

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

APPLICATION NO. A/HSK/185

- Applicant** : Ocean East Company Limited
- Site** : Lot 1340 in D.D. 124, San Sang Tsuen, Tin Ha Road, Yuen Long
- Site Area** : 948 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Other Specified Uses” annotated ‘Enterprise and Technology Park’ (“OU(ETP)”)
[Restricted to maximum plot ratio (PR) of 5 and maximum building height (BH) of 90m];
- Application** : Temporary Food Processing Factory and Storage 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 industrial use (food processing factory and storage) for a period of 3 years. The Site falls within an area zoned “OU(ETP)” on the approved HSK and HT OZP (**Plan A-1**). According to the covering Notes of the OZP, ‘Rural Workshop’ is neither Column 1 nor Column 2 use for the zoning. However, according to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years 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 occupied by some converted containers and a shed for storage use without a valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kong Sham Western Highway via a local track with the main ingress/egress point located at the north-west corner (**Drawings A-1 and A-2 and Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-3**, a total of six structures with total floor area of 255m² including two single-storey converted containers not exceeding 2.5m high (15m² each) for freezer use, two single-storey converted containers not exceeding 2.5 high (30m² each) for storage use, a temporary toilet not exceeding 2.5m high (15m²) and a rain shelter not

exceeding 4.5m high (150m²) for food processing and storage uses are proposed. Parking spaces for four private cars and one light goods vehicle are also proposed. According to the applicant, no slaughtering and meat-cutting activity will be carried out at the Site. The operation hours of the proposed development are from 8:00 a.m. to 6:30 p.m. Mondays to Saturdays and there will be no operation on Sundays and public holidays. The proposed vehicular access plans, layout plan, landscape proposal and drainage plan are shown on **Drawings A-1** and **A-5** respectively.

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

- (a) Application form received on 27.8.2019 with supplementary (**Appendix I**) statement and relevant plans including vehicular access, layout, landscape and drainage proposals

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendix I**. The applicant stated that the proposed development is a non-polluting use involving natural drying and packaging whilst slaughtering and meat-cutting activities will not be carried out. The proposed development would involve temporary structures which are proposed for storage of natural drying food products.

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 notice on local newspapers. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The use is not subject to planning enforcement action.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is a similar application (No. A/YL-HT/217) for temporary warehouse for storage of miscellaneous items use within the same “OU(ETP)” zone on the OZP. The application was rejected by the Rural and New Town Planning Committee (the Committee) on 19.10.2001 mainly on the grounds that there was insufficient information to demonstrate that the development would cause adverse drainage and environmental impacts on the surrounding areas; not compatible with the surrounding area, the development was not in line with the planning intention of the “Residential (Group D)” (“R(D)”) zone on the Ha Tsuen OZP No. S/YL-HT/4. Particulars of the application and the decision of the Committee are summarized at **Appendix II** and the location is shown on **Plan A-1**.

However, there is no similar application for food processing factory or other workshop use within the same “OU(ETP)” zone on the OZP.

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

7.1 The Site is:

- (a) currently occupied by some converted containers and a shed for storage use without a valid planning permission; and
- (b) accessible from Kong Sham Western Highway via a local track (**Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) to its north are some open storage yards for construction materials, plastic products, some parking of vehicles and some domestic structures; to its further north are a cluster of shrub land with burial urns and graves;
- (b) to its east is a piece of vacant land proposed for temporary reinforcing steel processing workshop with ancillary office under planning application No. A/HSK/184 which will be considered by the Committee at the same meeting. Further north-east are some open storage yards and residential dwellings of San Sang Tsuen;
- (c) to its south are some domestic structures, some vacant land and agricultural land; and
- (d) to its north-west are an orchard yard, some parking of vehicles, some open storage yards and some domestic structures.

8. Planning Intention

The planning intention of the “OU(ETP)” zone is intended primarily to provide development space for accommodating a variety of innovation and technology uses, including research centre, testing and certification, data centre, modern industries and other related businesses and non-polluting industrial uses.

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) The Site is accessible from Kong Sham Western Highway through Government land (GL) and private lot(s). His office does not guarantee any right-of-way 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) of the lot(s) without Short Term Waiver (STW) will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering 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 it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Kong Sham Western Highway.

Environment

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

- (a) There is no substantiated environmental complaint concerning the Site

received over the past 3 years for the applied use.

- (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 Temporary Uses and Open Storage Sites' (COP).

Landscape

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

With reference to the aerial photo of 2019, the Site is used as an open storage yard and without any significant vegetation within the Site. The Site is in an area of rural landscape character disturbed by open storage yards and temporary structures. Significant change to the landscape character arising from the application is not envisaged.

