

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/196

- Applicant** : Man Chi Chiu represented by Metro Planning & Development Company Limited
- Site** : Lots 23 RP (Part), 28 RP (Part), 30 RP (Part), 43 (Part), 193, 194 (Part), 195 (Part) and 196 (Part) in D.D. 128, and Adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : About 4,550m² (includes Government Land (GL) of about 635m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Open Space” (“O”)
- Application** : Temporary Warehouse for Storage of Construction Material, Machinery and Spare Parts 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 warehouse for storage of construction material, machinery and spare parts for a period of 3 years (**Plan A-1a**). The Site falls within “O” zone 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 zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently used for the applied use with a valid planning permission (**Plan A-1b**).
- 1.2 The Site is related to 6 previous application approval for various open storage, port back-up and warehouse uses. The last approved application No. A/YL-HT/1067 for renewal of planning approval for temporary warehouse for storage of machinery and spare parts was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 3.3.2017 for a period of 3 years until 3.3.2020. All time specific approval conditions had been complied with. The current application is submitted by a different applicant at a larger site for similar warehouse use with similar layout.

1.3 The Site is accessible from Deep Bay Road with an ingress/egress located at the north-western boundary of the Site (**Drawing A-1 and Plan A-2**). According to the proposed layout plan at **Drawing A-1**, 9 temporary structures with a total floor area of about 2,540m² (including a single-storey guard room (3m high) with a floor area of not exceeding 20m², a single-storey site office (3m high) with a floor area of not exceeding 20m², two 2-storey site offices (both 6m high) each with a floor area of not exceeding 40m², two single-storey warehouses (both 8m high) with a floor area of not exceeding 1,060m² and 1,100m² respectively, two toilets (each 3m high) with a floor area of not exceeding 20m² and 10m² respectively) and a 2-storey water tank and pump room and site office (7m high) with a floor area of not exceeding 230m²) are proposed. Two parking spaces for private car and one loading/unloading bay for medium goods vehicle are proposed. The Site is fenced off by corrugated metal sheets (**Plans A-4a and 4b**) and 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 landscape and tree preservation plan and as-built drainage plan are at **Drawings A-2 to A-3** respectively.

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/YL-HT/1067) (a)	Current Application (A/HSK/196) (b)	Difference (b) – (a)
Applied Use	Renewal of Planning Approval for Temporary Warehouse for Storage of Machinery and Spare Parts (3 Years)	Temporary Warehouse for Storage of Construction Material, Machinery and Spare Parts (3 Years)	Additional storage of construction materials
Site Area	4,280m ²	4,550m ²	+270m ² (+6.3%)
Total floor area	2,100m ²	2,540m ²	+440m ² (+21.0%)
No. and Use of Structure	8 (warehouse, site office, pump room and toilet)	9 (guardroom, warehouse, site office, pump room and toilet)	+1 (additional guard room)
No. of Parking Spaces	2 for private car	2 for private car	Same
No. of Loading/Unloading Spaces	1 for medium goods vehicle	1 for medium goods vehicle	Same
Operation Hours	7am to 11pm, Mondays to Saturdays, with no operation on Sundays and public holidays	7am to 11pm, 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 received on 22.10.2019 **(Appendix I)**
- (b) Supplementary planning statement with proposed layout plan, landscape and tree preservation plan and as-built drainage plan **(Appendix Ia)**

- (c) Further Information (FI) dated 26.11.2019 from the applicant clarifying the trip generation rate of applied use and current traffic situation of Deep Bay Road **(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 planning intention of the “O” zone 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.
- (b) The Site is subject to 6 previous planning permissions Nos. A/YL-HT/301, 484, 673, 748, 894 and 1067 since 2004. The last planning approval for warehouse use is similar to the current application. All approval conditions under the previous application (No. A/YL-HT/1067) have been complied with.
- (c) The adjoining lots are almost wholly occupied for open storage and port back-up uses including some container depots and open storage yards. The proposed development is therefore compatible with the surrounding landscape. Most of them are either approved by the Board on transient basis or regarded as ‘existing uses’.
- (d) 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 proposed development shares similar characteristic of open storage use.
- (e) There is a shortage of land for storage use in Ha Tsuen. In the interim, the proposed development would resolve the pressing demand of logistic use in Ha Tsuen area and create employment opportunity to the nearby residents.
- (f) Minimal and insignificant traffic, environmental and drainage impacts are envisaged. No heavy goods vehicle exceeding 24 tonnes and container trailer/tractor will be allowed to enter the Site. All the construction material, machinery and spare parts are being stored within enclosed warehouses. Peripheral planting for screening purpose along the boundary facing Deep Bay Road would be provided.

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 Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements are not applicable to the Government land portion.

4. Background

The Site is currently covered by a valid planning permission (No. A/YL-HT/1067) at a slightly smaller site for temporary warehouse for storage of machinery and spare parts. As such, the use is not subject to planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

5. Previous Applications

5.1 The Site is related to 8 previous applications No. A/YL-HT/174, 192, 301, 484, 673, 748, 894 and 1067 for various open storage, port back-up and warehouse uses (**Plan A-1b**). Except two earlier applications No. A/YL-HT/174 and 192, all subsequent applications were approved by the Committee from 2004 to 2017. One approved application No. A/YL-HT/748 was subsequently revoked due to non-compliance with approval conditions. Earlier application Nos. A/YL-HT/174 and 192 were rejected in 2000 and 2001 respectively for the reasons that the development was not compatible with the rural character of the surrounding areas, no spare capacity of Deep Bay Road and that there was insufficient information in the submission to demonstrate that the proposed development would not have adverse traffic, environmental and drainage impacts on the surrounding areas.

