

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/106

- Applicant** : Mr. Ng Kwong Wah represented by Mr. Wong Sun Wo
- Site** : Lot 1768 RP in D.D.130 and adjoining Government Land, Tsing Yick Road, Yick Yuen Tsuen, Hung Shui Kiu, New Territories
- Site Area** : About 1,128 m² (including Government Land of about 330 m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2 (currently in force)
[Draft Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/1 at the time of submission]
- Zoning** : “Other Specified Uses” annotated “Sewage Pumping Station” (“OU(Sewage Pumping Station)”) (55.97%) [restricted to a maximum building height (BH) of 25mPD],
“Residential (Group A) 2” (“R(A)2”) (26.41%) [restricted to a maximum BH of 130mPD and maximum plot ratio (PR) of 6],
“Open Space” (“O”) (5.04%) and area shown as ‘Road’ (12.58%)
- Application** : Proposed Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles Not Exceeding 5.5 tonnes) and Ancillary Shroff 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 Public Vehicle Park (private cars and light goods vehicles not exceeding 5.5 tonnes) use with ancillary shroff for a period of 3 years. The Site falls within an area partly zoned “OU(Sewage Pumping Station)” (55.97%), partly zoned “R(A)2” (26.41%), partly zoned “O” (5.04%) and partly shown as ‘Road’ (12.58%) on the approved Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2 (**Plan A-1**). Currently, the Site is vacant with some structures erected thereat.
- 1.2 According to the Notes of the OZP, ‘Public Vehicle Park’ use is a Column 2 use both in “R(A)2” and “O” zones requiring planning permission from the Town

Planning Board (the Board). However, there is no provision for such use in “OU(Sewage Pumping Station)” zone and area shown as ‘Road’. Despite this, the Covering Notes on the OZP stipulate that temporary use not exceeding a period of three years requires permission from the Board.

1.3 The major development parameters are as follows:

Site Area	About 1,128m ²
Applied Use	Proposed Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles Not Exceeding 5.5 tonnes) and Ancillary Shroff for a Period of 3 Years
Maximum Floor Area (non-domestic)	383.25m ²
No. of Structures	4 (an ancillary Shroff (15.25 m ²), 2 existing rainshelters (126m ² and 240m ²) and a temporary toilet (2m ²))
Maximum Height of Structures	1 storey (2.1m - 4.5m)
No. of Private Car Parking Spaces	12 spaces (5m x 2.5m each)
No. of Light Goods Vehicles (LGV) Parking Spaces	3 spaces (7m x 3.5m each)
Operation Hours	7:00 a.m. to 11:00 p.m. daily (including Sunday and public holidays)

1.4 The Site is accessible via Tsing Yick Road. The site plan and proposed drainage plan are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application form received on 26.9.2018 with location plan, layout plan and proposed drainage plan **(Appendix I)**
- (b) Further information (FI) received on 4.12.2018 with a swept path diagram (*accepted and exempted from publication*) **(Appendix Ia)**

1.6 On 16.11.2018, the Committee agreed to defer a decision on the application for two months as requested by the applicant to allow sufficient time for the preparation of further information to address departmental comments. The application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

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

- (a) The Government Land near the Site is often parked with private cars which may affect the emergency vehicular access and the u-turning of other vehicles.
- (b) The tenancy of the current workshop at the Site will not continue. Hence, the applicant proposes to operate a temporary public vehicle park (private cars and light goods vehicles not exceeding 5.5 tonnes) at the Site.
- (c) The operation hours will be from 7 a.m. to 11 p.m. daily (including Sunday and public holidays).
- (d) The applicant agrees to preserve the existing trees at the entrance, and to the northwest and southeast of the Site.

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 sending registered mail to the registered owner of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 The southern portion of the Site is subject to on-going planning enforcement action against an unauthorised development (UD) involving workshop and storage uses. Enforcement Notice was issued on 12.12.2017 to the concerned parties requiring the discontinuation of the UD. Subsequent inspections revealed that the UD was discontinued upon the expiry of the notice. The site would be kept under close monitoring for further action, if necessary.
- 4.2 The northern portion of the application remains vacant. However, it is noted that some suspected unauthorised structures are erected thereat.

5. Previous Application

There is no previous planning application covering the Site.

