

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/182

- Applicant** : Chun Wah Development (HK) Co. Ltd. represented by Mr Kwok Chi Man
- Site** : Short Term Tenancy (STT) No. 1869 (Part), Ha Tsuen, Yuen Long
- Site Area** : about 2,060m²
- Lease** : Government Land (GL)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Residential Group (A)3” (“R(A)3”) (about 95.2%); and
[restricted to a maximum plot ratio of 5.5, maximum building height of 140mPD]
an area shown as ‘Road’ (about 4.8%)
- Application** : Temporary Storage of Construction Machinery, Vehicle Assembling, Recycling of Used Electrical Appliances with Ancillary Workshop and Office 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 storage of construction machinery, vehicle assembling, recycling of used electrical appliances with ancillary workshop and office for a period of 3 years (**Plan A-1a**). The Site falls within an area zoned “R(A)3” (95.2%) and an area shown as ‘Road’ (4.8%) 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 being used for storage and office uses without a valid planning permission (**Plans A-4a and 4b**).
- 1.2 The Site is involved in 9 previous applications No. A/YL-HT/7, 259, 449, 626, 683, 703, 845, 918 and 937 for various open storage/storage uses (**Plan A-1b**). The last application No. A/YL-HT/937 for the same applied use as the current one was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 27.3.2015 for a period of 3 years. All the time-specific approval

conditions had been complied with. However, the approval has expired on 28.3.2018. The current application is submitted by a different applicant for the same use with a slightly different layout at the same site.

1.3 The Site is accessible from Ping Ha Road via a local track and the ingress/egress point is at the western boundary of the Site (**Drawing A-1** and **Plan A-2**). As shown on the layout plan at **Drawing A-2**, 3 structures with a total floor area of 1,805m² (including a 9m high single-storey large structure with a floor area of 1,740m² for the applied storage and ancillary workshop use and with two smaller structures of 7.5m high (2-storey) and 3m high (1-storey) with floor area of 130m² and 15m² respectively underneath both for ancillary office use) are proposed. The large structure is mainly intended for storage of construction machinery, with only a little portion for vehicle assembling and recycling of used electrical appliances with ancillary workshop for processing and dismantling of electrical parts. The existing boundary fence implemented under the previous planning approval will be maintained. Also, 19 trees along the southern boundary and peripheral surface U-channels/ underground drains discharging into a public drain to its southwest implemented under the previous application will be retained. Manoeuvring space is provided at the western portion of the Site (**Drawings A-3** and **A-4**). According to the applicant, the operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays, and no operation would be carried out on Sundays and public holidays. The proposed vehicular access plan, layout plan, landscape and tree preservation plan and drainage proposal are shown at **Drawings A-1** to **A-4** respectively.

1.4 A comparison of the major development parameters of the current application and the last approved application is given in the following table:

Major Development Parameters	Last Approved Application (A/YL-HT/937) (a)	Current Application (A/HSK/182) (b)	Difference (b) - (a)
Applied Use	Temporary Storage of Construction Machinery, Vehicle Assembling, Recycling of Used Electrical Appliances with ancillary Workshop and Office for a Period of 3 Years		same
Site Area	about 2,060 m ²		same
No. of Structures	2	3	+1
Total Floor Area	about 1,760m ²	about 1,805m ²	+45m ² (+2.6%)
Operation Hours	8:00 a.m. to 8:00 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays		same

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

- (a) Application Form with supplementary planning statement and proposed vehicular access plan, layout plan, landscape and tree preservation plan and drainage proposal received on 12.8.2019 **(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 attached to the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The proposed development is transitional and does not have conflicts with the future land planning and will not bring about any long-term adverse impacts to the planning intention of the area. The proposed use is not incompatible with the surrounding environment which is of open storage and logistics centre uses and no residential dwellings are situated nearby.
- (b) 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 are considered suitable for open storage and port back-up uses¹.
- (c) The Site has been operated for temporary open storage and port back-up uses since 2002 with planning permissions. The last planning permission (Application No. A/YL-HT/937) was approved by the Committee on 27.3.2015 for the same temporary storage use with ancillary workshop and office. As the previous planning permission has lapsed, the applicant submitted this planning application to seek for permission for the same applied use on the Site. The applicant has complied with all the approval conditions under the previous planning permissions since 2006. There are no major change in planning circumstance since the last approval.
- (d) The landscape planting and drainage facilities implemented under the previous approval will be maintained. The operation hours are from 8:00 a.m. to 8:00 p.m. and there will be no operation on Sundays and public holidays.
- (e) The traffic generation from the proposed development is not great and will not cause adverse traffic impact on the local road network. The applicant commits that adequate manoeuvring space will be provided within the Site and no vehicle will be allowed to queue back to or reverse onto/from the public road. The applicant will follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' ('COP') to minimize potential environmental nuisance to the surrounding area.

3. Compliance with the "Owner's Consent/Notification" Requirements

As the Site involves GL only, the "owner's consent/notification" requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No.31) is not applicable to the application.

4. Background

The storage use on Site will be subject to planning enforcement action.

¹ The applied use is mainly of warehouse purpose. TPB PG-No. 13E is not applicable.

5. Previous Applications

- 5.1 The Site is the subject of 9 previous applications No. A/YL-HT/7, 259, 449, 626, 683, 703, 845, 918 and 937 for various open storage/storage uses. All these applications were approved with conditions by the Committee between 1996 and 2015. However, application Nos. A/YL-HT/7, 626 and 703 were subsequently revoked due to non-compliance with the time-specific approval conditions.
- 5.2 The last application No. A/YL-HT/937 for the same applied use as the current one was approved with conditions by the Committee on 27.3.2015 for a period of 3 years till 27.3.2018. All the time-specific approval conditions had been complied with. Compared with this last approved application, the current application is submitted by a different applicant for the same use with a slightly different layout at the same site². Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.

6. Similar Applications

There are 4 similar applications (No. A/YL-HT/662, 811, 844 and HSK/30) for various open storage, warehouse and workshop uses within the same “R(A)3” zone on the approved HSK and HT OZP. All of these similar applications were approved with conditions by the Committee. However, application No. A/YL-HT/662 was subsequently revoked due to non-compliance with the time-specific approval conditions. 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) being used for storage and ancillary office uses without a valid planning permission; 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 west is a large open storage of recyclable materials and workshop under a valid planning permission No. A/HSK/30 while to its further north is a vehicle and lorry park;
 - (b) to its northeast is a piece of vacant land proposed for temporary warehouse under planning application No. A/HSK/183 which will be considered by the Committee at this meeting;
 - (c) to its east and southeast across a nullah is an open storage of construction machinery and materials under a valid planning permission No. A/HSK/122; and

² The difference in site layout mainly involves the provision of 2 smaller structures within the main structure for ancillary office purpose.

- (d) to its southwest are an open storage of tyres and scrap metal and a logistic centre under valid planning permissions No. A/YL-HT/1050 and A/HSK/73 respectively.

8. Planning Intention

The Site falls within an area zoned “R(A)3” and an area shown as ‘Road’ on the approved HSK and HT OZP. The planning intention of the “R(A)3” zone is 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 is situated on GL (about 2,060m² subject to verification) and is covered by a Short Term Tenancy No. 1869 (STT1869) for the purposes of Open Storage of Recycling Materials (Plastic, Paper and Metal) with Ancillary Workshop.
- (b) The Site is accessible from Ping Ha Road through GL and private lots. His office provides no maintenance works to the GL involved and does not guarantee any right-of-way to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given, the STT holder will need to apply to his office for modification of the STT conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation 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) The accesses connecting the Site and Ha Tsuen Road are not and will not be maintained by HyD.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.

Environment

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

- (a) The applicant is advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' ('COP') for implementation of mitigation measures to minimize environmental impacts arising from the proposed use.
- (b) No environmental complaint pertaining to the Site has been received in the past 3 years.

