

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

**APPLICATION NO. A/HSK/142**

- Applicant** : Mr. Wong Ka Shing represented by R-riches Property Consultants Limited
- Site** : Lots 1094 (Part), 1095 (Part), 1096 (Part) and 1097 (Part) in D.D. 124 and Adjoining Government Land, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : About 3,571 m<sup>2</sup> (including government land of about 28 m<sup>2</sup>)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK & HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : Government, Institution or Community” (“G/IC”)  
[Restricted to maximum building height of 8 storeys]
- Application** : Proposed Temporary Wholesale Trade with Ancillary Shop and Services (Furniture) for a Period of 3 years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary wholesale trade with ancillary shop and services use (furniture) for a period of 3 years (**Plan A-1**). The Site is currently occupied by part of a logistic centre without valid planning permission.
- 1.2 The Site falls within an area zoned “G/IC” on the approved HSK & HT OZP No. S/HSK/2. According to the Notes for the “G/IC” zone of the OZP, ‘Wholesale Trade’ use is always permitted, whereas ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for a period of 3 years.
- 1.3 The Site is the subject of two previous applications (Nos. A/YL-PS/541 and A/HSK/84) for temporary cargo handling and forwarding facility with ancillary warehouses and car parking facilities for a period of 3 years but were rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 13.10.2017 and 3.8.2018 respectively. Application No. A/HSK/84 was also rejected by the Board upon review on 25.1.2019. Details of the previous applications are summarised at paragraph 5 below and at **Appendix II**.

1.4 The major development parameters of the current application are summarised as follows:

<b>Site Area</b>	About 3,571m <sup>2</sup> (including Government Land of about 28m <sup>2</sup> )
<b>Applied Use</b>	Proposed Temporary Wholesale Trade with Ancillary Shop and Services (Furniture) for a Period of 3 years
<b>Total Floor Area</b>	1,671m <sup>2</sup>
<b>No. of Structures</b>	2 structures: <ul style="list-style-type: none"> <li>• 1 single-storey (8m high) structure for wholesale trade (furniture) use (716m<sup>2</sup>)</li> <li>• 1 single-storey (8m high) structure for wholesale trade (furniture) and ancillary shop and services use (955m<sup>2</sup>) (the western portion of the structure falls under Application No. A/HSK/136 for temporary shop and services use (domestic goods) for a period of 3 years, which is submitted by the same applicant and will be considered at this meeting.) (<b>Plan A-2</b>)</li> </ul>
<b>No. of Loading/ Unloading Spaces</b>	2 for light goods vehicles (3.5m x 7m each) 1 for medium/heavy good vehicles (3.5m x 11m)
<b>Operation Hours</b>	10:00 a.m. to 5:00 p.m. daily.

1.5 The Site is accessible via a local track leading from Hung Chi Road and the ingress/egress point is located at north-western part of the Site (**Plan A-2 and Drawing A-1**). Manoeuvring space is provided at the western portion of the Site. According to the applicant, there will be no filling/excavation of land at the Site. No vehicle cleansing, repairing or other workshop activity will be carried out at the Site. The operation hours of the proposed development are from 10:00 a.m. to 5:00 p.m. daily, including Sundays and public holidays. The proposed vehicular access plan and proposed layout plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application form received on 1.3.2019 (replacement page received on 4.3.2019) (**Appendix I**)
- (b) Supplementary planning statement with proposed vehicular access and layout plans received on 1.3.2019 (replacement pages received on 4.3.2019) (**Appendix Ia**)

## 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 summarised as follows:

- (a) The proposed Wholesale Trade use is a Column 1 use whereas the proposed

Shop and Services is a Column 2 use of “G/IC” zones and are intended to serve the local community in the vicinity. Hence, the proposed use is in line with the planning intentions of the “G/IC” zone.

- (b) The applicant commits to provide a number of mitigation measures, including restriction of the operation hours to 10:00 a.m. to 5:00 p.m. and no cleansing, repairing and other workshop activity would be carried out on the Site.
- (c) The proposed use will not cause adverse traffic impact on the local road network. Adequate parking facilities and maneuvering space will be provided within the Site. No vehicle is allowed to queue back to or reverse onto/from the public road.
- (d) Drainage assessment report, landscape and tree preservation proposal and fire service installations proposal will be submitted for consideration after planning permission is obtained
- (e) The proposed development aims to serve the local community including Hung Fuk Estate.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending a notice to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The Site is subject to on-going planning enforcement action against an unauthorised development (UD) involving storage use. An Enforcement Notice (EN) was issued on 17.1.2018 requiring the discontinuation of the UD by 17.3.2017. As the UD was not discontinued as required by the EN, prosecution action was taken. The defendant(s) were convicted and fined \$125,000 on 29.3.2018. Subsequent site inspections revealed that the UD has not been discontinued. Second round prosecution action is being taken.

