

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/177

- Applicant** : Mr TSUI Sum Wah represented by Sum Kwan Limited
- Site** : Lots 1835 (Part), 1839, 1840 (Part), 1841 S.A (Part), 1841 S.B (Part), 1842 (Part), 1854, 1855 (Part), 1856 (Part), 1857 RP (Part), 1864 RP (Part), 1889 (Part), 1890 (Part), 1894 (Part) and 1895 RP (Part) in D.D. 125, Ha Tsuen, Yuen Long
- Site Area** : 6,075m² (about)
- Lease** : Block Government Lease (demised for agricultural use) and New Grant Agricultural Lot
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Residential (Group A) 4” (“R(A)4”)(77%)
[Restricted to maximum Plot Ratio (PR) of 5 and maximum Building Height (BH) of 120mPD];

“Residential (Group A) 3” (“R(A)3”)(9%);
[Restricted to maximum PR of 5.5 and maximum BH of 140mPD]; and

an area shown as ‘Road’ (about 14%)
- Application** : Proposed Temporary Warehouse for Storage of Electrical Appliances 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 warehouse for storage of electrical appliances for a period of 3 years (**Plan A-1a**). The Site straddles over “R(A)4” (77%) and “R(A)3” (9%) zones and an area shown as ‘Road’ (14%) on the approved HSK and HT OZP. 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 zones 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 OZP, all uses or developments require planning permission from the Board. The Site is currently vacant.

- 1.2 The Site is involved in 9 previous applications No. A/YL-HT/7, 128, 216, 380, 534, 716, 827 and 993 and A/HSK/122 for various open storage uses (**Plan A-1b**). All of these applications were approved with conditions by the Committee/Board between 1996 and 2019. The last application No. A/HSK/122 for temporary open storage of construction machinery and materials, scrap metal and used electrical/electronic appliances and parts with ancillary packaging activities uses was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 1.2.2019 for a period of 3 years. The current application is submitted by a different applicant for a different use at a much smaller site (about 16% of that of application No. A/HSK/122) with a different layout.
- 1.3 The Site is accessible from Ping Ha Road via local tracks and the ingress/egress point is at the southern boundary of the Site (**Drawings A-1 and A-2 and Plan A-2**). As shown on the layout plan at **Drawing A-2**, 6 single-storey temporary structures with a total floor area of not exceeding 3,904m² (including a 11m high structure with a floor area of 3,720m² for warehouse use, a 4m high structure with a floor area of 40m² for site office use, a 3.5m high structure with a floor area of 20m² for toilet use, a 6m high structure with a floor area of 6m² for guard room use, a 7m high structure with a floor area of 100m² for water tank and a 3.5m high structure with a floor area of 18m² for pump room) are proposed. 2 loading/unloading spaces for medium/heavy goods vehicles and 2 private car/light goods vehicle parking spaces are also proposed. The operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays. The proposed landscape and tree preservation plan and drainage plan are at **Drawings A-3 and A-4** respectively.
- 1.4 The major development parameters of the current application are summarized as follows:

Major Development Parameters	
Applied Use	Proposed Temporary Warehouse for Storage of Electrical Appliances for a Period of 3 Years
Site Area	about 6,075m ²
Total floor area	3,904m ²
No. and Use of Structure	5 (warehouse, site office, toilet, guard room, water tank and pump room)
No. of Parking Spaces	2 for private car/light goods vehicle
No. of Loading/Unloading Spaces	2 for medium/heavy goods vehicle
Operation Hours	7am to 11pm, Mondays to Saturdays, with no operation on Sundays and public holidays

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 16.7.2019 **(Appendix I)**

- (b) Supplementary planning statement with proposed layout plan, landscape and tree preservation plan and drainage plan **(Appendix Ia)**
- (c) Further Information (FI) dated 26.8.2019 from the applicant providing vehicular access plan **(Appendix Ib)**
[Accepted and 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 the Supplementary Planning Statement at **Appendix Ia**. They can be summarized as follows:

