

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/41

<u>Applicant</u>	Excel (HK) Industrial Limited
<u>Site</u>	Lots 856RP, 857RP, 858RP, 859RP and 860RP in D.D. 124 and 238, 239 and 367 in D.D. 127, Hung Tin Road, Ping Shan, Yuen Long, New Territories
<u>Site Area</u>	1,672 m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use) and New Grant Lot (for Lot 367 in D.D. 127 only) for private residential purposes only
<u>Plan</u>	Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/1
<u>Zoning</u>	“Government, Institution or Community” (“G/IC”) [Restricted to a maximum building height of 8 storeys]
<u>Application</u>	Temporary Dangerous Goods Godown (Cat. 5 Dangerous Goods) for a period of 3 years

1. The Proposal

- 1.1 The applicant seeks planning permission to continue to use the application site (the Site) (**Plan A-1**) for temporary dangerous goods godown for storage of Cat. 5 dangerous goods for a period of 3 years. 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. The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is involved in 3 previous applications (Nos. A/YL-PS/324, 347 and 401). The last application (Application No. A/YL-PS/401) submitted by the same applicant for the same use in “Industrial (Group D)” (“I(D)”) zone under the previous Ping Shan OZP (the then OZP) was approved with conditions by the Rural and New Town Planning Committee (the Committee)

of the Board on 21.12.2012 for a period of 5 years. All the time-specific approval conditions have been complied with and the planning permission lapsed on 22.12.2017. Details of the previous applications are summarized at paragraph 5 below and **Appendix II**.

- 1.3 A comparison of the major development parameters of the current application and the previously approved application is given in the following table:

	Previously Approved Application: A/YL-PS/401 (a)	Current Application (b)	Changes (b-a)
Site Area	1808.8m ²	1,672m ²	-136.8m ² (The change is to reflect the actual site area)
No. of Blocks (guard room)	1	1	No Change
Building Height	3.5m	3.5m	No Change
No. of Underground Dangerous Goods Tanks	2	2	No Change
Loading/ Unloading Platform	1	1	No Change
Parking Spaces for Container Trucks	3	3	No Change

- 1.4 The site is accessed via a local road to connect Hung Tin Road. The applied development is mostly the same as the previous submission to store the same Cat. 5 dangerous goods, including toluene (甲苯), isopropyl alcohol (異丙醇) and ethyl acetate (乙酸乙酯). The site is to store the imported materials for distribution (in containers) to retailers. There are two existing underground tanks at the north-eastern part of the site for storage of the dangerous goods at a depth of 3.2 m; each of the Tanks has a size of 4.3m long, 2.4m deep and 2.7m in height and a capacity of 27,864 litres (**Drawing A-2**). The overall capacity of the dangerous goods to be stored on site would be 55,728 litres; there is a covered loading and unloading platform at the northern part of the site(covered area: 239.19m²); three parking spaces for container trucks at the centre of the site(16m x 3.5m each); an existing structure for guard room (area: 74.32m²) at the eastern portion; and the operation hours are between 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays. The indicative layout plan and the illustrative diagram of underground tank are at **Drawings A-1 and A-2**.
- 1.5 In support of the application, the applicant has submitted the following documents:

(a) Application Form received on 7.12.2017

(**Appendix I**)

- (b) Letter dated 11.1.2018 providing supplementary information, revised layout plan and response to comment of Transport Department **(Appendix Ia)**
- (c) Letter dated 12.1.2018 providing clarification on the compliance status on environmental mitigation measures of the previous application **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form at **Appendices I and Ia**. They can be summarised as follows:

- (a) The applicant is in the business of trading chemical materials and Category 5 dangerous goods are the main trading commodities. Storage area is needed to keep the imported materials for dissemination.
- (b) Delivery of the materials and logistics of distributing to the retailers rely on container trucks/lorries for delivery. A loading/unloading platform and parking spaces for the container trucks/lorries are essential to the operation.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any active planning enforcement action. Notwithstanding, as the previous planning permission (A/YL-PS/401) on this site has expired on 22.12.2017, investigation is underway to ascertain whether the current use of this site constitutes an unauthorized development. If confirmed, the Planning Authority will instigate enforcement action under the Town Planning Ordinance.

