

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/HSK/90

- Applicant** : Evertex Holdings Limited represented by R-riches Property Consultants Limited
- Site** : Lots 192 S.A, 192 S.B and 193 in D.D.125, Fung Kong Tsuen, Ha Tsuen, Yuen Long, New Territories
- Site Area** : 3,755 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : “Other Specified Uses” annotated ‘Port Back-up, Storage and Workshop Uses’ (“OU (PBSWU)”) (about 54.5%)
[Restricted to maximum plot ratio (PR) of 7 and maximum building height (BH) of 110m];
and an area shown as ‘Road’ (about 45.5%)
- Application** : Temporary Warehouse and Open Storage of Construction Materials 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 and open storage of construction materials for a period of 3 years. The Site falls within “OU (PBSWU)” zone and an area shown as ‘Road’ on the draft HSK and HT OZP (**Plan A-1**). According to the Notes of the OZP, ‘Open Storage’ (not involving cement, sand, chemical products and dangerous goods) and ‘Warehouse (excluding Dangerous Goods Godown)’ are Column 1 uses of the “OU (PBSWU)” zone and no planning permission from the Town Planning Board (the Board) is required. However, in any area shown as ‘Road’ on the draft OZP, all uses or developments require planning permission from the Board.
- 1.2 The Site is related to 3 previous planning applications No. A/YL-HT/623, A/HSK/14 and 57 for temporary open storage of containers and the same applied use respectively. The last application No. A/HSK/57 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of

the Board for a period of 3 years on 9.2.2018 with its planning permission valid until 9.2.2021 (**Plan A-1**). The Site is currently in operation for the applied use (**Plans A-2a, A-4a and A-4b**).

- 1.3 The Site is accessible from Ping Ha Road and Kai Pak Ling Road via a local track and the ingress/egress point is located at the southern part of the Site (**Plan A-2a and Drawings A-1 and A-2**). As shown on the proposed layout plan at **Drawing A-2**, 3 single-storey temporary structures with a total floor area of about 2,056m² are proposed (including one large temporary structure at the northern part with floor area of 2,017.5m² and height of not exceeding 11m for warehouse, one structure with floor area of 30.5m² and height of 3.5m for site office and one structure with a floor area of 8m² and height of 3.5m for toilet use). The open area at the eastern middle portion is intended for open storage use. 2 loading/unloading bays for medium goods vehicle and 4 parking spaces for private car are also proposed within the Site. According to the applicant, the operation hours of the Site are from 9:00 a.m. to 6:00 p.m. and there will be no operation on Sundays and public holidays. A proposed landscape plan is shown at **Drawing A-3**.
- 1.4 A comparison of the major development parameters of the last approved application and the current application is given in the following table:

Major Development Parameters	Previous Application No. A/HSK/57 (a)	Current Application No. A/HSK/90 (b)	Difference (b) – (a)
Site Area	About 3,755m ²	About 3,755m ²	-
Applied Use	Temporary open storage of construction materials and warehouse (3 Years)	Temporary warehouse and open storage of construction materials (3 Years)	-
Maximum Building Height	not exceeding 8.23m	not exceeding 11m	+2.77m
Total Floor Area	About 2,040.2m ²	About 2,056m ²	+15.8m ² (larger site office)
No. of parking space	4	4	-
No. of Loading/unloading bay for medium goods vehicle	2	2	-

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 17.7.2018 with proposed (**Appendix I**) vehicular access plan, layout plan and landscape plan and vehicular trip generation rate

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form in **Appendix I**. They can be summarized as follows:

- (a) The applied use is not incompatible with the surrounding area, and would not have substantial impact to the vicinity.
- (b) The operation hours of the Site are from 9:00 a.m. to 6:00 p.m. and there will be no operation on Sundays and public holidays.
- (c) The Site would only have minimal impact on the traffic along Ping Ha Road, Fung Kong Tsuen Road and Kai Pak Ling Road.
- (d) No land-filling or land excavation would be carried out.

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 publishing on three local newspapers. 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 entirely within Category 4 areas under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. **Background**

As the Site is still covered by a valid planning approval (No. A/HSK/57), it is not subject to any active enforcement case. Should a material change of use be identified on site, which constitutes an unauthorized development under the Town Planning Ordinance, enforcement action would be instigated subject to sufficient evidence collected.

