

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/277

- Applicant** : E Man Construction Co. Ltd. represented by Vision Planning Consultants Ltd.
- Site** : Lots 1824 S.A RP (Part), 1824 S.B RP (Part) and 1824 S.C (Part) in D.D. 125, Ha Tsuen, Yuen Long
- Site Area** : about 3,621.2m²
- 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** : “Residential (Group A) 3” (“R(A)3”)
[Restricted to a maximum plot ratio of 5.5 and a maximum building height (BH) of 140mPD]
- Application** : Temporary Open Storage of Infrequently Used Construction Materials for a Period of 18 Months

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of infrequently used construction materials for a period of 18 months (**Plan A-1a**). The Site falls within an area zoned “R(A)3” on the approved HSK and HT OZP. According to the covering Notes of the OZP, temporary use 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 without valid planning permission (**Plans A-4a to 4b**).
- 1.2 The Site is related to 20 previous applications for various temporary open storage, vehicle park, recycling centre and workshop uses (**Plan A-1b**). The last application No. A/HSK/113 for proposed temporary open storage of recyclable materials (metal) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 21.12.2018 for a period of 3 years but the permission was subsequently revoked on 21.12.2019 due to non-compliance with time-limited approval conditions on the implementation of drainage proposal and the submission and implementation of fire service installations (FSIs) proposal. The current application is submitted by a different applicant at a smaller site for the storage of other kinds of materials for a shorter period.

- 1.3 The Site is accessible from Ping Ha Road via local track with the ingress/egress located at the south-western corner of the Site (**Drawing A-1, Plans A-2 and A-3**). As shown on the layout plan at **Drawing A-1**, 7 one to two-storey temporary structures with a total floor area of 98m², including 5 container-converted structures for storage of weather sensitive construction materials and 2 container-converted structures for staff restroom and guard room are proposed. In addition, construction materials include mould tables, scrap metals for curtain wall works, glass panel, metal railings and window frames will be stored in the open areas of the Site. According to the applicant, the operation hours of the Site will be from 9:00 a.m. to 5:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays.
- 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/113) (a)	Current Application (A/HSK/277) (b)	Difference (b) - (a)
Applied Use	Proposed temporary open storage of recyclable materials (metal) (3 years)	Temporary open storage of infrequently used construction materials (18 months)	Different open storage
Site Area	11,324m ²	3,621.2m ²	-7,702.8m ²
No. of Structures	3	7	+4
Total Floor Area	28m ²	98m ²	+70m ²
No. of Parking Spaces	Nil	Nil	-
No. of Loading/ Unloading Bay	2 for medium/heavy goods vehicle	Nil (limited vehicle trip: not more than 3 trips a week)	-2
Operation Hours	9:00 a.m. to 7:00 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays	9:00 a.m. to 5:00 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays	Shorter operation hours on Mondays to Saturdays

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

- (a) Application Form and plans received on 20.11.2020 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information (SI) received on 26.11.2020 providing revised layout and the types of construction materials to be stored **(Appendix Ib)**
- (d) Further Information (FI) received on 23.12.2020 clarifying the vehicular access **(Appendix Ic)**

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 summarized as follows:

- (a) The applied use is the best use of the land resources during the interim period before the Site is required for NDA development and hence for a period of only 18 months. This would allow sufficient time to explore alternative site to continue the proposed use.
- (b) The proposed operation will solely be used for the storage of infrequently used construction materials.
- (c) The proposed operation will not cause unacceptable impact on the local area in visual, landscape, drainage, environmental and traffic terms. The location is rather secluded from residential developments nearby. The proposed operation will require very limited vehicle trip generations/attractions. The proposed development will have no night-time operation. There is a peripheral drainage system running around the Site.
- (d) The proposed operation will be used only by the applicant's construction company and the applicant pledges to move out from the Site once it is required for the New Development Area (NDA) project.

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 obtaining consent of the current land owner of the Site. 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 subject to an on-going planning enforcement action against an unauthorized development (UD) involving storage use. Enforcement notice was issued on 1.9.2020 to the concerned parties requiring the discontinuation of the UD.

6. Previous Applications

- 6.1 The Site was involved in 20 previous applications (No. A/YL-HT/2, 7, 91, 161, 171, 188, 211, 233, 302, 477, 507, 539, 570, 632, 662, 733, 811, 829 and 1053 and A/HSK/113) for various open storage, public vehicle park, recycling centre and workshop uses. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Amongst the above, 13 applications (No. A/YL-HT/7, 302, 477, 507, 539, 570, 632, 662, 733, 811, 829 and 1053 and A/HSK/113) were approved by the Board/Committee with conditions each for a period of 3 years 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 TPB PG-No. 13 and no major adverse comments from concerned Government departments. However, nine of them were subsequently revoked due to non-compliance with approval conditions.

- 6.3 The remaining seven applications for temporary open storage of containers and construction machinery, container trailer and tractor park, recycling materials handling yard and flea market were rejected by the Committee mainly due to reasons of not in line with planning intention; setting of undesirable precedent; insufficient information to demonstrate that there would be no adverse impacts on the surrounding areas; and further degradation of the environment in the area.
- 6.4 The last application No. A/HSK/113 for temporary open storage of recyclable materials (metal) was approved with conditions by the Committee on 21.12.2018. However, the planning permission was revoked on 21.1.2.2019 due to non-compliance with approval conditions on drainage and FSIs aspects. Compared with the last application, the current application is submitted by a different applicant at a smaller site for the storage of different kinds of materials for a shorter period of 18 months.

