

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/183

- Applicant** : Forest Development and Construction Company Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 1835 (Part), 1840 (Part), 1841 S.B (Part), 1889 (Part), 1890 (Part), 1891 RP (Part), 1893 RP, 1894 (Part), 1895 RP (Part) and 1911 in D.D. 125 and Adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : About 6,360m² (includes Government Land (GL) of about 90m²)
- 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** : “Residential (Group A) 4” (“R(A)4”)(68.4%)
[Restricted to maximum Plot Ratio (PR) of 5 and maximum Building Height (BH) of 120mPD];
- “Residential (Group A) 3” (“R(A)3”)(12.2%);
[Restricted to maximum PR of 5.5 and maximum BH of 140mPD];
- “Open Space” (“O”) (about 7%); and
- an area shown as ‘Road’ (about 12.4%)
- Application** : Proposed Temporary Warehouse for Storage of Construction Machinery, Construction Material, Food and Electronic 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 warehouse for storage of construction machinery, construction material, food and electronic goods for a period of 3 years (**Plan A-1a**). The Site straddles over “R(A)4” (68.4%), “R(A)3” (12.2%) and “O” (7%) zones and an area shown as ‘Road’ (12.4%) 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 occupied by two vacant structures.

- 1.2 The Site is related to 9 previous applications No. A/YL-HT/7, 128, 216, 380, 534, 716, 827 and 993 and A/HSK/70 for various open storage uses (**Plan A-1b**). All of these applications were approved with conditions by the Committee/Board between 1996 and 2018. The last application No. A/HSK/70 for temporary warehouse for storage of plastic products was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 15.6.2018 for a period of 3 years. Two remaining time specific approval conditions regarding the implementation of tree preservation and landscape proposal and fire service installations proposal have yet to be complied with. The current application is submitted by the same applicant at the same site with the same layout for warehouse use for the storage of different products.
- 1.3 The Site is accessible from Ping Ha Road via a local track (**Drawing A-1 and Plan A-2**). According to the layout plan at **Drawing A-2**, the ingress/egress to the Site is located at the southern boundary of the Site. Five structures with a total floor area of not exceeding 3,880m² (including two single storey structures of 11m high for warehouse (one with a floor area of not exceeding 2,400m² and another with a floor area not exceeding 1,400m² located at the northern and southern portions of the Site), a 2-storey structure for site office (7m high with floor area not exceeding 50m²), a single storey structure for pump room (3m high with floor area not exceeding 10m²) and a single storey structure for toilet (3.5m high with floor area not exceeding 20m² all at the middle part of the Site) are proposed. 2 loading/unloading bays for container trailer are also proposed. The remaining areas are for manoeuvring space. According to the applicant, the operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The proposed vehicular access plan, layout plan, tree preservation and landscape plan and drainage plan are at **Drawings A-1 to A-4** respectively. Except for the storage of different products, the development parameters of the current application are the same as the previously approved application No. A/HSK/70.
- 1.4 A comparison of the applied use and major development parameters of the last application and the current application is given in the following table:

Major Development Parameters	Last Approved Application (A/HSK/70) (approved on 15.6.2018)	Current Application (A/HSK/183)
Applied Use	Proposed Temporary Warehouse for Storage of Plastic Products for a Period of 3 Years	Proposed Temporary Warehouse for Storage of Construction Machinery, Construction Material, Food and Electronic Goods for a Period of 3 Years
Site Area	about 6,360m ² (includes Government Land (GL) of about 90m ²)	
Total floor area	Not exceeding 3,880m ²	
No. and Use of Structure	5 (warehouse, site office, pump room and toilet)	

No. of Loading/ Unloading Spaces	2 for container trailers
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 13.8.2019 **(Appendix I)**
- (b) Supplementary planning statement with proposed vehicular access plan, layout plan, landscape and tree preservation plan and drainage plan **(Appendix Ia)**

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 has been the subject of a previous planning approval for temporary warehouse for storage of plastic products for application No. A/HSK/70. Due to the change in use at the Site, the applicant submits a fresh planning application for the Board's consideration.
- (b) The planning intentions of the "R(A)4", "R(A)3" and "O" zones and 'Road' area could not be realized within the coming 3 years because land resumption for the development of Hung Shui Kiu new town is yet to commence. The proposed temporary development would not jeopardise the long term planning intentions
- (c) The Site is completely surrounded by open storage yards and port back-up uses. Logistics centres and open storage activities were found to the immediate north and east of the Site. Open storage of recyclable materials with ancillary workshop was found to the immediate south and west of the Site.
- (d) Open storage and port back-up uses near the Site were granted with planning permission on transient basis. As such, favorable consideration should be given to the current application.
- (e) The Site is subject to nine previous planning permissions for open storage use since 1996.
- (f) No adverse traffic, environmental, visual, and drainage impacts 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 notices to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is subject to an on-going planning enforcement action (No.E/YL-HSK/41) against an unauthorized development (UD) involving workshop use. Enforcement Notice (EN) was issued on 12.7.2019 to the concerned parties requiring discontinuation of the UD. If the requirement of the EN is not complied with upon expiry of the compliance period of the notice, the concerned parties will be subject to further enforcement action.