- (a) The Site falls within the ‘Category 1 areas’ of the Board’s Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) in which open storage and port back-up uses are considered suitable. The Site is the subject of 9 previous planning applications which have been approved for open storage uses since 1996. The proposed development could support the open storage and port back-up development in Hong Kong.
- (b) The development represents a sensible utilization of scarce land resources. The development, on a temporary basis, will not jeopardize the long-term planning intention of the “R(A)3” and “R(A)4” zones and ‘Road’ area.
- (c) The vicinity of the Site is occupied by temporary structures for various open storage and port back-up activities. The development is compatible with its adjoining uses which are of similar nature.
- (d) There is shortage of land and strong demand for port back-up use in Ha Tsuen area and therefore sympathetic consideration to approve the subject application is sought.
- (e) The applicant proposes a number of preventive and mitigation measures to ensure that the development would not generate any adverse impacts to the surrounding areas, including no operation between sensitive hours from 11pm to 7am nor on Sundays and public holidays, and no cutting, dismantling, cleansing, repairing, compaction, tyre repair, vehicle repair, container repair and workshop activity will be undertaken.
- (f) No significant environmental, traffic and drainage impacts are 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 publishing on three local newspaper. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Applications

5.1 The site is related to 9 previous applications No. A/YL-HT/7, 122, 128, 216, 380, 534, 716, 827 and 993 and A/HSK/122 for various open storage uses. All of these applications were approved with conditions by the Committee/Board between 1996 and 2019. However, among these applications, A/YL-HT/7, 128 and 716 were subsequently revoked due to non-compliance with approval conditions.

5.2 The last application No. A/HSK/122 for temporary open storage of construction machinery and materials, scrap metal and used electrical/electronic appliances and parts with ancillary packaging activities for a period of 3 years was approved with conditions by the Committee on 1.2.2019. Compared with this last approved application, the current application is submitted by a different applicant for a different use at a much smaller site with a different layout. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.

6. Similar Applications

There are 3 similar applications (No. A/YL-HT/928 and A/HSK/70 and 31) for various temporary warehouse and logistics centre within the same “R(A)4” and “R(A)3” zones on the approved HSK and HT OZP since the promulgation of the TPB PG-No.13E on 17.10.2008. All of these similar applications were approved with conditions by the Committee. Details of the above applications are summarized at **Appendix III** and their locations are shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) currently vacant; and
- (b) accessible from Ping Ha Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northwest are a logistics centre, a warehouse and an open storage of recyclable materials under valid planning permissions No. A/HSK/105, A/HSK/31 and A/YL-HT/1071 respectively;
- (b) to its immediate east and south is an open storage for construction materials, machinery and converted container under a valid planning permission No. A/HSK/122;
- (c) to its immediate southeast across a local track is a small piece of woodland; and

- (d) to its immediate west is a warehouse under a valid planning permission No. A/HSK/70. To its further west are a yard for open storage of recyclable materials under a valid planning permission No. A/HSK/30 and a temporary structure for parking of lorries and vehicles while to its further southwest is a warehouse.

8. Planning Intention

The Site straddles over “R(A)4” and “R(A)3” zones and an area shown as ‘Road’ on the approved HSK and HT OZP. The planning intentions of the “R(A)4” and “R(A)3” zones are intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purpose-designed non-domestic building up to five storeys.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application received are summarized 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 Scheduled Agricultural Lots 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 private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No(s). in D.D.125	STW No.	Purposes
1857RP	3156	Storage and Ancillary Use
1889 and 1890	3338	Ancillary Use to Open Storage of Construction Machinery and Materials
1842	4164	Temporary Open Storage of Construction Machinery and Materials and Scrap Metal with Ancillary Packaging Activities

- (c) The Site is accessible from Ping Ha Road through Government Land (GL) and private lots. His Office does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should the application be approved, the owner(s) of the lot without STW will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on Site, if any. The STW holder(s) will need to apply to his office for modification of the STW

conditions where appropriate. 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

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

- (a) He has no adverse comments on the application from traffic engineering view point.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to public road or reverse onto/from the public road.
- (c) The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads and drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Ping Ha Road.

