

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/172

- Applicant** : China Success Management Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 3138 RP (Part), 3139 (Part), 3140, 3141 (Part) and 3143 (Part) in D.D. 129, Ha Tsuen, Yuen Long
- Site Area** : 1,436 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** : “Open Space” (“O”) (54%); and
an area shown as ‘Road’ (46%)
- Application** : Temporary Vehicle Service 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 temporary vehicle service centre use for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. In any area shown as ‘Road’ on the approved HSK and HT OZP, all uses or development require planning permission from the Board. The Site is currently being used for the applied use without a valid planning permission.
- 1.2 The Site is related to a previous application for proposed temporary vehicle service centre use (**Plan A-1**) which was submitted by the same applicant. The application was approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions for a period of 3 years on 11.11.2016 and was subsequently revoked on 11.4.2019 due to non-compliance with planning conditions including the provision of fire service installations (FSIs). Compared with the previous application, the current application involves an increase in the

total floor area and number of storeys of the temporary structure on the Site.

- 1.3 The Site is accessible from Lau Fau Shan Road with its ingress/egress point at the eastern boundary of the Site (**Drawing A-1** and **Plan A-2**). According to the layout plan at **Drawing A-1**, there is a single-storey open shed temporary structure (not exceeding 8m high and with a total floor area of not exceeding 1,228m² covering a 2 storeys temporary structure (not exceeding 6m high and with floor area of not exceeding 280m²) for site office use located at the northern portion of the Site. 2 parking spaces (11m x 3.5m) for medium/heavy goods vehicle are also proposed under the shed at the southern portion of the Site (**Drawing A-1**). According to the applicant, the operation hours are from 8:00 a.m. to 7:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The proposed landscape and tree preservation plan, as-built drainage plan and proposed fire service installations (FSIs) layout plan are at **Drawings A-2** to **A-4** respectively.
- 1.4 A comparison of the major development parameters of the last application and the current application is given in the following table:

Major Development Parameters	Last Approved Application (A/YL-HT/1054) (Revoked) (a)	Current Application (A/HSK/172) (b)	Difference (b) – (a)
Site Area	1,436 m ²	about 1,436 m ²	No change
Applied Use	Proposed Temporary Vehicle Service Centre (3 Years)	Temporary Vehicle Service Centre for (3 Years)	No change
No. of Structures	1 (1 storey)	1 (2 storeys)	Change in no. of storey
Total Floor Area	1,088m ²	1,228m ²	+140m ² (+13%)
Uses of Structure(s)	Open shed and site office	Open shed and site office	No change
No. of Parking Spaces	2 (for medium/heavy goods vehicle)	2 (for medium/heavy goods vehicle)	No change

- 1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 19.6.2019 **(Appendix I)**
- (b) Supplementary planning statement with proposed layout plan, proposed landscape and tree preservation plan, and as-built drainage plan **(Appendix Ia)**

- (c) Supplementary information dated 27.6.2019 **(Appendix Ib)** including a letter from the applicant, a proposed landscape proposal and a FSIs proposal

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement at **Appendix Ia**. They can be summarized as follows:

- (a) The planning intention of the “O” zone could not be realized within the coming 3 years since land resumption for the development of Hung Shui Kiu new town is yet to commence.
- (b) The operation hours are from 8:00 a.m. to 7:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays.
- (c) The development is intended for storage of vehicle spare parts and inspection and small-scale repairing of goods vehicles, coaches and container tractors. The proposed development is more suitable at the Site than conventional godown and industrial premises due to economic infeasibility and the physical constraints of the conventional godowns and industrial buildings.
- (d) The Site falls within Category 1 areas under the Town Planning Board Planning Guidelines for Application of Open Storage and Port Back-up Uses (TPB PG-No.13E) which is considered suitable for open storage and port back-up uses.
- (e) Logistics centres, vehicle serving establishment and other port back-up uses are found in close proximity of the Site which makes the proposed development compatible with the surrounding environment. The proposed development aims to serve the open storage and port back-up activities nearby as most of them were accessed by goods vehicles and container tractors.
- (f) No significant impact on drainage, environmental, traffic and landscape aspects is envisaged.