6. **Previous Applications**

- 6.1 The Site is the subject of 3 previous applications for temporary open storage of containers (No. A/YL-HT/623) and for temporary open storage of construction materials and warehouse (No. A/HSK/14 and 57). Details of the application are summarized at **Appendix III** and its location is shown on **Plan A-1**.
- 6.2 The first application No. A/YL-HT/623 (for north-eastern portion of the Site only) was rejected by the Committee on 23.10.2009 on the grounds of not in line with

the planning intention of “GB” zone, not in line with the TPB PG-No. 10 for application for development within the “GB” zone and TPB PG-No. 13E in that no previous approval for open storage use had been granted and there were adverse departmental comments and approval of the application would set an undesirable precedent.

- 6.3 The planning application (No. A/HSK/14) for the same temporary open storage of construction materials and warehouse use was approved by the Committee on 22.9.2017 for a period of 3 years and the last application (No. A/HSK/57) for the same applied use submitted by the same applicant which was approved by the Committee on 9.2.2018 for a period of 3 years and its planning permission is valid until 9.2.2021.
- 6.4 Compared with the previous approved application No. A/HSK/57, the current application is submitted by the same applicant for the same use. The site area is the same and with the same number of structures in slightly different layout. There is an increase of total floor area from about 2,040.2m² to about 2056m² (+15.8m²) as a larger site office is being proposed. There is also a change in maximum building height from not exceeding 8.23m to 11m. The number of loading/unloading bays for medium goods vehicle and parking spaces for private car remains the same.

7. Similar Applications

- 7.1 There are 11 similar applications for temporary open storage uses within the same “OU (PBSWU)” zone and area shown as ‘Road’ on the OZP since the promulgation of TPB PG-No. 13E on 17.10.2008. Particulars of these applications and the decisions of the Committee/Board are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 All the applications were approved with conditions by the Committee. Amongst the approved applications, 3 were revoked due to non-compliance with time-limited approval conditions.

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

- 8.1 The Site is:
- (a) currently being used for the applied use under valid planning application No. A/HSK/57; and
 - (b) accessible from Kai Pak Ling Road through a local track.
- 8.2 The surrounding areas have the following characteristics:
- (a) predominately open storage yards, workshops, tree nursery and unused lands;
 - (b) there are warehouse and open storage yards in the vicinity of the Site operating under valid planning permissions Nos. A/HSK/4, 17 and 75 fallen within the “Other Specific Use(Port Back-up, Storage and Workshop Uses)”;

- (c) an open storage yard for vehicles to the east of the Site is a suspected unauthorised development subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The Site straddles over “OU (PBSWU)” zone and an area shown as ‘Road’ on the draft HSK and HT OZP. The planning intention of the “OU (PBSWU)” zone is primarily to cater for the port back-up facilities and container related uses. Port back-up related development such as container freight station, logistics centre, container vehicle park and container storage, repair yard and rural industry workshop are permitted within this zone.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised 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) The Site is accessible from Kai Pak Ling Road through Government Land (GL) and private lot(s). His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. 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. Applications 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 planning application from traffic engineering viewpoint.
- (b) Sufficient manoeuvring spaces 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 purview. The applicant shall obtain consent of the owners/managing departments of the local track for using the local track as vehicular access to the Site.

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 Ping Ha Road.

Environment

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

- (a) No pollution complaint pertaining to the Site has been received in the past 3 years.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' (COP).

Nature Conservation

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

- (a) He has no adverse comment on the application from nature conservation point of view given that the Site was involved in land filling between November 2008 and May 2009 when the Site was zoned "GB". Nevertheless, the Site is currently zoned "OU (PBSWU)" and area shown as 'Road' and paved.
- (b) Should the application be approved, the applicant should be advised to ensure that the proposed development would not affect

the nearby wooded area zoned “GB” to the west of the Site and the pond to be southeast of the Site.

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 by the Building Authority (BA) for the existing structures at the Site and Buildings Department (BD) 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 House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Building 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 and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBWs. 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 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 Building (Planning) Regulations 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 service installations (FSIs) being provided to the satisfaction of D of FS.
- (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 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 the 'Good Practice Guidelines for Open Storage' at **Appendix V**.
- (d) Having considered the nature of the open storage, the following approval condition shall be added:

“The provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of Director of Fire Services”

- (e) The applicant should be 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.

