

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

**APPLICATION NO. A/HSK/134**

- Applicant** : Mr. TANG Siu Tong represented by R-riches Property Consultants Limited
- Site** : Lot 219 in D.D.125, Ha Tsuen, Yuen Long
- Site Area** : 1,952.4 m<sup>2</sup> (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** : “Other Specified Uses” annotated ‘Port Back-up, Storage and Workshop Uses’ (“OU(PBU&SWU)”)  
[Restricted to maximum plot ratio (PR) of 7 and maximum building height (BH) of 110m]
- Application** : Proposed Temporary Shop and Services and Warehouse (Metalware Goods) 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 shop and services and warehouse (metalware goods) for a period of 3 years. The Site falls within the “OU (PBU&SWU)” zone on the approved HSK and HT OZP No. S/HSK/2 (**Plan A-1**). According to the Notes of the OZP, ‘Warehouse (excluding Dangerous Goods Godown)’ is a Column 1 use of the “OU(PBU&SWU)” zone and no planning permission from the Town Planning Board (the Board) is required. However, ‘Shop and Services’ is a Column 2 use that requires planning permission from the Board. The Site is currently being used for storage of recycling materials.
- 1.2 The Site is accessible from Kai Pak Ling Road via a local track and the ingress/egress point is located at the northern part of the Site (**Drawing A-1 and Plan A-2**). As shown on the proposed layout plan at **Drawing A-2**, a single-storey (9m high) structure with a total floor area of about 1,390.8m<sup>2</sup> is proposed for shop and services and warehouse uses. Two parking spaces for private cars and two loading/unloading spaces for light goods vehicles are also proposed within the Site. According to the applicant, no workshop activity will be carried out at the Site. The operation hours of the proposed development are

from 10:00 a.m. to 5:00 p.m. and there will be no operation on Sundays and public holidays.

- 1.3 The major development parameters of the current application are summarized as follows:

<b>Major Development Parameters</b>	<b>Current Submission No. A/HSK/134</b>
<b>Site Area</b>	About 1,952.4m <sup>2</sup>
<b>Applied Use</b>	Temporary shop and services and warehouse (metalware goods) (3 years)
<b>Maximum Building Height</b>	About 9m
<b>Total Floor Area</b>	About 1,390.8m <sup>2</sup>
<b>No. of Parking Space</b>	2 for private cars (2.5m x 5m)
<b>No. of Loading / Unloading Space</b>	2 for light goods vehicles (7m x 3.5m)
<b>Operation Hours</b>	10:00 a.m. to 5:00 p.m. Monday to Saturday

- 1.4 In support of the application, the applicant has submitted the following document:

Application form received on 29.1.2019 with supplementary planning statement, proposed vehicular access plan and proposed layout plan **(Appendix I)**

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement in **Appendix I**. They can be summarized as follows:

- (a) “Warehouse” is a Column 1 use of “OU(PBU&SWU)” zone while ‘Shop and Services’ is a Column 2 use. The proposed retail use is intended to serve the workshop uses in the vicinity. Hence, the proposed use is in line with the planning intentions of the “OU(PBU&SWU)” zone.
- (b) The Site falls within the Category 1<sup>1</sup> Areas in accordance with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E), which is considered suitable for open storage and port back-up uses.
- (c) The proposed use will not cause adverse traffic impact on the local road network. Adequate parking facilities and maneuvering space will be provided within the Site. No vehicle is allowed to queue back to or reverse onto/from the public road.
- (d) Drainage assessment report, landscape and tree preservation proposal and fire services installations proposal will be submitted for consideration after planning permission is obtained.

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<sup>1</sup> According to Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E), the Site falls within the Category 2 Areas instead of Category 1 Areas as claimed by the applicant.

**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 Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Town Planning Board Guidelines**

On 17.10.2008, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). The Site falls entirely within Category 2 areas under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

**5. Background**

The Site is not subject to any planning enforcement action.

**6. Previous Application**

There is no previous application covering the Site.

**7. Similar Applications**

There are seven similar applications (No. A/YL-HT/606, 778, 940 and A/HSK/14, 57, 90 and 103) involving three sites for various temporary warehouse uses within the same “OU (PBU&SWU)” zone on the OZP since the promulgation of TPB PG-No. 13E on 17.10.2008. All of these applications were approved with conditions by the Committee between 2009-2018. Amongst the approved applications, three (No. A/YL-HT/606, A/HSK/14 and 57) were subsequently revoked due to non-compliance with approval conditions. Particulars of these applications and the decisions of the Rural and New Town Planning Committee (the Committee)/Board are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently being used for storage of recycling materials; and
- (b) accessible from Kai Pak Ling Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its north across the local track are some woodlands, burial grounds and a warehouse;
- (b) to its east are warehouses, an open storage of construction materials and a workshop operated under a valid planning permission No. A/HSK/103;

- (c) to its immediate south is a woodland. A warehouse and a storage yard of construction materials and plastic workshop operated under a valid planning permission No. A/HSK/103 are at its further south. To its southwest are a woodland and an open storage yard of containers operated under a valid planning permission No. A/YL-HT/1042; and
- (d) to its immediate west is a warehouse and storage yard of recycling materials, while to its further west is an open storage yard of construction materials.

## **9. Planning Intention**

The planning intention of the “OU(PBU&SWU)” zone is primarily to cater for the port back-up facilities and container related uses. Port back-up related development such as container freight station, logistics centre, container vehicle park and container storage, repair yard and rural industry workshop are permitted within this zone.