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

4. Town Planning Board Guidelines

On 17.10.2008, the Board promulgated the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). The Site falls within Category 1 areas under the Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. **Background**

As the existing use on the Site is not covered by a valid planning permission, it would be subject to planning enforcement action.

6. **Previous Application**

6.1 The Site is related to a previous application No. A/YL-HT/1054 for proposed temporary vehicle service centre for a period of 3 year approved with conditions by the Committee on 11.11.2016. The planning permission was subsequently revoked by the Board on 11.4.2019 due to non-compliance with planning conditions including the provision of FSIs. Details of the application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

6.2 Comparing with the last application A/YL-HT/1054, the current application is submitted by the same applicant for the same use on the same site. The size of proposed structures has increased from 1,088 to 1,228 (+140m²) and number of storeys of the temporary structure has increased from 1 storey to 2 storeys.

7. **Similar Application**

There is no similar application within the same “O” zone of the OZP.

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

8.1 The site is:

- (a) being used for the applied use without a valid planning permission; and
- (b) accessible from Lau Fau Shan Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the north across Lau Fau Shan Road are a plant nursery, a yard for open storage of construction materials and workshop uses, some village houses under construction and some residential dwellings.
- (b) To the east across Lau Fau Shan Road are some vehicle servicing establishments, a logistics centre under a valid planning permission No. A/HSK/40 and a warehouse under a valid planning permission No. A/HSK/69.
- (c) to its immediate south are a vehicle service centre under a valid planning permission No. A/HSK/28, a vacant structure, a yard for open storage, a temporary structure for canteen use and some temporary structures for the storage of forklifts and workshop uses; and
- (d) to its immediate east are two logistics centres under valid planning permissions No. A/YL-HT/1062 and A/HSK/108 respectively.

9. Planning Intention

The Site falls within the “O” zone and an area shown as ‘Road’ on the approved HSK and HT OZP No. S/HSK/2. The planning intention of the “O” zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application received 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 an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The private lot which is covered by Short Term Waivers (STWs) are listed below:

<u>Lot No. in D.D.124</u>	<u>STW No.</u>	<u>Purposes</u>
3193 3139, 3141, 3143	4129	Temporary Vehicle
3140	4823	Service Centre

- (c) The Site is accessible to Lau Fau Shan Road through Government Land (GL). His office provides no maintenance works to the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within any Shek Kong Airfield Height Restriction Area.
- (e) Should the application be approved, the STW holders will need to apply to his Office for modification of the STW conditions where appropriate. The owner(s) of lot without STW will need to apply to this office to permit the structures to be erected or regularize any irregularity 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 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 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 the public roads.

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

- (a) The access arrangement should be commented by TD.
- (b) If the proposed run-in is agreed by TD, the applicant should provide the run in/out at Lau Fau Shan Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) Adequate drainage measures should be provided at the Site to prevent surface water flowing from the Site to the nearby public roads/drains.
- (d) HyD shall not be responsible for the maintenance of any access connecting the Site and Lau Fau Shan Road.

Environment

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one about 34m to its north) (**Plan A-2**) and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (c) Should the application be approved, the applicant is reminded to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance.

Drainage

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

- (a) According to the applicant’s submission, the existing drainage facilities which was implemented under an approved application

No. A/YL-HT/1054 will be maintained for the subject development. He has no objection in principle to the development from a drainage point of view.

- (b) Should the application be approved, he would suggest conditions should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.

Building Matters

10.1.6 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.
- (b) If the existing structures (not being New Territories Exempted Houses) are erected on leased land without the approval of the Buildings Department (BD), they are unauthorized building works (UBW) under the Buildings 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 UBW. 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

10.1.7 Comments of Director of Fire Services (D of FS):

- (a) He has no objection 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 structures, 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.

Long Term Development

10.1.8 Comments of Project Manager (West), Civil Engineering and Development Department (PM/NTW, CEDD):

- (a) He has no objection to the proposed temporary use for 3 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 the 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 lot(s) concerned fall within sites under Stage 3 Works stage and Stage 4 Works stage in the latest programme of HSK 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 the first population intake of the HSK NDA expected in 2024.