5. Previous Applications

- 5.1 The site was the subject of three previous applications (No. A/YL-PS/324, 347 and 401). Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/YL-PS/324 for open parking of vehicles for Category 5 dangerous goods at a smaller site was rejected by the Committee on 15.10.2010 as it was not in line with the TPB Guidelines No. 13E in that the Director of Fire Services objected to the application because the proposed vehicle park could not be used for overnight parking of dangerous goods vehicles while loaded with lubricating oil (Category 5 Dangerous Goods) which should only be stored in a fixed storage facility.
- 5.3 Application No. A/YL-PS/347 for permanent dangerous goods godown (Cat

5. dangerous goods) was approved with conditions by the Committee on 23.9.2011 for a period of 5 years mainly on grounds that the proposed development was in line with the planning intention of “I(D)” zone and there were no adverse comments from concerned government departments. The case was approved on a temporary basis, instead of permanent permission sought, for closely monitoring the site condition and compliance with conditions in view of the potential fire risks and environmental concern of the use. The application was subsequently revoked on 23.9.2012 as the applicant failed to comply with the approval conditions regarding the implementation of the emergency vehicular access, water supplies for fire-fighting and fire service installations, the landscape proposal and the drainage facilities proposed.

- 5.4 Application No. A/YL-PS/401 for permanent dangerous goods godown (Cat 5. dangerous goods) was approved with conditions by the Committee on 21.12.2012 for a period of 5 years until 21.12.2017 on a temporary basis on similar considerations.
- 5.5 Compared with the last application, the current application is submitted by the same applicant for the same use with same development parameters.

6. Similar Application

There is no similar application in the same “G/IC” zone.

7. The Site and Its Surrounding Areas (Plans A-1 to A-2 and photos on Plans A-3 to A-4)

7.1 The site is:

- (a) paved and mostly fenced with concrete and corrugated metal sheets of about 5m high;
- (b) currently using as a dangerous goods godown without a valid planning permission; and
- (b) accessed from a local road to connect with the slip road of Hung Tin Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the east behind the 2-storey container-converted structure is a small knoll covered with vegetation and graves. A temple is at the top of the knoll;
- (b) to its south is a car service facility;
- (c) to its west across a local track is the elevated Hung Tin Road and its slip road. Further west about 80m away is Hung Fuk Estate Ancillary Facilities Block; and

- (d) to its north, within the same “G/IC” zone, are vacant land, open storage of recycling materials, open storage of construction machinery, storage of chemical, workshops, and a residential dwelling about 40m away.

8. Planning Intention

The planning intention of “G/IC” is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, LandsD Department (DLO/YL, LandsD):

- (a) Lot No. 367 in D.D. 127 in the application site is a New Grant Lot which contains the restriction that the lot shall be used for private residential purposes only subject to a maximum building height of 25 feet or two-storey and a maximum total roofed over area of 800 sq. ft..
- (b) The remaining lots in the application site are Old Scheduled Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (c) The application site is accessible to Hung Tin Road through a local road on Government land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (d) The application site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) According to his record, there is no lease modification/land exchange application nor building plan submission in relation to commercial development at the application site approved/under processing.
- (f) Should planning approval be given to the subject planning

application, the lot owner(s) will need to apply to his Office to permit the structures to be erected or regularize any irregularities on Site, including the use (if applicable). Such application will be considered by LandsD acting in the capacity of the landlord at its sole discretion and there is no guarantee that such application will be approved. If such application 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 LandsD.