6. Similar Application

There is no similar application within the same “OU(Sewage Pumping Station)”, “R(A)2” and/or “O” zones on the OZP.

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

7.1 The Site is:

- (a) current vacant with some structures erected thereat; and
- (b) accessible from Tsing Yick Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north, northeast and southwest are various open storage of construction machineries/materials;
- (b) to the east and southeast of the Site across Tsing Yick Road are cluster of residential dwellings intermixed with some agricultural land; and
- (c) to its further west across MTR West Rail are mainly some residential dwellings, vacant structures and fallow agricultural land.

8. Planning Intention

8.1 The planning intention of “OU(Sewage Treatment Works)” zone is primarily for the provision of sewage treatment/screening plant.

8.2 The planning intention of “R(A)2” zone is primarily for high-density residential developments. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purpose-designed non-domestic building up to five storeys.

8.3 The planning intention of “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.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Lot No. 1768 RP in D.D. 130 is an Old Schedule Lot 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) Site inspection revealed that a number of structures being used for office, storage and workshop purposes were erected on the Site. Portions of the existing structures were also found extending to the adjoining Lot No. 1769 RP in D.D.130 and the adjoining government land and they are not included in the application. No permission has been given for the erection of the structures nor has any permission been given for the occupation of the Government land concerned.
- (c) The Site is accessible via a strip of government land leading from Tsing Yick Road. His office does not carry out maintenance works for the said road nor guarantee that right-of-way will be given to the Site.
- (d) If planning permission is given by the Board, the lot owner may consider submitting formal applications to his office for Short Term Waiver or Short Term Tenancy to permit erection of the proposed structures on the Lot and the adjoining government land. However, there is no guarantee that the applications will be approved and he reserves his right to take any action as may be appropriate. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the applicants are approved, they will be subject to such terms and conditions as the Government shall deem fit to do so including charging of waiver fee, rent, deposit and administration fee etc.
- (e) Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorised erection/extensions/alterations of the structures affected irrespective of whether planning permission has been given or not. Enforcement action will also be taken should any structures are found erected without any prior approval given by his office or any unauthorised occupation of Government land.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, his office is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without

approval of BD, they are unauthorised building works (UBW) under BO and should not be designated for any proposed use under the application.

- (ii) For UBW erected on leased land, enforcement action may be taken by 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 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 BD should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with 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 (B(P)R) respectively.
- (v) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Environment

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

- (a) Should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environment Aspects of Temporary Uses and Open Storage Sites".
- (b) Nevertheless, he would like to remind the applicant that effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge license under the WPCO should be obtained before a new discharge is commenced. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures.
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Traffic

9.1.4 Comments of the Commissioner for Transport, Transport Department (C for T, TD):

He has no comment from traffic engineering point of view but he notes that the proposed vehicular access to the Site from Tsing Yick Road is not managed by his department, the applicant should seek comments from LandsD and HAD separately.

9.1.5 Comments of the Chief Highways Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed access arrangement of the Site via Tsing Yick Road, which is not maintained by his department, from Ng Lau Road 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 Ng Lau Road. The applicant should be responsible for his own access arrangement.

Drainage

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

He has no in-principle objection to the application from public drainage points of view but has the following comments:

- (a) The applicant should provide more details of the proposed drainage design including the invert levels and gradient of the u-channels, and demonstrate that sufficient hydraulic capacity of the proposed drains is provided to convey the surface runoff from the Site.
- (b) It is noted that the existing 450mm U-channel is not under DSD's purview, the applicant shall obtain consent from relevant government departments or owners for the connections/laying of the proposed drains and associated manholes/catchpits outside the Site.
- (c) It is the applicant's responsibility to identify/locate the existing government stormwater drains to which drainage connections from the Site are to be proposed. The applicant should verify the existence of any drains/sewers/utilities and also their exact

locations, levels and alignments on Site in order to ascertain the positions and levels of the proposed manholes and the associated connection works. The applicant should also verify that the existing government drains/sewer, to which connections are proposed, are in normal working conditions and capable for taking the discharge from the Site.

- (d) Should the application be approved, the approval conditions regarding submission, implementation and maintenance of drainage facilities are required.