5. Previous Applications

5.1 The site is related to 9 previous applications No. A/YL-HT/7, 128, 216, 380, 534, 716, 827, 993 and A/HSK/70 for various temporary open storage/warehouse uses. All of these applications were approved with conditions by the Committee/Board between 1996 and 2018. 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/70 for temporary warehouse for storage of plastic products for a period of 3 years was approved with conditions by the Committee on 15.6.2018 and is valid until 15.6.2021. Compared with this last approved application, the current application is submitted by the same applicant at the same site with the same layout for warehouse use but for storage of different products. 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/961 and A/HSK/31 and 37) for various temporary warehouse and storage uses within the same “R(A)4”, “R(A)3” and “O” zones on the approved HSK and HT OZP. All of these similar applications were approved with conditions by the Committee. However, planning application No. A/HSK/37 was subsequently revoked due to non-compliance with 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) currently occupied by two vacant structures; and
- (b) accessible from Ping Ha Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) predominately open storage, logistics centre, parking of heavy vehicles, vehicle repairing workshop and warehouse uses;
- (b) to its immediate north are two logistics centres under valid planning permissions No. A/HSK/11 and 105;

- (c) to its northeast are a warehouse under a valid planning permission No. A/HSK/31, and a yard for open storage of recyclable materials under a valid planning permission No. A/YL-HT/1071;
- (d) to its immediate east and south is a yard for open storage of construction materials and construction machinery under a valid planning permission No. A/HSK122; and
- (e) to its south west is a warehouse (under planning application No. A/HSK/182 to be considered by the Committee at this meeting) and a yard for open storage of recyclable materials and workshop under a valid planning permission No. A/HSK/30, while to its northwest is a yard for parking of vehicles and lorries.

8. Planning Intention

- 8.1 The Site straddles over “R(A)3”, “R(A)4” and “O” zones and an area shown as ‘Road’ on the approved HSK and HT OZP. The planning intention of the “R(A)3” and “R(A)4” 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.
- 8.2 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

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 Government Land (GL) (about 90m² subject to verification) is covered by Short Term Tenancy No. 1869 (STT1869) for the purposes of Open Storage of Recycling Materials (Plastic, Paper and Metal) with Ancillary Workshop.
 - (c) The private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No(s). in D.D.125	STW No.	Purposes	Remarks
1889, 1890	3338	Ancillary Use to Open	Notice of Revocation

and 1893RP		Storage of Construction Machinery and Materials	for STW3338 was issued on 1.9.2019 and STW3338 will be revoked with effective from 1.10.2019
1891RP	4167	Temporary Open Storage of Construction Machinery and Materials, and Scrap Metal with Ancillary Packaging Activities	

- (d) The Site is accessible from Ping Ha Road through both GL and private lots. His Office does not guarantee any right-of-way to the Site.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should the application be approved, the STW/STT holders will need to apply to his office for modification of the STW/STT conditions where appropriate. The lot owner(s) of the lot(s) 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. 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/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) There were no substantiated environmental received pertaining to the Site from 2016 to 2018. However, 18 complaints on air nuisance, 1 complaint on machine noise nuisance, and 1 complaint on land usage pertaining to the previous warehouse for storage of plastic products were received between March to July 2019.
- (b) An Air Pollution Abatement Notice was issued under S.10 of the Air Pollution Control Ordinance to the operator of the subjected location on 10 June 2019 and the operator moved out in mid-July. No further complaint was received from August onward.
- (c) 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) According to the applicant’s submission, the existing drainage facilities which was implemented under an approved application No. A/HSK/70 will be maintained for the subject development. He has no objection in principle to the proposed development from a drainage point of view.
- (a) Should the application be approved, he would suggest that a condition 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

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 by the BA, 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 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 riparian vegetation.

Water Supply

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

- (a) He has no objection to the application.
- (b) The proposed water mains in the area will intersect the Site (**Plan A-2**). As the proposed water mains will be designed and implemented by CEDD's Hung Shui Kiu Development consultancy and contract, CEDD's comments on the possible interface issue should be sought.

Long-Term Development

9.1.10 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.

9.1.11 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) Since the application period is only three years, he has no in-principle objection to the application.
- (b) The Site is zoned "R(A)4", "R(A)3", "O" and area shown as 'Road' on the HSK & HT OZP. The portion zoned "O" is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.

District Officer's Comment

9.1.12 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 proposed temporary warehouse for storage of construction machinery, construction material, food and electronic goods for a period of 3 years at a site straddling over ‘R(A)4’, ‘R(A)3’ and ‘O’ 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. 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 intentions, the implementation programme for this part of NDA is still being formulated, and PM/W of CEDD and DLCS have 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 for storage of construction machinery, construction material, food and electronic goods use is not incompatible with the surrounding land uses which are predominantly used for logistics centres, open storage yards, warehouses and workshops (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned Government departments, including DEP, AC for T, CE/MN of DSD and D of FS on the application. There are no residential dwellings in the proximity to the Site. Whilst, there were 20 environmental complaints on the previous warehouse for storage of plastic products on the Site received from March to July 2019, EPD advised that there are no more complaints pertaining to the Site from August 2019 onward since the moving out of the previous operator in mid-July 2019. 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 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 minimise the possible environmental impacts on the surrounding areas.

11.4 The Committee has approved with conditions 9 previous applications for various open storage/warehouse uses at the Site (**Plan A-1b**) and 3 similar applications for storage/warehouse uses within the same “R(A)4” “R(A)3”, “O” zones (**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 construction machinery, construction material, food and electronic goods 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 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) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (d) the existing landscape planting on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on Site within **3** months from the date of the 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)4", "R(A)3" and "O" zones, which are intended for high-density residential developments; and for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residential as well as the general public. 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 13.8.2019
Appendix Ia	Supplementary planning statement with proposed vehicular access plan, layout plan, landscape and tree preservation plan and drainage plan
Appendix II	Previous applications covering the Application Site
Appendix III	Similar Applications within the same "R(A)4", "R(A)3" and "O" zones 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	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
OCTOBER 2019**