Environment

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

- (a) It is noted that the applied use is an existing use approved previously under Planning Application No. A/YL-PS/401 with conditions. Measures required under approval conditions (b) - provision of 100mm thick concrete box to enclose the underground tanks, (c) - provision of a 100mm bund wall around the distribution area of 4m x 4m above each of underground tank with a peripheral channel and (d) - provision of an underground sump tank equipped with an oil/grease trap, were already in place and considered complied with.
- (b) Provided that the above measures would remain in place, he has no comment on the application.
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Fire Safety

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

- (a) He has no objection to the proposal subject to water supplies for fire-fighting and fire service installations being provided to his satisfaction.
- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority.
- (c) Furthermore, the EVA provision in the Site shall comply with the standard as stipulated in Part VI of the Code of Practice for Means of Access for Firefighting and Rescue under the Building (Planning) Regulation 41D which is administrated by the Buildings Department.
- (d) Apart from that, it is noted that the site would involve

storage/use of Dangerous Goods. As such, the applicant/operator of the site should be advised to approach his Dangerous Goods Division for advice on licensing of premises for the proposed use.

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) He supposes the existing drainage facilities which were implemented under an approved application no. A/YL-PS/401 will be maintained for the subject development.
- (c) Should the Board consider that the application is acceptable from the planning point of view, 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.

Traffic

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

- (a) He has no adverse comment to the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to public roads or reverse onto/from the public road.
- (b) 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.

9.1.6 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 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 application site and Hung Tin Road.

Landscape

9.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD & L, PlanD):

- (a) The Site abuts Hung Tin Road and lies in an area of “G/IC” zone. The application site is the subject of last Application No. A/YL-PS/401 which was approved with conditions including landscape condition. The landscape proposal was implemented and accepted. The current application is seeking planning permission for the same use for a period of 3 years.
- (b) With reference to the site photos from DPO dated 15.12.2017 and aerial photo of 2017, it is observed that the Site is hard paved and with existing climbing plants along the public frontage. The applied use appears to be already in operation. The Site is situated in an area of urban fringe landscape character disturbed by open storage yards. A wooded knoll is observed to the east of the Site. Significant change to the landscape character arising from the application is not envisaged. Hence he has no objection to the application from the landscape planning perspective.
- (c) Should the Board approve this application, he would recommend the inclusion of the condition to maintain all screen planting within the Site in good condition for the duration of the approval period in the permission

Nature Conservation

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

As the subject site is an existing paved land, he has no strong view on the application from the nature conservation point of view. Should the application be approved, the applicant is advised to ensure that the proposed development would not affect any trees on the adjacent government land as well as the nearby wooded area zoned as “Green Belt” to the east of the site.

Building Matters

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

- (a) An occupation permit no. NT 18/2013(OP) was issued on 10 April 2013 for “2 nos. underground storage tanks for non-domestic use”.
- (b) There is no record of approval by the Building Authority for the structures existing at the application site and Buildings Department is not in a position to offer comments on their suitability for the use related to the application.
- (c) The applicant’s attention is drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of the Buildings Department (BD) (not being New Territories Exempted Houses), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by the BA 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 application site under the BO.
 - (iii) Before any new building works (including containers/open sheds as temporary buildings 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 co-ordinator for the proposed building works in accordance with the BO.
 - (iv) 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 respectively.
 - (v) It is noted that the proposed Temporary Dangerous Goods Godown may be subject to the issue of a DG License from FSD. The applicant should be reminded that the approved tanks are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
 - (vi) 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 Building (Planning) Regulation at the building plan submission stage.

Long Term Development

9.1.10 Comments of Project Manager/New Territories West, Civil Engineering and Development Department (PM/NTN&W, CEDD):

He has no objection to the temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities. However, the Site falls within the boundary of Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The lots falls within a site under Stage 3 Works Stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

Other Aspects

9.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electric supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans to find out whether there is any underground cable and/or overhead line within or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the " Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.
- (b) There is a an underground town gas transmission pipeline designed for high pressure operation (running along Hung Tin Road) in the vicinity of the application site. The project proponent/consultant/works contractor shall therefore liaise

with the Hong Kong and China Gas Company Limited in respect of the exact location of existing or planned gas pipes/gas installations in the vicinity of the application site and any required minimum set back distance away from them during the design and construction stages of any alterations of existing development at the application site. The project proponent/consultant/works contractor is required to observe the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoiding Danger from Gas Pipes" for reference.

9.1.12 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No FEHD facilities will be affected and such work/operation shall not cause any environmental nuisance and obstruction to the surrounding.
- (b) For any waste generated from such work and operation, the applicant should arrange disposal properly at their own expenses.

District Officer's Comments

9.1.13 Comments of the District Officer (Yuen Long) (DO/YL):

His office has not received any comment from the locals on the application.

9.2 The following departments have no comment on the application:

- (a) Chief Engineer/Lands Works, Civil Engineering and Development Department;
- (b) Commissioner of Police;
- (c) Chief Engineer (Development) 2, Water Supplies Department.
- (d) Director of Leisure and Cultural Services (DLCS); and
- (e) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD).

10. Public Comments Received During Statutory Publication Period

On 15.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The “G/IC” zone is intended for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments. Whilst the development is not entirely in line with the planning intention of the “G/IC” zone, the implementation programme for this part of the HSK NDA is still being formulated. PM(W), CEDD has no objection to the applied temporary use for 3 years on the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardise the long term planning of the area. 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.
- 11.2 The site is surrounded by industrial uses mainly including open storage yards, warehouses, and workshops. Therefore, the proposed development is not incompatible with the surrounding uses.
- 11.4 Relevant Government departments including FSD, TD, EPD, HyD, DSD, and C of P have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse traffic, environmental and drainage impacts to the surrounding areas. Besides, to minimize any potential environmental nuisance on the surrounding area or to address the technical requirements of concerned Government departments, relevant approval conditions are recommended in paragraph 12.2 below. Non-compliance with any of 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.
- 11.5 There are 2 previous approved applications (Nos. A/YL-PS/347 and 401) covering the Site for the same temporary dangerous goods godown (Cat 5. dangerous goods) use for a period of 5 years when the site was zoned “I(D)” on the previous Ping Shan OZP. The Site now falls within a “GI/C” zone on the HSKOZP which has no provision for dangerous goods godown. The applicant has applied for a temporary approval for a period of 3 years.
- 11.6 There is no public comment received.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department considers that the proposed Dangerous Goods Godown (Cat. 5 Dangerous 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 26.1.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 8:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no open storage of dangerous goods are allowed on the Site at any times during the approval period;
- (c) the 100mm thick concrete box to enclose the underground tanks shall be maintained at all times during the approval period to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (d) the 100mm bund wall around the distribution area of 4mx4m above each of underground tank with a peripheral channel shall be maintained at all times during the approval period to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (e) the underground sump tank equipped with an oil/grease trap shall be maintained at all times during the approval period to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (f) all screen plantings within the Site shall be maintained at all times during the planning approval period;
- (g) the existing boundary fencing on Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on Site shall be maintained at all times during the planning approval period;
- (i) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (j) 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 26.4.2018;
- (k) the submission of the design of emergency vehicular access, water supplies for fire-fighting and 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 26.7.2018;
- (l) in relation to (k) above, the implementation of emergency vehicular

access, water supplies for fire-fighting and fire service installations 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 26.10.2018;

- (m) if any of the above planning conditions (a) ,(b) ,(c), (d), (e), (f), (g), (h), or (i) is not complied with, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (n) if any of the above planning conditions (j), (k) or (l) 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; and
- (o) upon the expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

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

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

the applied development is not in line with the planning intention of the "G/IC" zone which is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. No strong planning justification has been given 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form and related drawings received on 7.12.2018
Appendix Ia	Letter dated 11.1.2018 providing supplementary information, revised layout plan and response to comment of Transport Department
Appendix Ib	Letter dated 12.1.2018 providing clarification on the compliance status on environmental mitigation measures of the previous application
Appendix II	Previous applications covering the application site
Appendix III	Advisory Clause
Drawing A-1	Layout plan
Drawing A-2	Illustrative diagram of the underground tank
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a & 4b	Site photos

**PLANNING DEPARTMENT
JANUARY 2018**