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) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application No. A/YL-HT/937 will be maintained for the subject development.
- (c) Should the application be approved, he suggests imposing approval conditions requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (d) The applicant should be reminded that the required condition record should include coloured photos showing the current condition of the drainage facilities and a layout plan indicating the locations of the

photos taken. The submitted photos should cover all internal surface channels, catch pits, sand traps, manholes, terminal catch pits/manholes and the downstream discharge path as indicated on the submitted drainage proposal.

Building Matters

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

- (a) All existing building works erected on unleased GL (i.e. before the grant of STT) do not come under the control of the Buildings Ordinance (BO), and not unauthorised for the purposed of the BO.
- (b) Before any new building works are carried out on land held under STT, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorised building works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (c) For UBW erected on land held under STT, enforcement action may be taken by the BA to effect their removal in accordance with the policy for control UBW in the future. All UBW have to be removed prior to renewal of a STT.
- (d) The granting of the STT should not be construed as an acceptance of any existing building works or UBW on site under 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 fire service installations (FSIs) being provided to his satisfaction.
- (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 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 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

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

- (a) He has no strong view on the application from nature conservation point of view.
- (b) Should the application be approved, the applicant is advised to implement necessary measures to avoid causing water pollution and disturbance to the nearby watercourses and the riparian vegetation.

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 and the latest plan, 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 sites under Stage 3 Works in the latest programme of HSK NDA. While 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.

Water Supply

9.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) He has no objection to the application.
- (b) For provision of water supply to the development, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the installation, operation and maintenance of any sub-main within the private lots to WSD's standards.

District Officer's Comments

9.1.11 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 Commissioner of Police (C of P) has no comment on the application.

10. Public Comments Received During Statutory Publication Period

On 20.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 10.9.2019, no public comment was received.

11. Planning Considerations and Assessment

- 11.1 The application is for the development of temporary storage of construction machinery, vehicle assembling, recycling of used electrical appliances with ancillary workshop and office for a period of 3 years at the Site falling mainly within "R(A)3" zone on the approved HSK and HT OZP. The planning intention of the "R(A)3" zone is 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 required by the Government at any time during the planning approval period for the implementation of government projects.
- 11.2 The proposed storage of construction machinery, vehicle assembling, recycling of used electrical appliances with ancillary workshop and office is not incompatible with the surrounding land uses which are predominantly used for open storage yards, warehouses and logistics centres and there are no residential dwellings in the surrounding area (**Plan A-2**).
- 11.3 There is no major adverse comment from concerned Government departments including DEP, AC for T, CE/MN, DSD and D of FS on the proposed development and no substantiated environmental complaint pertaining to the Site was received in the past three years. To address the concerns on the possible environmental nuisances or the technical requirements of the concerned Government departments, relevant approval conditions have been recommended in paragraph 12.2 below. 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.

- 11.4 The Committee had approved 9 previous planning applications for various open storage uses at the Site and 4 similar applications for various open storage, warehouse and workshop uses in the same “R(A)3” zone on the approved HSK and HT OZP. Approval of the subject application is in line with the Committee’s previous decisions.
- 11.5 There is no public comment received during the statutory public inspection period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department considers that the temporary storage of construction machinery, vehicle assembling, recycling of used electrical appliances with ancillary workshop and office 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 **4.10.2022**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation from 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) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (d) all existing trees and landscape plants on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 **4.1.2020**;
- (g) 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 **4.4.2020**;
- (h) in relation to (g) 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 **4.7.2020**;

- (i) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (j) if any of the above planning conditions (f), (g) or (h) 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 reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "R(A)3" zone, which is intended primarily for high-density residential developments. There is no strong planning justification in the submission for a departure from the planning intention, 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with supplementary planning statement and proposed vehicular access plan, layout plan, landscape and tree preservation plan and drainage proposal received on 12.8.2019
Appendix II	Previous applications covering the Application Site
Appendix III	Similar Applications within the same "R(A)3" Zone on the approved Hung Shui Kui and Ha Tsuen OZP No. S/HSK/2
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Tree Preservation and Landscape Plan
Drawing A-4	Drainage Proposal
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
OCTOBER 2019**