Others

10.1.9 Comments of Director of Leisure and Cultural Services (DLCS):

- (a) The Site falls within the area zoned “O” and area shown as ‘Road’ on the approved HSK and HT OZP No. S/HSK/2. It is not on the priority list for development agreed by the Yuen Long District Council. She has no plan to develop the Site into public open space at present.
- (b) Since the application involves private lot only, she has no in-principle objection to the application.

District Officer's Comment

10.1.10 Comments of 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.

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

- (c) Commissioner of Police (C of P);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (e) Director of Agriculture, Fisheries and Conservation (DAFC).

11. Public Comments Received During Statutory Publication Period

On 2.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 23.7.2019, a public comment from a private individual (**Appendix IV**) was received. The commenter opined that despite the previous application on the same site was revoked due to non-compliance of approval condition, operation on site still continues. Moreover, the commenter is also concerned about the possible environmental impacts arising from the open storage use.

12. Planning Considerations and Assessment

12.1 The application is for the development of a temporary vehicle service centre for a period of 3 years at a site zoned "O" and shown as 'Road' on the approved HSK & HT OZP. The "O" zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Whilst the development is not in line with the planning intention of the "O" zone, the implementation programme for this part of NDA is still being formulated, and PM/W of CEDD and DLCS have no objection to the applied use on the Site for 3 years. 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 falls within Category 1 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

12.3 Category 1 areas: favourable 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 may cause

significant environmental and traffic concerns.

- 12.4 The proposed development is 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 technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.
- 12.5 The applied use is not incompatible with the surrounding uses mainly including vehicle parks and repair workshops, car services centres, logistics centre and open storage yards (**Plan A-2**).
- 12.6 There is no major adverse comment from concerned Government departments, except DEP who does not support the application because there are sensitive uses in the vicinity of the Site (the nearest dwelling is about 34m away) and environmental nuisance is expected (**Plan A-2**). However, there was no substantive environmental complaint pertaining to the Site in the past 3 years. To address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments, relevant approval conditions have been recommended in paragraph 13.2. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorized development on Site would thus be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also 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.
- 12.7 The Site is the subject of a previous application (No. A/YL-HT/1054), which was approved with conditions by the Committee on 11.11.2016 for a period of 3 years. Subsequently, the approved application was revoked due to non-compliance with conditions including the provision of FSIs on 11.4.2019. For the current application, it was submitted by the same applicant for the same use. The applicant has submitted a FSIs proposal (**Drawing A-4**) and D of FS has no objection to the proposal. In view of the above, sympathetic consideration may be given to this application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of planning permission, sympathetic consideration would unlikely be given to any further application.
- 12.8 There is one public comment received with concerns stated in paragraph 11 above. The planning considerations and assessment in the above paragraphs are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 above and having taking into consideration the public comment mentioned in paragraph 11, the Planning

Department considers that the temporary vehicle service centre could be tolerated for a period of 3 years.

- 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 **16.8.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. to 8:00 a.m., as proposed by the applicant, is allowed on the Site during the 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 vehicle spraying activities, as proposed by the applicant, is allowed on the Site at all times during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of run in/out proposal within **3** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **16.11.2019**;
- (f) in relation to (e) above, the implementation of the run in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **16.2.2020**;
- (g) the submission of a condition record of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **16.11.2019**;
- (h) the submission of a fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **16.11.2019**;
- (i) in relation to (h) above, the implementation of the 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 **16.2.2020**;
- (j) if the above planning conditions (a), (b), (c) or (d) is not complied with at any time during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (k) if any of the above planning conditions (e), (f), (g), (h) or (i) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and

Advisory clauses

The recommended advisory clauses are attached at **Appendix V**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "O" zone which is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied development would not have adverse environmental impact on the surrounding areas

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 received on 19.6.2019
Appendix Ia	Supplementary planning statement with proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan
Appendix Ib	Supplementary information dated 27.6.2019 including a letter from the applicant, a proposed landscape proposal and a fire service installations proposal
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 application site
Appendix IV	Public comment received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape and Tree Preservation Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	Proposed Fire Services Installations Layout Plan
Plan A-1	Location Plan with Previous Application
Plan A-2	Site Plan

Plan A-3 Aerial Photo
Plans A-4a to 4b Site Photos

PLANNING DEPARTMENT
AUGUST 2019