

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/189

- Applicant** : Hai Shi Machinery & Equipment Company Limited represented by Mr. Kwok Chi Man
- Site** : Lots 3200 RP (Part), 3201 RP, 3206 RP, 3207 (Part), 3144 (Part) in D.D.129 and adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : 2,180m² (including about 100m² of Government Land (GL))
- 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** : “Commercial (4)” (“C(4)”) (46.9%); and
[Restricted to maximum plot ratio (PR) of 3 and maximum building height (BH) of 50mPD]
an area shown as ‘Road’ (about 53.1%)
- Application** : Temporary Repair Workshop with Ancillary Staff Canteen and Storage of Containers 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 repair workshop with ancillary staff canteen and storage of containers for a period of 3 years (**Plan A-1a**). The Site straddles over “C(4)” zone (46.9%) and an area shown as ‘Road’ (53.1%) on the approved HSK and HT OZP. Vehicle repair workshop and container storage are neither Column 1 nor Column 2 uses for the “C(4)” zone. However, 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 approved HSK and HT OZP, all uses or developments require planning permission from the Board.
- 1.2 The Site is related to 9 previous applications Nos. A/YL-HT/130, 150, 180, 304, 438, 604, 799, 905 and 1025 for various open storage, workshop and canteen uses (**Plan A-1b**). The last application No. A/YL-HT/1025 for temporary open storage of containers, repair workshop and staff canteen was approved by the Rural and

New Town Planning Committee (the Committee) of the Board for 3 years on 10.6.2016 but the planning permission had lapsed on 11.6.2019. All time-specific conditions have been fulfilled. Compared with this last approved planning application, the current application is submitted by the same applicant for a slightly different use with a different layout at a larger site. The Site is currently being used for repair workshop with ancillary storage and staff canteen without a valid planning permission.

- 1.3 The Site is accessible directly from Fung Kong Tsuen Road via GL (**Drawings A-1 and A-2 and Plan A-2**). As shown on the proposed layout plan at **Drawing A-2**, the ingress/egress is at the southeastern corner of the Site. As shown on the site layout at **Drawing A-1**, 9 single-storey structures with a total floor area of 1,041m² including 3 structures (not exceeding 7m high) for office, storage and repair workshop, 2 structures (not exceeding 2.6m and 3m high) for shelter uses, 3 structures (not exceeding 2.6m high) for offices, and a structure (not exceeding 2.6m high) for staff canteen are proposed. The workshop is intended for repairing forklift and the spare parts will be transported to the Site by light goods vehicles. The ancillary canteen is for serving the staff. Only a few containers will be stored at the open area to the west of structure No. 3 (**Appendix Ib**). 4 parking spaces for visitors' private cars and 3 loading/unloading spaces for light goods vehicles are proposed. A vehicle manoeuvring space is located at the centre part of the Site. According to the applicant, the operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The proposed tree preservation and landscape plan and drainage plan are at **Drawings A-3 and A-4** respectively.
- 1.4 A comparison of the applied use and major development parameters of the last approved application and the current application is given in the following table:

Major Development Parameters	Last Approved Application (A/YL-HT/1025) (a)	Current Application (A/HSK/189) (b)	Difference (b) – (a)
Applied Use	Temporary Open Storage of Containers, Repair Workshop and Staff Canteen for a Period of 3 Years	Temporary Repair Workshop with Ancillary Staff Canteen and Storage of Containers for a Period of 3 Years	--
Site Area	2,044 m ²	2,180m ²	+136m ² (+6.7%)
No. of Structures	5	9	+4
Total Floor area	787.75 m ²	1,041m ²	+253.25m ² (+32.1%)
No. of private car parking spaces	2	3 for visitors	+1
No. of Loading/ Unloading Bays	3	3	No change
Operation Hours	8 a.m. to 8 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays	8 a.m. to 8 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays	No change