## **10. Comments from Relevant Government Departments**

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

### **Land Administration**

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) The Site is accessible from Kai Pak Ling Road through Government land (GL). 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) Should the application be approved, the lot owner(s) of the lot without Short Term Waiver (STW) will need to apply to his office for permitting the structures to be erected or to 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(s) 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**

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

- (a) He has no adverse comment on the planning application from traffic engineering viewpoint.
- (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.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Fung Kong Tsuen Road or Deep Bay Road.

### **Environment**

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

- (a) No pollution complaint pertaining to the Site has been received in 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'.

### **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 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 his satisfaction.

## **Landscaping**

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

- (a) With reference to the aerial photo of 2018, the Site appears to be completely covered by an existing temporary structure. The applied use appears to be already in operation. Significant change to the landscape character arising from the application is not envisaged.
- (b) In consideration that the Site is not adjoining any prominent public frontage and the limited space available for effective landscape treatment, should the application be approved by the Committee, it is not necessary to impose a landscape condition.

## **Building Matters**

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and Buildings Department (BD) is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Building Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) 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.
- (d) 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 UBWs. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) 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 respectively.
- (f) 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) Regulations at the building plan submission stage.

## **Fire Safety**

### 10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He notes that the distance of the Site from the nearest fire hydrant is more than 600m. He has no objection in principle to the proposal subject to water supply for firefighting, i.e. to provide a fire hydrant system with adequate flow, pressure and size of water tank in the Site, and 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 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.

## **Nature Conservation**

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

- (a) As the Site has been paved and disturbed, he has no adverse comment on the application from nature conservation point of view.
- (b) Should the application be approved, the applicant is advised to adopt appropriate measures to avoid causing disturbance or pollution to the wooded areas in the adjacent “Green Belt” zone.

## **Long Term Development**

### 10.1.10 Comments of the Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD):

- (a) He has no objection to the application for a period of three years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) However, the Site falls within the boundary of Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant site formation and infrastructure works would be

implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The concerned lot(s) falls within a site under Stage 2 Works stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

### **District Officer's Comment**

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

His office has not received any comment from the locals on the application.

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

- (a) Commissioner of Police (C of P); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

## **11. Public Comment Received During Statutory Publication Period**

On 12.2.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 5.3.2019, one public comment was received from a private individual (**Appendix IV**). The commenter objects to the application on the grounds that approval of the application perpetuates the brownfield operations, and storage and other industrial uses should be provided in a modern and technological way instead.

## **12. Planning Considerations and Assessments**

12.1 The Site falls within an area zoned "OU(PBU&SWU)" on the HSK and HT OZP which is primarily to cater for the port back-up facilities and container related uses. Port back-up related development such as container freight station, logistics centre, container vehicle park and container storage, repair yard and rural industry workshop are permitted within this zone. According to the Notes of the OZP, 'Warehouse (excluding Dangerous Goods Godown)' use in the "OU(PBU&SWU)" zone is always permitted whereas 'Shop and Services' use requires planning permission from the Board. Although the proposed 'Shop and Services' use is not entirely in line with the planning intention of the "OU(PBU&SWU)" zone, it could provide shop and services facilities to meet any such demand in the area. PM/NTW of CEDD advises that the implementation programme for this part of NDA is still being formulated and he has no objection to the proposed temporary use for 3 years on the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects.



- 12.2 The Site is located in an area occupied by warehouse and open storage yards in the vicinity. The proposed use is considered not incompatible with the surrounding land uses (**Plans A-2 and A-3**).
- 12.3 The Site falls entirely within Category 2 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:
- Category 2 areas: permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no 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, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.
- 12.4 The proposed development is generally in line with the TPB PG-No. 13E in that the Site falls within Category 2 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 technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.
- 12.5 There are no adverse comments or objections from concerned Government departments on the proposed development and no substantiated environmental complaint pertaining to the Site received in the past three years. Relevant approval conditions have been recommended in paragraph 13.2 to address the possible environmental nuisances or the technical requirements of the concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorised development on the Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the '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.
- 12.6 The Committee has approved 7 similar applications for similar uses on the same "OU(PBU&SWU)" zone since the promulgation of TPB PG-No. 13E on 17.10.2008. Approval of the current application is in line with the Committee's previous decisions.
- 12.7 There is one public comment received with concern stated in paragraph 11 above. The planning considerations and assessments in the above paragraphs are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment 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:

Approval Conditions

- (a) no operation between 5:00 p.m. and 10:00 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 workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no vehicle queuing back to or reverse onto/from the public road is allowed at any time during the planning approval period;
- (e) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of the 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 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 **22.12.2019**;
- (h) in relation to (g) above, the implemented drainage facilities 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 **22.9.2019**;
- (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 **22.12.2019**;
- (k) 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; 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 V**.

13.3 Alternatively, should the Committee decide to reject the application, the following

reason for rejection is suggested for Members' reference:

the proposed shop and services use is not entirely in line with the planning intention of the "OU(PBU&SWU)" zone which is to cater for the port back-up facilities and container related uses. There is no strong justification given in the submission to deviate 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 reasons for rejection should be given to the applicant.

#### **15. Attachments**

<b>Appendix I</b>	Application form received on 29.1.2019 with supplementary planning statement, proposed vehicular access plan and proposed layout plan
<b>Appendix II</b>	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
<b>Appendix III</b>	Similar applications within the same "OU(PBU&SWU)" Zone on the approved Hung Shui Kiu and Ha Tsuen OZP since the Promulgation of TPB PG-No. 13E on 17.10.2008
<b>Appendix IV</b>	Public comment received during the publication period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4c</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2019**