planning considerations and assessments as stated above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment as mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 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 22.3.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:
- (a) no operation between 8:00 p.m. to 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
 - (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
 - (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
 - (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out 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 submission of a revised drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **22.9.2019**;
- (g) in relation to (f) above, the implementation of 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 **22.12.2019**;
- (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 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 **22.9.2019**;
- (j) in relation to (i) above, the provision of 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 **22.12.2019**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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
- (l) if any of the above planning conditions (f), (g), (i) or (j) 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 VI**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The proposed development is not in line with the planning intention of the "I(D)" zone which is intended primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form with supplementary statement and plans received on 27.11.2018
Appendix Ia	FI received on 28.12.2018 in response to departmental comments
Appendix Ib	FI received on 22.1.2019 in response to departmental comments
Appendix II	Relevant Extracts of Town Planning Board Guidelines for “Application for Open Storage and Port Back-up uses” (TPB PG-No. 13E)
Appendix III	Previous Application covering the Site
Appendix IV	Similar Application in the Same “I(D)” Zone on the OZP
Appendix V	Public comment received during the statutory publication period
Appendix VI	Advisory Clauses
Drawing A-1	Site Plan and Access Plan of the Site
Plan A-1	Location Plan

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a – A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2019**