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

- (a) Application Form received on 12.9.2019 with Supplementary Planning Statement with proposed vehicular access plan, layout plan, tree preservation and landscape plan and drainage plan **(Appendix I)**
- (b) Supplementary information dated 16.9.2019 clarifying the site area **(Appendix Ia)**
- (c) Further Information (FI) dated 22.10.2019 from the applicant clarifying the applied use and the proposed location of container storage area **(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 is located in “Category 1 areas” and the application is in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). It was the subject of a number of previous planning approvals for similar open storage and port back-up uses.
- (b) The applied use is temporary in nature and compatible with the surrounding area. The temporary development would not contravene the long term planning intention of the area and could be discontinued should the Government has to carry out other development on Site.
- (c) The development is compatible with the surrounding area which is occupied by a number of recycling centres, logistics centres, open storage and port back-up uses. The applicant has consulted the locals beforehand and they have no objection to the proposed development.
- (d) No adverse traffic, environmental, visual, and drainage impacts is envisaged.
- (e) The applicant would adopt a cooperative attitude, actively communicate with Government departments, comply with various regulations and make genuine efforts in the implementation of environmental mitigation works to ensure that the development would not generate any adverse impacts to the surrounding areas.

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. 31A) by posting site notice and sending notice to the relevant rural committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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

5. Background

The office use, storage use and workshop use on Site would be subject to planning enforcement action.

6. Previous Applications

6.1 The Site is related to 9 previous applications Nos. A/YL-HT/130, 150, 180, 304, 438, 604, 799, 905 and 1025 for various open storage, repair workshop and canteen uses. All of these applications were approved with conditions by the Committee/ Board between 2000 to 2016. Among the approved applications, 2 were subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.

6.2 The last application No. A/YL-HT/1025 for the temporary open storage of containers and repair workshop with ancillary staff canteen was approved with conditions by the Committee on 10.6.2016. All the time-specific conditions were fulfilled. However, the planning approval had lapsed on 11.6.2019. Compared with this last approved planning application, the current application is submitted by the same applicant for a slightly different use with a different layout on a larger site.

7. Similar Applications

There are 3 similar applications No. A/YL-HT/597, 598 and 605 for various open storage, with ancillary workshop uses approved with conditions by the Committee/ Board within the same "C(4)" zone on the approved HSK and HT OZP since the promulgation of TPB PG-No. 13E on 17.10.2008. All of these similar applications were subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) currently being used for the applied use without a valid planning permission; and
- (b) accessible from Fung Kong Tsuen Road via GL.

8.2 The surrounding areas have the following characteristics:

- (a) to its north and further north are two vehicle service centres and repair workshop under valid planning permissions No. A/HSK/28 and 172;

- (b) to its immediate east are vacant land and a refuse collection point. Further east is Lau Fau Shan Road;
- (c) to its south and southeast across Fung Kong Tsuen Road are a canteen, a logistics centre, two vehicle repair workshops, warehouses, two logistics centres one of which under valid planning permission No. A/HSK/163, open storage yards for vehicle parts and construction machinery; and
- (d) to its west are a grave, a vehicle repair workshop and a logistics centre under a valid planning permission No. A/YL-HT/1062.

9. Planning Intentions

The Site straddles over “C(4)” zone and an area shown as ‘Road’ on the approved HSK and HT OZP. The planning intention of the “C(4)” zone is intended primarily for commercial developments, which may include uses such as office, shop, services, place of entertainment, eating place and hotel, functioning as territorial business/financial centre and regional or district commercial/shopping centre.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application 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 Old Schedule Agricultural Lots 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) Government Land (G.L.) of about 65m² within the Site is held under Short Term Tenancy (STT) No. 2799 for the purpose of “Temporary Open Storage of Containers, repair workshop and staff canteen”.
- (c) No permission has been given for occupation of GL (about 35m²) in area (subject to verification) included in the Site. Attention is drawn to the fact that the act of occupation of GL without Government’s prior approval is not allowed. With the implementation of the tightened arrangements for handling regularization applications, LandsD will no longer accept application for regularization of new or extension of unlawful occupation of GL or erection of new structures which is found commenced on or after 28 March 2017.
- (d) The Site is accessible from Lau Fau Shan Road through GL. His Office does not guarantee any right-of-way to the Site.
- (e) The private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No. in D.D.	STW No.	Purposes
3200 RP	3128	Storage, canteen and ancillary use
3207	1963	Storage and repair of container boxes
3144	4129	Temporary vehicle service centre
3201 RP	4171	Temporary open storage of containers, repair workshop and staff canteen
3206 RP	4172	

- (f) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (g) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. Also, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from 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) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Fung Kong Tsuen Road.