7. Similar Applications

There are three similar applications (No. A/HSK/187, 210 and 218) for various temporary open storage uses within the same “R(A)3” zone on the OZP between 2019 and 2020 which were all approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.2 above. However, the planning permission of one application was subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

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 without valid planning permission; and
- (b) accessible from Ping Ha Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to the north is a piece of woodland;
- (b) to the east is Tin Ying Road;
- (c) to the south are open storage yard of vehicles and construction materials under valid planning permission; and
- (d) to the immediate west is a nullah, while to its further west is a logistics centre. Further south-west is an open storage yard of containers under valid planning permission.

9. **Planning Intention**

The planning intention of the “R(A)3” zone is for high-density residential developments. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purposed-designed non-domestic building up to five storeys.

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 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 private lot covered by Short Term Waiver (STW) is listed below:

Lot No(s). in D.D.125	STW No.	Purposes
1824 S.C	4879	Temporary Open Storage of Private Car, Tire and Construction Material with Ancillary Site Office

(c) Should the application be approved, 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 regularize any irregularities on site, if any. The STW holders will need to apply to his office for modification of the STW conditions where appropriate. 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 Commissioner for Transport (C for T):

(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 Transport Department (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 relevant mitigation measures and requirements in 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) He has no objection in principle to the proposed development from a drainage point of view.
- (b) Should the application be approved, he would suggest that a condition be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

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) The applicant should be reminded of his detailed comments in **Appendix VII**.

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 applicant should adhere to the 'Good Practice for Open Storage for Open Storage Sites' at **Appendix V**.
- (d) Having considered the nature of the open storage, an additional approval condition requiring "the provision of fire extinguisher(s) within 6 weeks from the date of planning approval" should be stipulated. To address this approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval.
- (e) The applicant should be reminded of his detailed comments in **Appendix VII**.

Long-Term Development

10.1.8 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 18 months, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of HSK/HT NDA. To ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot(s) concerned falls within the sites under Remaining Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that the site formation and engineering infrastructure works for the Remaining Phase development will commence in 2030.

District Officer's Comments

10.1.9 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 departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 27.11.2020, 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. The commenters raised concerns/objected to the application on reasons that the development will increase traffic flow and pose safety hazards/environmental degradation for the villagers, and that approving the brownfield uses would affect the implementation of the planned residential development (**Appendices VI-1 and 2**).

12. Planning Considerations and Assessment

- 12.1 The application is for temporary open storage infrequently used construction materials for a period of 18 months at a site zoned “R(A)3” on the OZP. The planning intention of the “R(A)3” zone is primarily for high-density residential developments. 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 of 18 months at the Site. In this regard, approval of the application on a temporary basis of 18 months 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 Site is located in an area predominantly occupied by open storage yards and vehicle park uses. The applied use is generally not incompatible with the surrounding major land uses (**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. Although the last previous planning approval was revoked due to non-compliance with time-specific approval conditions, the current application is submitted by a different applicant at a much smaller site for storage of different kinds of materials for a shorter period of 18 months. As such, sympathetic consideration could be given to the application.
- 12.5 There is no adverse comment from concerned Government departments including DEP. In addition, there were no environmental complaints pertaining to the Site in the past three years. 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 13 previously approved planning applications for various open storage, public vehicle park, recycling centre and workshop uses at the Site (**Plan A-1b and Appendix III**) and three similar applications for various open storage uses approved within the same "R(A)3" zone on the OZP (**Plan A-1a**). Approval of the current application is in line with the Committee's previous decisions.
- 12.7 Two public comments were received during statutory publication period as mentioned 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 in paragraph 11, the Planning Department considers that the temporary open storage infrequently used construction materials could be tolerated for a period of 18 months.
- 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 18 months until **8.7.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 5:00 p.m. to 9:00 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 the public road at any time during the planning approval period;

- (d) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (e) 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 **8.7.2021**;
- (f) in relation to (e) 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 **8.10.2021**;
- (g) in relation to (f) above, the implemented drainage facilities on Site shall be maintained at all times during the planning approval period;
- (h) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **19.2.2021**;
- (i) 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 **8.7.2021**;
- (j) in relation to (i) 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 **8.10.2021**;
- (k) if any of the above planning conditions (a), (b), (c), (d) or (g) 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
- (l) if any of the above planning conditions (e), (f), (h), (i) or (j) 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 VII**.

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

the applied use is not in line with the planning intention of the "R(A)3" zone which is intended for high-density residential developments. 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 and plans received on 20.11.2020
Appendix Ia	Supplementary Planning Statement with plans
Appendix Ib	SI received on 26.11.2020 providing revised layout and the types of construction materials to be stored
Appendix Ic	FI received on 23.12.2020 clarifying the vehicular access
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
Appendix IV	Similar Applications Within the Same “R(A)3” Zone on the approved Hung Shui Kiu and Ha Tsuen OZP
Appendix V	Good Practice Guidelines for Open Storage issued by the Director of Fire Services
Appendices VI-1 and 2	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**