### **5. Previous Applications**

- 5.1 The Site is the subject of two previous applications No. A/YL-PS/541 and A/HSK/84. Details of the previous applications are summarised at **Appendix II** and the location is shown on **Plan A-1**.
- 5.2 Applications No. A/YL-PS/541 and A/HSK/84 both for temporary cargo handling and forwarding facility with ancillary warehouses and car parking facilities for a period of 3 years were rejected by the Committee on 13.10.2017 and 3.8.2018

respectively on grounds of no strong planning justification had been given to deviate from the planning intentions of the zones; the applied use is not compatible with the surrounding land uses which are predominantly residential in nature; the application does not comply with the TPB PG-No.13E; and approval of the application would set an undesirable precedent. Application No. A/HSK/84 was also rejected by the Board upon review on 25.1.2019 on the same grounds.

## 6. Similar Application

- 6.1 There is one similar application (No. A/HSK/87) at a site with an area of about 48m<sup>2</sup> within the same “G/IC” zone for temporary shop and services use (estate and property agency) for a period of 3 years approved with conditions on a temporary basis by the Committee on 17.8.2018 on the grounds that the approval on a temporary basis of 3 years would not jeopardise the long term development of the area even the applied use is not in line with the intention of the “G/IC” zone, the applied use is not incompatible with the surrounding uses, and no adverse comments were received from relevant government department. Particular of this application and the decision of the Committee are summarised at **Appendix III** and its location is shown on **Plan A-1**.
- 6.2 Application No. A/HSK/136 for proposed temporary shop and services use (domestic goods) for a period of 5 years at the adjoining site, zoned “Village Type Development” (“V”) on the OZP, which is submitted by the same applicant, will be considered by the Committee at the same meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) currently occupied by part of a logistics centre;
- (b) fenced and hard-paved with two covered structures (portion of the structure in the south falls under Application No. A/HSK/136<sup>1</sup>) (**Plan A-2**); and
- (c) accessible by a local track leading from Hung Chi Road.

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to the immediate northwest is a food factory. Another food factory, an area for parking of vehicles, open storage of construction material and machinery and a logistics centre to the north and further northwest of the Site.
- (b) To its immediate northeast is a logistics centre. To the further northeast is a real estate agency under a valid planning permission No. A/HSK/87.

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<sup>1</sup> Application No. A/HSK/136 for proposed temporary shop and services use (domestic goods) for a period of 5 years, which is submitted by the same applicant, will be considered by the Committee at the same meeting

To the east are car services and storage uses and a residential dwelling at Hung Shui Kiu Main Street.

- (c) to the southeast are a warehouse and car servicing establishment, and a refuse collection point at Hung Shui Kiu Main Street. To the immediate south and further southeast are village clusters of San Lee Uk Tsuen and residential dwellings including Bellevue Court (**Plans A-2 and A-3**); and
- (d) to its immediate southwest is part of a logistics centre, subject to another planning application No. A/HSK/136 (**Plan A-1**). To the further southwest are a shrine, residential dwellings, some village houses under construction, cultivated land and vacant land.

## **8. Planning Intentions**

- 8.1 The planning intention of the “G/IC” zone 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.
- 8.2 The Site is designated for “Education” use and reserved for a primary school and a secondary school on the adopted HSK & HT ODP No. D/HSK/1.

## **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/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) No permission is given for occupation of government land (GL) (about 28m<sup>2</sup> subject to verification) included in the Site (**Plan A-2**). The act of occupation of GL without Government’s prior approval is not allowed.
  - (c) The Site is accessible to Hung Shui Kiu Main Street 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 the

GL to the Site.

- (d) The private lots which are covered by Short Term Waivers (STW) are listed below:

<b>Lot No(s). in DD 124</b>	<b>STW</b>	<b>Purposes</b>
1094	1159	Food Factory and Quarter
1095	1314	Food Factory

- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) According to his record, there is no lease modification/land exchange application or building plan submission in relation to commercial development at the application site approved/under processing.
- (g) Should planning approval be given to the subject planning application, 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 the Site, in 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 as 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.

### **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 (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorised 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 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 UBW. An Authorised Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (f) 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.

### **Traffic**

#### 9.1.3 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 should be provided within the Site. No vehicles are allowed to queue back to public roads or reverse back 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 it as the vehicular access to the Site.

#### 9.1.4 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) His department shall not be responsible for the maintenance of any

access connecting the Site and Hung Chi Road.

### **Environment**

9.1.5 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) There was no substantiated environmental complaint pertaining to the Site received in the past 3 years.

### **Drainage**

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

He has no objection in principle to the proposed application from the public drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated requiring the applicant to submit a drainage proposal and to implement and maintain the drainage facilities to the satisfaction of his Division.

### **Fire Safety**

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

- (a) He has no objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans.
- (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.

### **Landscape**

9.1.8 Comments of the Chief Town Planner/Urban Design and Landscape,



Planning Department (CTP/UD&L, PlanD):

With reference to the site records and aerial photos of 2018, the Site is hard paved with some existing large trees adjoining the west of the application. No significant existing vegetation is found within the Site. The applied use appears to be already in operation. Significant change to the landscape character arising from the application is not envisaged.