Environment

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

- (a) There was no environmental complaint pertaining to the Site received in the past 3 years.
- (b) Should the application be approved, the applicant is advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' ('COP').

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application A/YL-HT/1025 will be maintained for the subject development.
- (c) Should the application be approved, he would suggest imposing a planning condition 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 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

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

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of 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 the prevailing 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 BA 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) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire services installation (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 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 and the applicant should adhere to “Good Practice Guidelines for Open Storage” at **Appendix V**.
- (d) Having considered the nature of the open storage, the following additional approval condition shall be added:

‘The provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of D of FS’.
- (e) To address this additional approval condition, the applicant is advised to submit a valid fire certificate (FS251) to his department for approval.
- (f) 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/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 Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA, formerly known as HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK/HT NDA and the latest plan, to ensure timely and orderly implementation, the development of HSK/HT 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 in the latest programme of the HSK/HT 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/HT NDA expected in 2024.

District Officer's Comments

10.1.9 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.

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

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

11. Public Comment Received During Statutory Publication Period

On 20.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 11.10.2019, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for temporary repair workshop with ancillary staff canteen and storage of containers for a period of 3 years at a site straddling over "C(4)" zone and an area shown as 'Road' on the approved HSK and HT OZP. The planning intentions of the "C(4)" zone is intended primarily for commercial developments, which may include uses such as office, shop, services, place of entertainment, eating place and hotel, functioning as territorial business/financial centre and regional or district commercial/shopping centre. Whilst the applied development is not in line with the planning intention, the implementation programme for this part of NDA is still being formulated, and PM/W 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 implementation of government projects.
- 12.2 The Site is located in an area which is predominantly occupied by logistics centres, warehouses and workshops. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).
- 12.3 The Site falls within Category 1 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:
- 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 generally 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 There is no adverse comment from the concerned Government departments including C for T, CE/MN, DSD and DEP. The applied use will unlikely create significant adverse environmental impacts to the surrounding area. In addition, there has been no substantiated environmental complaint pertaining to the Site in the past 3 years. To minimize any possible environmental impacts and nuisance on the surrounding developments, and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.6 The Committee has approved 9 previous applications for various open storage, workshop and canteen uses on the Site (**Plan A-1b**) and 3 similar open storage, and/or ancillary workshop uses within areas covered by the same "C(4)" zone since the promulgation of TPB PG-No. 13E on 17.10.2008 (**Plan A-1a**). Approval of the subject application is in line with the Committee's previous decisions.
- 12.7 There is no public comment received on the application during the statutory publication period.

13. Planning Department's Views

13.1 Based on the assessment made in paragraph 12, the Planning Department considers that the temporary repair workshop with ancillary staff canteen and storage of containers 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 of 3 years until 1.11.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the existing drainage facilities on site shall be maintained at all times during the planning approval period
- (d) the submission of a condition record of existing drainage facilities within **3** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.2.2020;
- (e) the provision of fire extinguisher(s) and the submission of a valid fire certificate (FS251) within **6** weeks from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.12.2019;
- (f) the submission of a fire service installations proposal within **6** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.5.2020;
- (g) in relation to (f) above, the implementation of the fire service installations proposal within **9** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.8.2020;
- (h) if any of the above planning conditions (a), (b) or (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (d), (e), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are at **Appendix VI**.

13.3 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 intentions of the "C(4)" zone which

is intended primarily for commercial developments, which may include uses such as office, shop, services, place of entertainment, eating place and hotel, functioning as territorial business/financial centre and regional or district commercial/shopping centre. There is no strong justification given in the submission to deviate from the planning intention, even on a temporary basis.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form received on 12.9.2019 with Supplementary planning statement with proposed vehicular access plan, layout plan, tree preservation and landscape plan and drainage plan
Appendix Ia	Supplementary information dated 16.9.2019 clarifying the site area
Appendix Ib	FI dated 22.10.2019 from the applicant clarifying the applied use and the proposed location of container storage area
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 applications covering the Application Site
Appendix IV	Similar Applications within areas covered by the same “C(4)” zone on the Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan since the promulgation of TPB PG-No. 13E on 17.10.2008
Appendix V	‘Good Practice for Open Storage Sites’ by the Fire Services Department
Appendix VI	Advisory Clauses
Drawing A-1	Proposed vehicular access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Tree Preservation and Landscape 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
NOVEMBER 2019**