5.2 The last application No. A/YL-HT/1067 for temporary warehouse for storage of machinery and spare parts was approved with conditions by the Committee for a period of 3 years on 3.3.2017 and is valid until 3.3.2020. All the time-specific approval conditions have been complied with. Compared with this last approved application, the current application is submitted by a different applicant at a larger site with similar layout for similar warehouse use. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.

6. Similar Applications

There are 2 similar applications (No. A/YL-HT/1061 and A/HSK/156) for temporary warehouse and logistics centre within the same “O” zone on the approved HSK and HT OZP. All these similar applications were approved with conditions by the Committee. However, planning application No. A/YL-HT/1061 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 being used for the applied use with a valid planning permission; and
- (b) accessible from Deep Bay Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate northeast is a residential and storage area while to its further northeast is a nullah and a works area;

- (b) to its immediate northwest is a piece of vacant land and local track for access to the Site while to its further northwest across the Deep Bay Road in the adjacent “CPA” zone are two churches, a sitting-out area and a refuse collection point;
- (c) to its east are some unused land and across the nullah are open storage yards of containers under a valid planning permissions No. A/HSK/157 and 161;
- (d) to its southeast are an open storage of containers while to its south is an open storage of construction materials under a valid planning permission No. A/HSK/151; and
- (e) to its west in the adjacent “R(D)” zone are a woodland scattered with graves.

8. Planning Intention

The Site falls within “O” zone on the approved HSK and HT OZP. The planning intention of the “O” zone is 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) No permission is given for occupation of GL (about 635m² subject to verification) included in the Site. 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.
- (c) The Site is accessible from Deep Bay Road through GL and private lot(s). His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over GL to the Site.
- (d) The private lots which are covered by a Short Term Waiver (STW) is listed below:

Lot No(s). in D.D.128	STW No.	Purposes
194, 195 and 196	3644	Temporary Warehouse for Storage of Construction Material and Recyclable Material (Including Metal and Plastic Goods) with Ancillary Vehicle Repair Workshop

- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should the application be approved, the STW holders will need to apply to his office for modification of the STW conditions where appropriate and 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. 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

9.1.2 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.
- (c) The local track leading to the Site is not under TD's preview. 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 Deep Bay Road.

Environment

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

- (a) He does not support the application because there are sensitive uses in the vicinity of the Site (the nearest residential dwelling is just adjacent to the Site) (**Plan A-2**) and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) Should the application be approved, the applicant is reminded to follow the relevant mitigation measures and requirements in 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) According to the applicant’s submission, the existing drainage facilities which was implemented under an approved application No. A/YL-HT/1067 will be maintained for the subject development.
- (c) Should the application be approved, a condition should be stipulated 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 shall 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) 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 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 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

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 hard-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 adopt good site practices and implement necessary water pollution control measures to avoid affecting the nearby wooded areas, watercourses and ponds in the “Coastal Protection Area” zone.

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 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 4 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.

9.1.10 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 “O” on the approved HSK & HT OZP. It 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

9.1.11 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 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 (WSD).

10. Public Comments Received During Statutory Publication Period

On 29.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 19.11.2019, no public comment was received.

11. Planning Considerations and Assessment

- 11.1 The application is for temporary warehouse for storage of construction material, machinery and spare parts for a period of 3 years at a site within the “O” zone on the OZP. The “O” zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Whilst the development is not in line with the planning intention, 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 material, machinery and spare parts is not incompatible with the surrounding land uses which are predominantly used for logistics centres and open storage yards (**Plans A-2 and A-3**).
- 11.3 There is no adverse comment from the concerned Government departments, including AC for T, CE/MN of DSD and D of FS on the application, except DEP. DEP does not support the application because there is a residential dwelling just adjacent to the Site, and environmental nuisance is expected (**Plan A-2**). However, there is no substantiated environmental complaint pertaining to the Site received in the past three years. To address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments, relevant approval conditions have been recommended in paragraph 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 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 minimise the possible environmental impacts on the surrounding areas.
- 11.4 The Committee has approved 6 previous applications for various open storage/warehouse uses at the Site (**Plan A-1b**) and 2 similar applications for warehouse and logistics centre uses within the same “O” zone (**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 construction material, machinery and spare parts 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 **13.12.2022**. 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 heavy goods vehicle exceeding 24 tonnes and container trailer/tractor, as defined in the Road Traffic Ordinance, as proposed by the applicant, will be allowed to enter the Site at any time 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 **13.3.2020**;
- (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 **13.6.2020**;
- (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 **13.9.2020**;
- (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 reasons for rejection are suggested for Members' reference:

- (a) the development is not in line with the planning intention of the "O" zone, which is 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 intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied development would not have adverse environmental impact on the surrounding areas.

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 22.10.2019
Appendix Ia	Supplementary planning statement with proposed layout plan, landscape and tree preservation plan and as-built drainage plan
Appendix Ib	Further Information (FI) dated 26.11.2019 from the applicant clarifying the trip generation rate of applied use and current traffic situation of Deep Bay Road
Appendix II	Previous applications covering the Application Site
Appendix III	Similar Applications within the same "O" zone on the approved Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape and Tree Preservation Plan
Drawing A-3	As-built 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