Drainage

10.1.8 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) Should the application be approved, he would suggest imposing planning conditions requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Long Term Development

10.1.9 Comments of Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD):

- (a) He has no objection to the application, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) 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 concerned lot(s) falls within a site under Stage 2

Works stages. 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.

District Officer's Comment

10.1.10 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

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) Director of Electrical and Mechanical Services (DEMS);
- (b) Commissioner of Police (C of P);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (d) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD)

11. Public Comment Received During Statutory Publication Period

On 24.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 14.8.2018, no public comment was received.

12. Planning Considerations and Assessments

12.1 The Site currently falls within area partly zoned "OU (PBSWU)" (about 54.5%) and partly shown as 'Road' (about 45.5%) on the OZP. According to the Notes of the OZP, 'Open Storage' (not involving cement, sand, chemical products and dangerous goods) and 'Warehouse (excluding Dangerous Goods Godown)' are Column 1 uses of the "OU (PBSWU)" zone and no planning permission from the Board is required. However, the proposed development within the area shown as 'Road' requires planning permission.

12.2 Although the Site falls within area partly shown as 'Road', the implementation programme for this part of NDA is still being formulated and PM/NTW of CEDD has no objection to the proposed temporary use for 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.

12.3 The Site is located in an area which is also occupied by warehouse and open storage yards and parking yards of vehicles in the vicinity. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).

12.4 The Site falls entirely within Category 4 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the applications relevant technical assessments/ proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. A maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merit.

12.5 Whilst the Site falls within Category 4 areas with intention to encourage the phasing out of non-conforming uses as mentioned in para. 12.4 above, it should be noted that the planning circumstances of the area has been changed. In this regard, part of the Site is now intended for port back-up, storage and workshop uses. For the portion of the Site falling within 'Road' area, approval of the application would not jeopardize the long term development of the area as explained in paragraph 12.2 above. Concerned Government departments have no objection to the application or their technical concerns could be addressed by implementation of approval conditions.

12.6 There are no adverse comments or objections from concerned Government departments and no substantiated environmental complaint pertaining to the Site in the past three years. Furthermore, relevant approval conditions have been recommended in paragraph 13.2 to address the concerns on the possible environmental nuisances or the technical requirements of the concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD 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 minimize the possible environmental impacts on the nearby sensitive receivers.

12.7 The Committee has approved two previous applications for the same use at the Site on 22.9.2017 and 9.2.2018 respectively and 11 similar applications in the same zone. Approval of the current application is in line with the Committee's previous decisions.

12.8 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 above, the Planning Department

considers that the temporary warehouse and open storage of construction materials 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 for a period of 3 years until **7.9.2021**. 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 9:00 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 vehicle queuing back to or reverse onto/from the public road is allowed at any time during the planning approval period;
- (d) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of the drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **7.3.2019**;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **7.6.2019**;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the submission of the tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **7.3.2019**;
- (i) in relation to (h) above, the implementation of the tree preservation and landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **7.6.2019**;
- (j) 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 **19.10.2018**;
- (k) 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 **7.3.2019**;
- (l) in relation to (k) 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 **7.6.2019**;

- (m) if any of the above planning conditions (a), (b), (c), (d) or (g) 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;
- (n) if any of the above planning conditions (e), (f), (h), (i), (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 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 attached 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 intention for area designated as 'Road' on the Outline Zoning Plan and the approval of the application would jeopardize the long term development of the road

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 reasons for rejection should be given to the applicant.

15. Attachments

- Appendix I** Application form received on 17.7.2018 with proposed vehicular access plan, layout plan and landscape plan and vehicular trip generation rate
- 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 the same "OU (PBSWU)" Zone and areas shown as 'Road' on the draft Hung Shui Kiu and Ha Tsuen OZP since the Promulgation of TPB PG-No. 13E on 17.10.2008

Appendix V	Good Practice Guidelines for Open Storage issued by the Fire Services Department
Appendix VI	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape Plan
Plan A-1	Location Plan with Previous Applications and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2018**