Environment

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

- (a) No environmental complaint pertaining to the Site has been received in the past 3 years.
- (b) Should the application be approved, the applicant is reminded to follow the latest "Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize any potential environmental nuisance.

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 development from a drainage point of view.
- (b) Should the application be approved, he would suggest to include approval conditions requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (c) His detailed comments on the submitted drainage proposal are in **Appendix IV**.

Building Matters

9.1.6 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 a New Territories Exempted Houses) are erected on leased land without approval of the 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, demolition 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 (B(P)R) 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 (B(P)R) at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the application subject to 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 him for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) 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

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

- (a) As the Site is paved and disturbed, he has no comment on the application from nature conservation point of view.
- (b) Should the application be approved, the applicant is advised to adopt good site practices and implement necessary water pollution control measures to avoid affecting the nearby watercourses.

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 application for temporary use for 3 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 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 falls within a site under Stage 3 Works stage in the latest programme of HSK NDA. While 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

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

10. Public Comments Received During Statutory Publication Period

On 23.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 13.8.2019, no public comment was received.

11. Planning Considerations and Assessment

- 11.1 The application is for proposed temporary warehouse for storage of electrical appliances for a period of 3 years at a site straddling over “R(A)4” and “R(A)3” zones and an area shown as ‘Road’ on the approved HSK and HT OZP. The “R(A)4” and “R(A)3” zones are intended primarily for high-density residential developments. Whilst the development is not in line with the planning intentions, the implementation programme for this part of NDA is still being formulated, and PM/NTW of CEDD has no objection to the proposed temporary use for a period of 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 the implementation of government projects.
- 11.2 The applied temporary warehouse is not incompatible with the surrounding land uses which are predominantly used for open storage yards, warehouses and workshops (**Plan A-2**). Also, 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.
- 11.3 There is no adverse comment from the concerned Government departments on the application. In addition, there is no substantial environmental complaint pertaining to the Site in the past three years. Furthermore, relevant approval conditions have been recommended in paragraph 12.2 to minimize any potential environmental nuisances or to address the technical concerns of the other concerned Government departments. Any non-compliance with these 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. 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 surrounding areas.
- 11.4 The Committee has approved with conditions 9 previous applications for various open storage uses at the Site (**Plan A-1b**) and 3 similar applications within the same “R(A)4” and “R(A)3” zones since the promulgation of TPB PG-No. 13E on

17.10.2008 (**Plan A-1a**). Approval of the current application is in line with the Committee's previous decisions.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above, the Planning Department considers that the proposed temporary warehouse for storage of electrical appliances could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **6.9.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 11:00 p.m. to 7:00 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 cutting, dismantling, cleansing, repairing, compaction, tyre repair, vehicle repair, container repair and other workshop activity, as proposed by the applicant, are allowed at any times on the Site during the planning approval period;
- (d) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the existing landscape planting on the Site shall be maintained at all times 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 **6.3.2020**;
- (g) in relation to (f) above, the implementation of the revised 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 **6.6.2020**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **6.3.2020**;
- (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 **6.6.2020**;
- (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 above 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 IV**.

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

the development is not in line with the planning intention of the "R(A)4" and "R(A)3" zones, which are intended for high-density residential developments. There is no strong justification given in the submission to deviate from the planning intentions, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 16.7.2019
Appendix Ia	Supplementary planning statement with proposed vehicular access plan, layout plan, landscape and tree preservation plan and drainage plan
Appendix Ib	FI dated 26.8.2019 from the applicant providing an access arrangement plan
Appendix II	Previous applications covering the Application Site
Appendix III	Similar Applications within the same "R(A)4" and "R(A)3" zones on the approved Hung Shui Kui and Ha Tsuen OZP No. S/HSK/2 since the Promulgation of TPB PG-No. 13E on 17.10.2008
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	Proposed Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan

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

**PLANNING DEPARTMENT
SEPTEMBER 2019**