

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/241

- Applicant** : Sense Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 1968 (Part), 1970 (Part), 1971 RP (Part), 1973 (Part), 1975 RP (Part), 1978 (Part) and 1979 (Part) in D.D. 125, Ha Tsuen, Yuen Long, New Territories
- Site Area** : about 3,570m²
- 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** : “Government, Institution or Community” (“G/IC”)
[Restricted to maximum BH of 8 storeys]
- Application** : Temporary Logistics Centre 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 logistics centre for a period of 3 years (**Plan A-1a**). The Site falls within an area zoned “G/IC” on the approved HSK and HT OZP. 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 zone 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 used for the applied use with a valid planning permission (**Plans A-4a and 4b**).
- 1.2 The Site is involved in 9 previous applications for various open storage and logistics centre uses (**Plan A-1b**). The last application No. A/HSK/73 for proposed temporary logistics centre was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 15.6.2018 for a period of 3 years and valid until 15.6.2021. The current application is submitted by the same applicant for the same use at the same site with similar layout but an increase in proposed total floor area.
- 1.3 The Site is accessible from Ping Ha Road via a local track and the ingress/egress point is at the north-eastern boundary of the Site (**Drawing A-1 and Plans A-2 to A-3**). As shown on the layout plan at **Drawing A-2**, 5 temporary structures with a total floor area of about 3,768m² (including two 2-storey structures with total floor area of 3,520m² and 160m² for logistic centre and site office respectively, three single-storey structures of 3-5m high with floor areas of 18m², 40m² and 30m² for toilet,

pump room and water tank, and staff restroom respectively) are proposed. 1 container trailer loading/unloading bay will be provided. According to the applicant, no workshop activity will be carried out at the Site. The operation hours of the development are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays, and no operation would be carried out on Sundays and public holidays. The proposed landscape and tree preservation plan, as-built drainage plan and proposed fire service installations (FSIs) plan are shown at **Drawings A-3 to A-5** respectively.

- 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/HSK/73) (a)	Current Application (A/HSK/241) (b)	Difference (b) - (a)
Applied Use	Temporary logistics centre (3 years)		Same
Site Area	3,570m ²		Same
No. of Structures	3	5	+2 (67%)
Total Floor Area	2,623m ²	3,768m ²	+1,145m ² (+44%)
Height of Structures	1 storey not exceeding 12m	1 to 2 storeys not exceeding 12m	+1 storey (+100%)
No. of Loading/ Unloading Bay	1 for container trailer		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 document:

Application Form with annex and plans received on 30.6.2020 **(Appendix I)**

2. Justifications from the Applicant

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

- (a) While previous approval has been granted for the Site, the current fresh application was submitted due to the increase in GFA.
- (b) The proposed development conforms with the Town Planning Board Guidelines TPB PG-No. 13F since it is subject to previous planning permissions.
- (c) The proposed development is temporary in nature and would not jeopardize the long-term planning intention of the area.
- (d) The proposed development is not incompatible with the surrounding environment including open storage use and port back-up activities. The planning circumstance pertaining to the Site is similar to those nearby open storage and port back-up uses approved by the Board. Similar preferential treatment should be granted to the current application.

- (e) There is shortage of land for port back-up purpose in Ha Tsuen.
- (f) There are insignificant environmental and noise impacts since the applied use is housed within an enclosed structure and no operation will be held during sensitive hours.
- (g) The traffic impact is minimal.

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 Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site falls within Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is currently covered by a valid planning permission for temporary logistics centre. As such, the use on site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site is the subject of 9 previous applications (No. A/YL-HT/7, 128, 216, 380, 534, 716, 827, 993 and A/HSK/73) for various temporary open storage and logistics centre uses, which were all approved with conditions. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 All of the above previous applications were approved with conditions by the Board/Committee between 1996 and 2018 on the considerations that the applied uses were not incompatible with the surrounding areas, generally in line with the then Town Planning Board Guidelines No. 13 and no major adverse comments from concerned Government departments. However, three of them were subsequently revoked due to non-compliance with time-specific approval conditions.
- 6.3 The last application No. A/HSK/73 for proposed temporary logistics centre was approved by the Committee on 15.6.2018 for a period of 3 years until 15.6.2021. All time-limited approval conditions have been complied with except the one on the implementation of the FSIs proposal has yet to be compiled. The current application is submitted by the same applicant for the same use at the same site with similar layout but an increase in proposed total floor area due to the addition of a floor within part of the existing structure on the Site.

7. Similar Application

There is no similar application within the same “G/IC” zone on the OZP.

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

8.1 The Site is:

- (a) currently used for the applied use with a valid planning permission (Application No. A/HSK/73); and
- (b) accessible from Ping Ha Road via a local track with ingress and egress at the north-eastern boundary of the Site (**Plan A-2**).

8.2 The surrounding areas have the following characteristics:

- (a) to its north are an open storage of recycling materials and a warehouse under valid planning permissions.
- (b) to its east and south is an open storage of construction machinery and materials, scrap metal and used electrical electronic appliances under a valid planning permission; and
- (c) to its west are vehicle repairing workshop and yards of open storage of recycling materials, construction metal and machinery.

9. Planning Intention

The planning intention of the “G/IC” zone is for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organization providing social services to meet community needs, and other institutional establishment.

10. Comments from Relevant Government Departments

10.1. The following Government departments have been consulted and their views on the application received are summarized as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Scheduled 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 within the Site covered by Short Term Waiver (STWs) are listed below:

Lot No. in D.D.125	STW No.	Purposes
1978	3335	Ancillary Use to Open Storage of Construction Materials and Machineries
1979	3336	
1970	4167	Temporary Open Storage of Construction Machinery and Materials, and Scrap Metal with Ancillary Packaging Activities
1975 RP	4169	
1968, 1971 RP and 1973	5058	Temporary Logistics Centre

- (c) 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 regularisation or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by 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 rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comments on the application from traffic engineering view point.
- (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.

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

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

Environment

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

- (a) There was no environmental complaint pertaining to the Site received in the past 3 years.
- (b) Should the application be approved, the applicant is advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' ('COP').

Drainage

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

- (a) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application No. A/HSK/73 will be maintained for the subject development. He has no objection in principle to the development from a drainage point of view.
- (b) Should the application be approved, a condition should be stipulated in the approval requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing 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.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site.
- (b) If the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of the BA, 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 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 the Site, prior approval and consent of BA should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (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.

Fire Safety

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

- (a) He has no objection in principle to the application 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 him 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 BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

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

- (a) With reference to aerial photo of 2019, the Site is situated in an area of rural landscape character predominated by open storage yards and temporary structures. The Site is hard paved and the majority of the site area is occupied by an existing temporary structure. Significant change to the landscape character arising from the continued use of the application is not envisaged.
- (b) The applicant is advised that approval of the application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/government department(s) direct to obtain the necessary approval on tree works.

Nature Conservation

10.1.9 Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) He has no strong view on the application from nature conservation point of view.
- (b) The applicant is advised to adopt good site practices and implement necessary water pollution control measures to avoid affecting the nearby watercourse.

Long-Term Development

10.1.10 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 and Ha Tsuen New Development Area (HSK/HT NDA). According to the Planning and Engineering 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 Stage 3 Works 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 will not be arranged before 2024.

District Officer's Comments

10.1.11 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 comment from the locals on the application.

10.2 The following Government department has no comment on the application:

Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 7.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received. Commenters raise concern/object to the application that the development will increase traffic flow and risk the life of villagers, and that the implementation of the future developments will be affected by approving the brownfield uses (**Appendices IV-1 to 2**).

12. Planning Considerations and Assessment

- 12.1 The application is for temporary logistics centre for a period of 3 years at a site which is zoned “G/IC” on the approved HSK and HT OZP. The planning intention of the “G/IC” zone is primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory. Whilst the applied use is not in line with the planning intention, the implementation programme for this part of NDA is still being formulated, and PM/W of CEDD has no objection to the 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. 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.
- 12.2 The applied temporary logistics centre is not incompatible with the surrounding land uses which are predominantly used for open storage yards and vehicle repair workshops and there is no residential dwelling in the surrounding area (**Plan A-2**).
- 12.3 The Site falls within the HSK/HT NDA. For applications in NDAs, the following considerations under the TPB PG-No. 13F are relevant:
- For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.
- 12.4 The applied use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and previous planning approvals have been given. The planning permission under the last approved application No. A/HSK/73 is valid until 16.5.2021. All except one time-limited approval conditions have been complied with. Since the current application is for the same use submitted by the same applicant on the same site with different development parameters and concerned departments have no adverse comments on the application, sympathetic consideration may be given to the application.
- 12.5 Compared with the valid planning permission under Application No. A/HSK/73, there is only an increase in GFA due to the addition of a floor within part of the existing structure on the Site. Concerned government departments including DEP have no adverse comment on the proposed development. In addition, there are no environmental complaints pertaining to the Site in the past three years and there are

no residential dwellings in the surrounding area. To address the concerns on the possible environmental nuisances or the technical requirements of the concerned Government departments, relevant approval conditions have been recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorized development on the Site would 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' to minimize the possible environmental impacts on the surrounding areas.

- 12.6 There are 9 previously approved planning applications for various open storage and logistic centre uses at the Site, including the last application No. A/HSK/73 for logistic centre use (**Plan A-1a**). Approval of the subject application is in line with the Committee's previous decisions.
- 12.7 There are two public comments received on the application during statutory publication period as summarised in paragraph 11. The planning considerations and assessments in the above paragraphs are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary logistics centre could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **21.8.2023**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 11:00 p.m. to 7:00 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 queue back to or reverse onto/from the public road at any time during the planning approval period;
- (d) all existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (e) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on Site within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **21.11.2020**;

- (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 **21.2.2021**;
- (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 **21.5.2021**;
- (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; and
- (j) if any of the above planning conditions (f), (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 attached at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "G/IC" zone, which is primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form with annex and plans received on 30.6.2020
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Previous Applications covering the Site
Appendices IV-1 and 2	Public Comments
Appendix V	Advisory Clauses

Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Drawing A-5	Proposed Fire Service Installations 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 4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2020**