

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

APPLICATION NO. A/HSK/70

- Applicant** : Forest Development and Construction Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 1835 (Part), 1840(Part), 1841 S.B (Part), 1889 (Part), 1890 (Part), 1891 RP (Part), 1893 RP, 1894 (Part), 1895 RP (Part) and 1911 in D.D. 125 and Adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : 6,360m² (about) (including about 90m² of Government Land (GL))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : “Residential (Group A) 3” (“R(A)3”) (12.2%), “Residential (Group A) 4” (“R(A)4”) (68.4%), “Open Space” (“O”) (7.0%) and an area shown as ‘Road’ (12.4%)
- Application** : Proposed Temporary Warehouse for Storage of Plastic Products for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of plastic products for a period of 3 years (**Plan A-1a**). The Site straddles over “R(A)3” (12.2%), “R(A)4” (68.4%), “O” (7.0%) zones and an area shown as ‘Road’ (12.4%) on the draft 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 zones 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. In any area shown as ‘Road’ on the draft HSK and HT OZP, all uses or developments require planning permission from the Board.
- 1.2 The Site is related to 8 previous applications for various temporary open storage use and ancillary packaging activities (**Plan A-1b**). Details of these applications are summarised at **Appendix II** and paragraph 5 below. The Site is currently under construction works with a warehouse structure at the southern part in place.

- 1.3 The Site is accessible from Ping Ha Road via a local track (**Drawing A-1 and Plan A-2**). According to the layout plan at **Drawing A-2**, the ingress/egress to the Site is located at the southern boundary of the Site. Five structures with a total floor area of not exceeding 3,880m² (including two single storey structures of 11m high for warehouse (one with a floor area of not exceeding 2,400m² and another with a floor area not exceeding 1,400m² located at the northern and southern parts of the Site), a 2-storey structure for site office (7m high with floor area not exceeding 50m²), a single storey structure for pump room (3m high with floor area not exceeding 10m²) and a single storey structure for toilet (3.5m high with floor area not exceeding 20m² all at the middle part of the Site) are proposed. 2 loading/unloading bays for container trailer are also proposed. The remaining areas are for manoeuvring space.
- 1.4 According to the applicant, the operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. The vehicular access plan, proposed layout plan, proposed tree preservation and landscape plan and proposed drainage plan are at **Drawings A-1 to A-4** respectively.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 24.4.2018 (**Appendix I**)
 - (b) Supplementary planning statement with vehicular access plan, proposed layout plan, proposed landscape and tree preservation plan and proposed 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**. They can be summarized as follows:

- (a) The Site has been the subject of a previous planning approval for temporary open storage of construction machinery and materials, recycling materials and scrap metal with ancillary packaging activities for application No. A/YL-HT/993. Due to the change of use and boundary of the Site, the applicant submits a fresh planning application for the Board's consideration.
- (b) The planning intentions of the "R(A)3", "R(A)4" and "O" zones and 'Road' could not be realized within the coming 3 years since land resumption for the development of Hung Shui Kiu new town is yet to commence.
- (c) Logistics centres and open storage of recyclable materials with ancillary workshop were found to the immediate north and south which makes the proposed development compatible with the surrounding landscape. Open storage and port back-up uses near the Site were granted with planning permission on transient basis. As such, favorable consideration should be given to the current application.
- (d) The Site is subject to eight previous planning permissions for open storage use since 1996. It is not a development on green site. The approval conditions imposed to the last planning permission were all complied with.

- (e) Preliminary technical assessments demonstrate that the actual impact on drainage, environmental, traffic and landscape aspects would be insignificant. The applicant has proposed environmental mitigation measures including planting trees and erection of a 2.5m high fencing on the periphery of the Site to reduce noise and to minimize potential environmental impact. The operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays.

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

4. Background

The Site is not the subject of any active enforcement case. It is noted that the Site is still covered by a valid planning approval (No. A/YL-HT/993) for temporary open storage of construction machinery and materials, recycling materials and scrap metal with ancillary packaging activities for a period of 3 years until 8.1.2019.