Drainage

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

- (a) He has no objection in principle to the application from the public 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.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with 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, demolition and land filling) are to be carried out on application site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be

appointed as the coordinator for the proposed building works in accordance with the BO.

- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (f) 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.
- (g) If the proposed use under application is subject to issue of a license, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

Fire Safety

9.1.8 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. 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.

Nature Conservation

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

- (a) As the Site is disturbed and paved, he has no adverse comment on the application from nature conservation point of view.
- (b) Should the application be approved, the applicant is advised to adopt appropriate measures to avoid causing disturbance or pollution to the pond to the southeast of the Site, and to ensure that trees on the adjacent government land will not be affected.

Long Term Development

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

- (a) He has no objection to the application for a period of three years, 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/Ha Tsuen New Development Area (HSK/HT NDA, formerly known as HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK/HT NDA and the latest plan, to ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The concerned lot(s) falls within a site under Stage 2 Works in the latest programme of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

District Officer's Comments

9.1.11 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

- (a) He has no comment on the application from departmental point of view.
- (b) His office has not received any comments from the locals on the application.

9.2 The following Government departments have no comment on the application:

- (a) Commissioner of Police (C of P); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comment Received During Statutory Publication Period

On 3.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 24.9.2019, one public comment from an individual was received. The commenter raises concern on the hygiene standards of allowing food processing use under temporary basis (**Appendix III**).

11. Planning Considerations and Assessments

11.1 The application is for temporary food processing factory and storage for a period of 3 years at a site zoned "OU(ETP)" on the approved HSK and HT OZP. The planning intention of the zone is primarily to provide development space for accommodating a variety of innovation and technology uses, including research

centre, testing and certification, data centre, modern industries and other related businesses and non-polluting industrial uses. Whilst the proposed development is not entirely in line with the planning intention of the zone, 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 a period of 3 years on the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government projects.

- 11.2 The applied use is considered not entirely incompatible with the surrounding land uses which mainly comprise open storage and parking of vehicles in particular to the north, west and east of the Site. The proposed development is not incompatible with the surrounding land uses (**Plans A-2 and A-3**).
- 11.3 There is no adverse comment from the concerned Government departments. The applied use will unlikely create significant adverse environmental impacts to the surrounding area. In addition, there is no substantive environmental complaint pertaining to the Site in the past 3 years. To minimize any possible environmental impacts and nuisance on the surrounding developments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorized development on Site would thus be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Committee has rejected the last application No. A/YL-HT/217 for temporary warehouse for storage of miscellaneous items mainly due to the development would cause adverse drainage and environmental impacts on the surrounding areas; not compatible with the surrounding area, the development was not in line with the planning intention of the “R(D)” zone on the previous Ha Tsuen OZP. However, such considerations are not applicable to the current application as there is a change in circumstance and the proposed food processing factory which involves natural drying only and without any slaughtering and meat-cutting activities, whereas the proposed storage use would only involve 4 converted containers and a shed. Such proposal is not unlikely that the proposed food processing factory and storage use would result in significant adverse impacts on the surroundings. Relevant government departments have no objection to the current application.
- 11.5 One public comment was received objecting to the application mainly on grounds as summarized in paragraph 10. The planning considerations and assessments in the above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the proposed food processing factory and storage 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 **18.10.2022**. 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 8:00 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 is allowed to queue back to or reverse onto/from public roads 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 **18.4.2020**;
- (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 **18.7.2020**;
- (f) 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 **18.4.2020**;
- (h) in relation to (g) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **18.7.2020**;
- (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 specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the applied use is not in line with the planning intentions of the "OU (ETP)" zone, which is intended primarily to provide development space for accommodating a variety of innovation and technology uses, including

research centre, testing and certification, data centre, modern industries and other related businesses and non-polluting industrial uses; and

- (b) the applicant fails to demonstrate that the development would not generate adverse environmental impacts on the surrounding areas.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form received on 27.8.2019 with supplementary statement and relevant plans
Appendix II	Similar Application within the same “OU(ETP)” zone on the approved Hung Shui Kiu and Ha Tsuen OZP since the Promulgation of TPB PG-No. 13E on 17.10.2008
Appendix III	Public Comment received during statutory publication period
Appendix IV	Advisory Clauses
Drawings A-1 to A-2	Proposed Vehicular Access Plans
Drawing A-3	Proposed Layout Plan
Drawing A-4	Proposed Landscape Plan
Drawing A-5	Proposed Drainage Plan
Plan A-1	Location Plan with Similar Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2019**