**Others**

9.1.9 Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

He has no objection to the proposed 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 “GIC” zone of the 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 lot(s) concerned within “G/IC” zone falls 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 will not be arranged before the first population intake of the HSK NDA expected in 2024.

9.1.10 Comments of the Secretary for Education (SED):

- (a) The reserved primary/secondary school site is to cater for the population in HSK NDA and the commencement of facilities will tie with the nearby housing development in HSK NDA.
- (b) Reservation of sites for primary/secondary schools should be made on a district basis. So long as a suitable school site can be identified within the district by Planning Department for his office, he would not have specific preference over the exact location of the school site.

**District Officer’s Comments**

9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), 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) Commissioner of Police (C of P);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);

- (c) Director of Food and Environmental Hygiene (DFEH);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (e) Director of Electrical and Mechanical Services (DEMS).

## 10. Public Comment Received During Statutory Publication Period

On 8.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 29.3.2019, 1 public comment was received from a private individual. The commenter objects to the application mainly on grounds that it is subject to on-going enforcement actions against an UD by Planning Department and LandsD, the applied use is not in line with the planning intention of the zone, and it is not compatible with the surrounding land uses (**Appendix IV**).

## 11. Planning Considerations and Assessments

- 11.1 The subject application is for proposed wholesale trade with ancillary shop and services use (furniture) at the Site which is zoned “G/IC” on the OZP. The planning intention of the “G/IC” zone 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. According to the OZP, the Site is reserved for school development. The development is not in line with the planning intention of the “G/IC” zone. There is no strong planning justification given in the submission to support a departure from the planning intention, even on a temporary basis.
- 11.2 The proposed development occupies an area of about 3,571m<sup>2</sup> with a total floor area of about 1,671m<sup>2</sup>. The application covers only about half of the existing structure at the southern part of the Site, which is currently used for cargo handling and forwarding facility (logistics centre) (**Plan A-2**). The remaining half of the structure (outside current application site) is proposed for temporary shop and services use (domestic goods) for a period of 5 years under Application No. A/HSK/136 submitted by the same applicant. This whole structure, with a combined GFA of 1,919m<sup>2</sup>, is akin to a warehouse/logistics centre. Together with another structure with a GFA of 716m<sup>2</sup> at the eastern part of the Site, the aggregated total GFA of these structures amounts to 2,635m<sup>2</sup>, which is similar to the total floor area of the previous application No. A/HSK/84 rejected by the Board upon review on 25.1.2019. Such scale of development is considered excessive and not compatible with the surrounding environment which is predominated by residential dwellings to its southwest (**Plans A-1 to A-3**). The nearest domestic use is located about 7m from the site boundary. Yet, no information / justification has been submitted to support such a scale of development.
- 11.3 The Site is the subject of two previous applications (No. A/YL-PS/541 and A/HSK/84) for the temporary cargo handling and forwarding facility with ancillary warehouses and car parking facilities for a period of 3 years. They were rejected by the Committee on 13.10.2017 and 3.8.2018 respectively on grounds of no strong planning justification to support deviation from the planning

intention, incompatible land uses, not comply with TPB guidelines 13E and setting of undesirable precedent. Although the application is for proposed wholesale trade with ancillary shop and services use (furniture), it is currently used as a logistics centre without valid planning permission instead of being vacant as claimed by the applicant. There is no indication that the applicant would discontinue the cargo handling and forwarding facility with warehouse use at the Site for the proposed development. The approved similar application within the same "G/IC" zone for temporary shop and services use (estate and property agency) for a period of 3 years (No. A/HSK/87), with an area of about 48m<sup>2</sup>, within the same "G/IC" zone is small in scale and considered not incompatible with the surrounding uses. The open storage yards, warehouses, workshops and factory uses in the vicinity of the Site are mostly suspected unauthorised development subject to enforcement action taken by the Planning Authority.

11.4 On the other hand, other relevant bureaux/departments consulted, including SED, C for T, CE/MN of DSD, CTP/UD&L of PlanD and DEP have no adverse comment on / no objection to the application. There was no substantiated environmental complaint pertaining to the Site received in the past 3 years.

11.5 There is 1 public comment received objecting to the application on grounds of land use planning as summarised in paragraph 10 above. The planning considerations and assessments above are also relevant.

## **12. Planning Department's Views**

12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) The planning intention of the "G/IC" zone 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. The applied use is not in line with the planning intention of the zone. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the scale of the applied use is considered excessive and not compatible with the surrounding land uses which are predominantly residential in nature.

12.2 Alternatively, 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 12.4.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation between 5:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no repairing, recycling, cleansing, dismantling work and workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of a 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 **12.10.2019**;
- (e) in relation to (d) 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 **12.1.2020**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (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 **12.10.2019**;
- (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 **12.1.2020**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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 (d), (e), (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 at **Appendix V**.

**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 reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments**

<b>Appendix I</b>	Application form
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar Application covering the same "G/IC" zone on the approved HSK & HT OZP No. S/HSK/2
<b>Appendix IV</b>	Public Comment received
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Plan A-1</b>	Location Plan with Previous Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4c</b>	Site Photos

**PLANNING DEPARTMENT  
APRIL 2019**