5. Previous Applications

- 5.1 The Site is the subject of eight previous applications (Nos. A/YL-HT/7, 128, 216, 380, 534, 716, 827 and 993) for various temporary open storage use and ancillary packaging activities. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 All eight applications were approved by the Committee or the Board with conditions for a period of 3 years. However, three of them (Nos. A/YL-HT/7, 128 and 716) were subsequently revoked due to non-compliance with approval conditions. For the last application No. A/YL-HT/993, all the time-limit approval conditions including the maintenance of existing fencing and submission of drainage record, submission and implementation of run-in/out proposal, FSIs proposal, and tree preservation and landscape proposal have been complied with. The planning permission is valid up to 8.1.2019.
- 5.3 Compared with the last application No. A/YL-HT/993, the current application is submitted by a different applicant for a different warehouse use on a much smaller site (-42,000m²) with a different layout.

6. Similar Applications

There are 3 similar applications (No. A/YL-HT/928 & 961 and A/HSK/31) for temporary logistics centre and warehouse uses within the same “R(A)3”, “R(A)4” and “O” zones and ‘Road’ on the OZP. All of them were approved by the Committee. Particulars of these applications and the decisions of the Committee are summarized at **Appendix III**. The locations of these application sites are shown on **Plan A-1a**.

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

7.1 The Site is

- (a) accessible from Ping Ha Road via a local track via ingress and egress at the southern boundary of the Site (**Plan A-2**); and
- (b) currently being under construction works with the southern warehouse structure in place.

7.2 The surrounding areas have the following characteristics:

- (a) predominately open storage, logistics centre, parking of heavy vehicles, vehicle repairing workshop and warehouse uses;
- (b) there are logistics centre; open storage of recycling material; and warehouse and logistics hub operating under the valid planning permissions No. A/YL-HT/961 and 1071 and A/HSK/11 and 31 to its north; and open storage of recycling material to its southwest operating under the valid planning permission No. A/HSK/30; and
- (c) there are open storage of construction machinery and scrap metal with ancillary packaging activities to its east and south operating under the valid planning permission No. A/YL-HT/993.

8. Planning Intentions

- 8.1 The Site straddles over “R(A)3”, “R(A)4” and “O” zones and an area shown as ‘Road’ on the draft HSK and HT OZP. The planning intention of the “R(A)3” and “R(A)4” zones are intended primarily 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 purpose-designed non-domestic building up to five storeys. The “R(A)3” and “R(A)4” zones are subject to a plot ratio (PR) of 5.5 and 5 respectively.
- 8.2 The planning intention of the “O” zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarized 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 Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval from the Government.

- (b) The Government Land (GL) in the Site is covered by Short Term Tenancy (STT) No. 1869 for the purpose of “Open Storage of Recycling Materials (Plastic, Paper and Metal) with Ancillary Workshop”.
- (c) The private land of Lots Nos. 1889, 1890 and 1893 RP in D.D. 125 is covered by a Short Term Wavier (STW) No. 3338 to permit structures for the propose of “Ancillary Use to Open Storage of Construction Machinery and Materials”.
- (d) The private land of Lot No. 1891 RP in D.D. 125 is covered by STW No. 4167 to permit structures for the purpose of “Temporary Open Storage of Construction Machinery and Materials, and Scrap Metal with Ancillary Packaging Activities”.
- (e) The Site is accessible to Ping Ha Road through a local track on both private lots and GL. His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (f) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (g) Should the application be approved, the STT/STW holders will need to apply to his Office for modification of the STT/STW conditions if there are any irregularities on site and the lot owner(s) of the lots without STW will need to apply to his Office for permit the structures to be erected or regularize any irregularities on site. Such application(s) 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 the application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium/fees, as may be imposed by 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 comments to the application from traffic engineering view point.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to public roads or reverse onto/from the 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 proposed access arrangement of the Site from Ping Ha Road should be commented by TD.
- (b) Adequate drainage measures should be provided to prevent surface water running from the site to the nearby public roads and drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and the road near Ping Ha Road.

Environment

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

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

Drainage

9.1.5 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/YL-HT/993 will be maintained for the subject development. 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 should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.

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 (BA) for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are 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 and land filling) are to be carried out on Site, prior approval and consent of the BD 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 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) Regulations at the building plan submission stage.

Fire Safety

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

- (a) No objection to the temporary use for 3 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 the Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The concerned lot(s) falls within a site under Stage 3 Works stage and a site under Stage 3 Works stage respectively. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

Nature Conservation

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

- (a) As the Site is paved and disturbed, he has no strong view on the application from nature conservation point of view.
- (b) Should the application be approved, please advise the applicant to adopt good site practices and implement necessary water pollution control measures to avoid affecting the nearby watercourse.

District Officer's Comments

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

His office has not received any comment from locals on the application.

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

- (a) Director of Leisure and Cultural Services (DLCS);
(b) Commissioner of Police (C of P);
(c) Chief Engineer/Sewerage Projects, Drainage Services Department (CE/SP, DSD);
(d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
(e) Director of Electrical and Mechanical Services (DEMS).

10. Public Comments Received During Statutory Publication Period

On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 25.5.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The Site falls within area zoned “R(A)3” (12.2%), “R(A)4” (68.4%) and “O” (7.0%) and area shown as ‘Road’ (12.4%). The “R(A)3” and “R(A)4” zones are intended primarily 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 purpose-designed non-domestic building up to five storeys. The “O” zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Whilst the development is not in line with the planning intentions of the “R(A)3”, “R(A)4” and “O” zones, the implementation programme for this part of NDA is still being formulated, and PM/NTW of CEDD and DLCS have no objection/no comment to the applied use for 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 implementation of government projects.
- 11.2 The Site is located in an area which is predominantly occupied by open storage yards, warehouses and logistics centres. The applied use therefore is not incompatible with the surrounding land uses (**Plan A-2**).
- 11.3 There is no adverse comment from concerned Government departments. In addition, there has been no substantiated environmental complaint pertaining to the Site in the past 3 years. To address the potential environmental nuisances and the technical requirements of the concerned departments, relevant approval conditions have been recommended in paragraph 12.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on the Site would subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will 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 nearby sensitive receivers.
- 11.4 The Committee has approved eight previous applications for various open storage uses at the Site and three similar logistic and warehouse applications within the same “R(A)3”, “R(A)4” and “O” zones and ‘Road’ area (**Plan A-1b**).
- 11.5 It is noted that a warehouse has been constructed and the other is under construction and BD indicates that before any new building works are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are UBW under BO. Should the application be approved, the applicant should be reminded that the planning permission is only to the use under application and should not be construed as an acceptance or condonation of any UBW. Any UBW on the Site may be subject to enforcement action by the BD.
- 11.6 There is no public comment received on the application during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department considers that the temporary warehouse for storage of plastic products 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 **15.6.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m. on Mondays to Saturdays, 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 queuing back to public road and reverse onto/from the public road is allowed at any time during the planning approval period;
- (d) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (e) 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 **15.9.2018**;
- (f) the submission of a tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **15.12.2018**;
- (g) in relation to (f) above, the implementation of the tree preservation and landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **15.3.2019**;
- (h) 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 **15.12.2018**;
- (i) in relation to (h) 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 **15.3.2019**;
- (j) the provision of fencing of the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **15.12.2018**;

- (k) if any of the above planning conditions (a), (b), (c) or (d) 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;
- (l) if any of the above planning conditions (e), (f), (g), (h), (i) or (j) 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; and
- (m) upon expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

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

the proposed development is not in line with the planning intention of the "R(A)3", "R(A)4" and "O" zones which are primarily for the high-density residential developments, and for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received by the Board on 24.4.2018
Appendix Ia	Supplementary planning statement with vehicular access plan, proposed layout plan, proposed landscape and tree preservation plan and proposed drainage plan
Appendix II	Previous Applications covering the Application Site
Appendix III	Similar applications within the same "R(A)3", "R(A)4" and "O" zones and 'Road' on the draft Hung Shui Kiu and Ha Tsuen OZP
Appendix IV	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan

Drawing A-4	Proposed Drainage Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**