Fire Safety

9.1.7 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 his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. 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, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) However, the applicant should be reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

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

- (a) He has no comment on the application.
- (b) With reference to the site photos taken on 3.10.2018 and aerial photo taken on 13.3.2018, the Site is observed to be mainly hard paved with some self-seeded vegetation found. The Site is situated in an area of village landscape character dominated by village houses and open storage yards. The Site is bounded by a dense wooded area next to the railway tracks in the northwest and a nullah to the southeast.

Others

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.
- (b) The Site falls within the boundary of the Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (the 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 sites under Advance Works stage and Stage 2. While the detailed implementation programme for the project is still being formulated, based on the 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.

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

The applicant shall approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within or in the vicinity of the Site. Based on the cable plans and the relevant drawings obtained, if there is underground cable and/or overhead line within or in the vicinity of the Site, the applicant shall carry out the following measures:

- (a) For application site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV or above as stipulated in the Hong Kong Planning Standards and Guidelines published by the Planning Department, prior consultation and arrangement with CLP Power is necessary;
- (b) Prior to establishing any structure within the application site, the applicant and/or his contractors shall liaise with the electricity supplier and, if necessary, ask CLP Power to divert the underground cable and/or overhead line away from vicinity of the proposed structure;
- (c) The Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation shall be observed by the applicant when carrying out works in the vicinity of the electricity supply lines.

District Officer's Comments

9.1.11 Comments of the District Officer/Tuen Mun, Home Affairs Department (DO/TM, HAD):

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) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Director of Food and Environmental Hygiene (DFEH);
- (d) Antiquities and Monuments Office, Commissioner for Heritage's Office (AMO, CHO);
- (e) Commissioner of Police (C of P); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 9.10.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 30.10.2018, a total of two public comments were received (**Appendix II**). A comment was from a member of Tuen Mun District Council (TMDC) supporting the application, whereas the other comment was from a private individual suggesting the application be rejected so that the development of HSK NDA project would be expedited.

11. Planning Considerations and Assessments

11.1 The Site falls mostly within the "OU(Sewage Pumping Station)" and "R(A)2" zones on the Hung Shui Kiu OZP with minor encroachment onto the "O" zone and area shown as 'Road'. Whilst the proposed development is not in line with the planning intention for the Site, the implementation programme for this part of NDA is still being formulated and PM(W), CEDD has no objection to the proposed temporary use at the Site. In this regard, approval of the application on a temporary basis would not jeopardise 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 might be resumed by the Government at any time during the planning approval period for the implementation of Government projects.

11.2 The Site is situated in an area of village landscape character mainly comprising residential dwellings intermixed with some agricultural lands. The applied use is considered not incompatible with the surrounding land uses (**Plans A-2 and A-3**).

11.3 There is no adverse comment or objection to the application from concerned departments, including C for T, DEP, CE/MN of DSD and CTP/UD&L, PlanD.

The applied use will unlikely create significant adverse environmental, traffic, fire safety or drainage impacts to the surrounding areas. To minimise any possible environmental impacts and nuisance on the surrounding area, and to address the technical requirements of other concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and any unauthorised development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise any potential environmental impacts.

- 11.4 There are a total of two public comments received as summarised in paragraph 10. The planning considerations and assessments above are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments in paragraph 10, the Planning Department considers that the proposed temporary public vehicle park (private cars and light goods vehicles not exceeding 5.5 tonnes) and ancillary shroff 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 1.2.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle without valid license issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (e) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **1.8.2019**;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **1.11.2019**;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) all screen planting including trees and shrubs within the Site shall be maintained in good condition during the planning approval period;
- (i) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **1.8.2019**;
- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **1.11.2019**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (g) or (h) 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
- (l) if any of the above planning conditions (e), (f), (i) or (j) 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 attached 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 proposed development is not in line with the planning intention of the "OU(Sewage Treatment Works)" and "R(A)2" zones which are primarily for the provision of sewage treatment/screening plant and for high-density residential developments respectively. There is no strong justification in the submission for a departure from such 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form
Appendix Ia	Further Information received on 4.12.2018
Appendix II	Public comments
Appendix III	Advisory Clauses
Drawing A-1	Location plan
Drawing A-2	Layout plan
Drawing A-3	Drainage proposal
Drawing A-4	Swept path diagram
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos