

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

APPLICATION NO. A/HSK/201

- Applicant** : Sum Kwan Limited
- Site** : Lots 515 RP (Part), 516 (Part), 517 (Part), 518 (Part), 519 (Part) and 520 (Part) in D.D. 125, Ha Tsuen, Yuen Long, N.T.
- Site Area** : 9,024m² (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 "Refuse Transfer Station" ("OU(RTS)") (about 76.9%);
[Restricted to maximum BH of 50mPD];
- "Other Specified Uses" annotated "Port Back-up, Storage and Workshop Uses" ("OU(PBU&SWU)") (about 16.8%) ; and
[Restricted to maximum PR of 7 and maximum BH of 110mPD]
- "Other Specified Uses" annotated "Sewage Treatment Works" ("OU(STW)") (about 6.3%)
[Restricted to maximum BH of 50mPD]
- Application** : Temporary Warehouse for Storage of Miscellaneous Goods 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 for storage of miscellaneous goods for a period of 3 years (**Plan A-1a**). The Site straddles over "OU(RTS)" (76.9%), "OU(PBU&SWU)" (16.8%) and "OU(STW)" (6.3%) zones on the approved HSK and HT OZP. According to the Notes of the OZP, 'Warehouse' is a Column 1 use of the "OU(PBU&SWU)" zone and no planning permission from the Town Planning Board (the Board) is required. On the other hand, according to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years within the "OU(RTS)" and "OU(STW)" zones requires planning permission from the Board notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently being used for the applied use with a valid planning permission.

- 1.2 The Site is related to 9 previous applications (No. A/YL-HT/50, 92, 200, 702, 793, 858, 911, 992 and 1073) for open storage and/or warehouse uses. The last application No. A/YL-HT/1073 for temporary warehouse for storage of miscellaneous goods was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 14.7.2017 and is valid until 14.7.2020. The current application is submitted by the same applicant for the same warehouse use at the same site but with a different layout.
- 1.3 The site is connected to Kong Sham Western Highway (KSWH) via a local track and Ha Tsuen Road through the ingress/egress at the southeastern corner of the site (**Drawing A-1 and Plan A-3**). A total of 3 temporary structures with a total floor area of not exceeding 13,500m² are proposed. These include two two-storeys structure (height of not exceeding 12m and 13m and gross floor area (GFA) of not exceeding 10,820m² and 2,380m² respectively for storage of miscellaneous goods, and a two-storey structure (10m high and GFA of not exceeding 300m²) for site office and toilet use (240m²), fires services pump room (18m²) and a water tank (42m²). 2 parking spaces for private cars/light goods vehicles, 2 loading/unloading bays for medium/heavy goods vehicles and 2 unloading/unloading bays for container vehicles are proposed at the southern parts of the Site. A manoeuvring circle for manoeuvring purpose is proposed at the southern portion of the Site. According to the applicant, no repairing, dismantling, assembling and other workshop activity will be carried out at the Site. The operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. Peripheral fencing has been proposed for screening purpose. The as-planted landscape and tree preservation plan and the as-built drainage plan submitted by the applicant are at **Drawings A-3 to A-4**.
- 1.4 A comparison of the major development parameters of the current application and the last approved application is given in the following table:

Major Development Parameters	Last Approved Application (A/YL-HT/1073) (a)	Current Application (A/HSK/201) (b)	Difference (b) - (a)
Applied Use	Temporary Warehouse for Storage of Miscellaneous Goods (3 Years)		same
Site Area	9,024m ²		same
No. of Structures	2	3	+1
Total Floor Area	Not exceeding 11,120m ²	Not exceeding 13,500m ²	+2,380 m ² (+21.4%)
Parking and Loading/Unloading Provisions	2 parking spaces for private cars/light goods vehicles, 2 loading/unloading bays for medium/heavy goods vehicles and 2 unloading/unloading bays for container vehicles		same
Operation Hours	7:00 a.m. to 11:00 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays		same

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

- (a) Application Form received on 6.11.2019 (Appendix I)
- (b) Supplementary Planning Statement with proposed vehicular access plan, layout plan, as-planted landscape and tree preservation plan and as-built drainage plan (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** and are summarized as follows:

- (a) Planning applications for similar uses and natures in the adjoining sites (No. A/HSK/19, 90, 103, 134, 141, 148 and 155) have been approved by the Board in the past. As such, preferential treatment should be given to current application.
- (b) The Site falls within the “Category 3 areas” of the Board’s Guidelines for Application for Open Storage and Port Back-Up Uses (TPB PG-No. 13E)¹. Sympathetic consideration may be given in the event that the applicant had demonstrated genuine efforts in compliance with approval conditions of the previous planning application. The applicant of the previous planning permission had complied with all the planning conditions imposed to the planning permission.
- (c) The Site is the subject of a previous planning permission (No. A/YL-HT/1073) for temporary warehouse for storage of vehicles and open storage of vehicles for a period of 3 years.
- (d) The development, on a temporary basis, does not contravene and will not jeopardize the long-term planning of the area.
- (e) The proposed use is compatible with the surrounding land uses which are mostly open storage and port back-up uses such as logistics centre, warehouse and open storage yards. The Board has also approved numerous similar applications in the vicinity and approval of the application will not set an undesirable precedent for similar applications.
- (f) There is a shortage of land for open storage use and container depots and the temporary approval of the applied development would not jeopardize the long term planning intention of the Site, which could not be realized within the coming 3 years.
- (g) The applicant commits to provide a number of mitigation measures, including restriction of the operation hours to 7:00 a.m. to 11:00 p.m. with no operation on Sundays and public holidays, no workshop activity would be carried out on the Site and 2.5 high peripheral fencing has been provided for screening purpose.
- (h) No adverse traffic, environmental and drainage impacts to the surrounding areas is envisaged.

¹ TPB PG-No. 13E is not applicable for the applied warehouse use since it is not considered as “Open Storage and Port Back-Up Uses”

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 notice to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently covered by a valid planning permission No. A/YL-HT/1073. As such, the use is not subject to planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

5. Previous Applications

- 5.1 The Site is the subject of 9 previous applications (No. A/YL-HT/50, 92, 200, 702, 793, 858, 911, 992 and 1073) for various temporary open storage and warehouse uses. All these applications were approved with conditions by the Committee/Board between 1998 and 2017 except two applications (No. A/YL-HT/200 and 702) which were rejected by the Committee/Board in 2001 and 2011 respectively. The former 3 applications, covering a much larger site straddling across the then “Government, Institution or Community” (“G/IC”) zone and the adjoining “Recreation” (“REC”) zone, were for temporary open storage of construction materials and machinery. Applications No. A/YL-HT/50 and 92 were approved by the Committee for a period of 1 year on 19.6.1998 and 13.8.1999 respectively for the reasons that temporary approval will not affect the implementation of the San Wai Sewage Treatment Plant expansion scheme with no confirmed programme, no definite programme for recreational developments within “REC” zone and no adverse comments from Government departments.
- 5.2 Application No. A/YL-HT/200 was rejected by the Board upon review on 12.10.2001 due to non-compliance with the approval conditions of the previous application and insufficient information to demonstrate no adverse environmental impacts on the surrounding area. Application No. A/YL-HT/702 at a site falling within the “G/IC” zone only and larger than the current application site was rejected by the Committee on 14.1.2011 for the reasons of not in line with the planning intention of the “G/IC” zone which was partly intended for the expansion of the San Wai Sewage Treatment Works (STW); not in line with the TPB PG-No. 13E; and no technical assessment included.
- 5.3 Application Nos. A/YL-HT/793 and 858 for temporary open storage of containers with ancillary office and container repair workshop each for 1 year at the same site were approved by the Committee on 24.8.2012 and 27.9.2013 respectively taking into account, among others, that the eastern portion of the site would not be required within the approval periods for the implementation of the drainage project. However, the two planning permissions were revoked on 24.6.2013 and 27.6.2014 respectively due to non-compliance with the approval conditions.

- 5.4 The subsequent application (No. A/YL-HT/911) for temporary open storage of containers with ancillary office for 3 years was approved by the Committee on 31.10.2014 for 1 year for the reasons that there was not yet any programme for implementation of the expansion and upgrading of San Wai STW, the proposed use was not incompatible with the surrounding land uses and no adverse departmental comments and a shorter approval period was granted to monitor the progress of compliance with approval conditions. The last planning application (No. A/YL-HT/1073) for the same temporary warehouse use was approved by the Committee for 3 years on 14.7.2017. All the approval conditions were complied with except for the implementation of the fires services installation (FSIs) proposal which is still in progress. Details of these applications are summarized at **Appendix II** and the locations are shown on **Plan A-1b**.
- 5.5 Comparing with this last application No. A/YL-HT/1073, the current application is submitted by the same applicant for the same warehouse use at a same site but with a different layout.

6. Similar Application

There is no similar application within the subject “OU(RTS)”, “OU(PBU&SWU)” and “OU(STW)” zones on the approved HSK and HT OZP.

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

7.1 The Site is:

- (a) currently being used for the applied use with a valid planning permission; and
- (b) accessible from KSWH via Ha Tsuen Road and a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and north west within the adjoining “Recreation” zone are yards for open storage of construction materials, a yard for warehouse and a yard for storage;
- (b) to its east is a site for expansion and upgrading of San Wai Sewage Treatment Plant (STP) and the existing San Wai STP; and
- (c) to its south are a electricity sub-station, unused land and the Kong Shum Western Highway.

8. Planning Intention

The planning intention of the “OU (PBU&SWU)” 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, whereas the planning intention of the “OU (RTS)” zone is intended primarily for the provision of refuse transfer station. The planning intention of the “OU (STW)” zone is intended primarily for the provision of sewage treatment/screening plant.

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 prior approval of the Government.
- (b) The private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No. in D.D.125	STW No.	Purpose
515 RP	4996	Temporary Warehouse for Storage of Miscellaneous Goods
516, 518, 519 & 520	4997	
517	4998	

- (c) The Site is accessible from Ha Tsuen Road through Government Land (GL) only. His office provides no maintenance works over the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should the application be approved, the STW holders will need to apply to his office for modification of the STW conditions where appropriate. 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/NT, Transport Department (AC for T/NTW, 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/drain.
- (c) HyD shall not responsible for the maintenance of any access connecting the Site and Ha Tsuen Road.

Drainage

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

- (a) He has no objection in principle to the proposed development from a drainage point of view
- (b) The drainage proposal was generally identical to the one submitted under the previous application No. A/YL-HT/1073. Should the application be approved, he would suggest imposing planning conditions requiring the applicant to maintain the existing drainage facilities and to submit condition record of the drainage facilities to the satisfaction of his Division.
- (c) The applicant is reminded that the required condition record should include coloured photos showing the current condition of the drainage facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catch pits, sand traps, manholes, terminal catch pits/ manholes and the downstream discharge path as indicated on the submitted drainage proposal.

Environment

9.1.5 Comment of the Director of Environmental Protection (DEP):

- (a) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (b) Should the application be approved, the applicant is reminded to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize any potential environmental nuisance.

Building Matters

9.1.6 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 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 captioned application.
- (c) 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 application 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 (AP) should be appointed as the co-ordinator 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) Regulation at the building plan submission stage.

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 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.

Long Term Development

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

- (a) He has no objection to the application for temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) 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 lot(s) concerned falls within a site under Advance Works Phase 3 in the latest programme of the 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/HT NDA expected in 2024.

District Officer's Comments

9.1.9 Comments of 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 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) Director of Agriculture, Fisheries and Conservation (DAFC); and
(c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 15.11.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 6.12.2019, no public comment was received.

11. Planning Considerations and Assessment

- 11.1 The application is for temporary warehouse for storage of miscellaneous goods for a period of 3 years at a site straddling over “OU(RTS)” (76.9%), “OU(PBU&SWU)” (16.8%) and “OU(STW)” (6.3%) zones on the OZP. Their planning intentions are primarily for the provision of refuse transfer station, to cater for the port back-up facilities and container related uses, and for the provision of sewage treatment/screening plant. According to the Notes of the OZP, “Warehouse (excluding Dangerous Goods Godown)” is a Column 1 use always permitted in the “OU(PBU&SWU)” zone. Whilst the applied use is not in line with the planning intention of the “OU(RTS)” and “OU(STW)” zones, the implementation programme for this part of the NDA is still being formulated and PM/NTW, CEDD has no objection to the proposed temporary use for a period of 3 years at 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.
- 11.2 The Site is located in an area predominantly occupied by warehouses and open storage uses and a site for expansion and upgrading of San Wai Sewerage Treatment Plant to its east. The applied use is not incompatible with the surrounding land uses.
- 11.3 There is no major adverse comment from concerned Government departments including DEP. To address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments, relevant approval conditions have been recommended in paragraph 12.2. 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 minimize the possible environmental impacts on the adjacent areas.
- 11.4 The Site is the subject of 9 previous applications for similar open storage/warehouse uses with 7 of them approved by the Committee. Approval of the current application is generally in line with the Committee’s previous decisions. The remaining 2 cases were rejected by the Committee/Board, mainly due to adverse environmental impacts and encroaching upon an area for future expansion of San Wai Sewerage Treatment Plant. As such, these 2 applications may not be applicable to the consideration of the current application.
- 11.5 There is no public comment received during the statutory public inspection period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department considers that the proposed warehouse for storage of miscellaneous goods could be tolerated for a period of 3 years.

12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **3.1.2023**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. to 7:00 a.m., as proposed by the applicant, is allowed on the Site during the 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 repairing, dismantling, assembling or other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) the existing landscape planting on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on Site shall be maintained at all times during the planning approval period;
- (f) the submission the submission of a condition record of existing drainage facilities within **3** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **3.4.2020**;
- (g) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **3.7.2020**;
- (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 Director of Fire Services or of the Town Planning Board by **3.10.2020**;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (e) 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;
- (j) if any of the above planning conditions (f), (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 III**.

12.3 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 intentions for the "OU(RTS)" and "OU(STW)" zones which are primarily for the provision of refuse transfer station and sewage treatment/screening plant. There is no strong planning justification in the submission for a departure from the planning intentions, 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 received on 6.11.2019
Appendix Ia	Supplementary Planning Statement with proposed vehicular access plan, layout plan, as-planted landscape and tree preservation plan and as-built drainage plan
Appendix II	Previous Applications covering the Application Site
Appendix III	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-planted Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos