

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

APPLICATION NO. A/HSK/73

- Applicant** : Sense Limited represented by Metro Planning and 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
- Site Area** : 3,570m² (about)
- 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** : “Government, Institution or Community” (“G/IC”)
- Application** : Proposed 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 proposed temporary logistics centre for a period of 3 years (**Plan A-1a**). The Site falls within “G/IC” zone on the draft HSK and HT OZP No. S/HSK/1. 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.
- 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 III** and paragraph 6 below. The Site is currently largely vacant and occupied by some containers and container vehicles.
- 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 north-eastern corner of the Site. Three structures with a total floor area of not exceeding 2,623m² (including one single-storey structure for logistics centre (12m high with a floor area of not exceeding 2,485m²), a two-storey structure for site office (8m high with a floor area of not exceeding 120m²) and a single-storey structure for toilet (3.5m high with a floor area of not exceeding 18m²)) are proposed. One loading/unloading bay for container trailer is also proposed.

- 1.4 According to the applicant, the operation hours of the Site are from 7:00 a.m. to 11:00 p.m., there will be no operation on Sundays and public holidays. The vehicular access plan, proposed layout plan, proposed landscape and tree preservation plan and as-built 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 26.4.2018 **(Appendix I)**
 - (b) Supplementary planning statement with vehicular access plan, proposed layout plan, proposed 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 in **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 intention of the "G/IC" zone 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) The site falls within the "Category 1 areas" of the Town Planning Board's Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E), which is suitable for open storage and port back-up uses.
- (d) Open storage of recyclable materials with ancillary workshop and open storage of construction machinery and material were found to the immediate north and south which makes the proposed development compatible with the surrounding landscape. Open storage yards 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.
- (e) 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.
- (f) Preliminary technical assessments on the traffic, drainage, landscape and environmental aspects have been provided to demonstrate that the proposed development would not generate adverse impacts to the surrounding areas. The applicant has also recommended a number of 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 publishing notice on 3 local newspapers. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

On 17.10.2008, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). The Site falls within Category 1 areas under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. 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.

6. Previous Applications

6.1 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 III** and their locations are shown on **Plan A-1b**.

6.2 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.

6.3 Compared with the last application No. A/YL-HT/993, the current application is submitted by a different applicant for a different logistics centre use on a much smaller site (-44,790m²) with a different layout.

7. Similar Application

There is no similar application within the same “G/IC” zone on the OZP since the promulgation of TPB PG-No. 13E on 17.10.2008.

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

8.1 The Site is:

- (a) accessible from Ping Ha Road via a local track via ingress and egress at the north-eastern boundary of the Site (**Plan A-2**); and
- (b) currently partly vacant and partly occupied by some containers and container vehicles.

8.2 The surrounding areas have the following characteristics:

- (a) predominately open storage of recycling material, scrap metal and construction materials, parking of heavy vehicles and some vehicle repairing workshop and warehouse;
- (b) there are open storage of recycling material; and open storage of scrap metal and construction machinery and ancillary workshop operating under the valid planning permissions No. A/HSK/30 and A/YL-HT/1050 to its north and west; and open park of trailer and tractor and open storage of machinery to its further northwest operating under the valid planning permission No. A/YL-HT/1002; and
- (c) there are open storage of construction machinery and scrap metal with ancillary packaging activities to its northeast, east and south operating under the valid planning permission No. A/YL-HT/993.

9. Planning Intention

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

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised 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 land (PL) of Lots Nos. 1970 and ~~1975~~**1975RP** in D.D. 125 is currently covered by Short Term Waiver (STW) No. 4167 and STW No. 4169 respectively both to permit structures for the purpose of “Temporary Open Storage of Construction Machinery and Materials, and Scrap Metal with Ancillary Packaging Activities”.
- (c) PL of Lots Nos. 1978 and 1979 in D.D. 125 is currently covered by STW No. 3335 and STW No. 3336 respectively both to permit structures for the purpose of “Ancillary Use to Open Storage of Construction Materials and Machineries”.
- (d) The Site is accessible to Ping Ha Road through both private lots and Government land (GL). His Office provides no maintenance works for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should the application be approved, the STW holders will need to apply to his Office for modification of the STW conditions if there are any irregularities on site. Such application(s) 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 premium 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 comment to the application from traffic engineering viewpoint.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to public road 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 is no substantiated environmental complaint pertaining to the Site received over 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 Open Storage and Temporary Uses' (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/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

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (b) 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.
- (c) 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.

- (d) 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

10.1.7 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 proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs 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

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

- (a) He has no objection to the captioned 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 stages. 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

10.1.9 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 water pollution control measures as necessary to avoid affecting the nearby watercourse.

District Officer's Comment

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

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

11. 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.

12. Planning Considerations and Assessments

12.1 The Site falls within Category 1 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

12.2 The Site falls within the "G/IC" zone. The planning intention of the "G/IC" zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. Whilst the development is not in line with the planning intention of the "G/IC" zone, the implementation programme for this part of NDA is still being

formulated and PM/NTW of CEDD has no objection to the proposed temporary use for 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.

- 12.3 The Site is located in an area which is predominantly occupied by open storage yards, workshop and logistics centre uses. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).
- 12.4 The proposed development is generally in line with the TPB PG-No. 13E in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up uses; relevant proposals have been submitted to demonstrate that the proposed use would not generate adverse impacts; and technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.
- 12.5 There is no adverse comment from concerned Government departments. Moreover, there is no substantiated environmental complaint pertaining to the Site in the past three years. Furthermore, relevant approval conditions have been recommended in paragraph 13.2 to address the possible environmental nuisances or the technical requirements of the other concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on 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.
- 12.6 The Committee has approved 8 previous applications for temporary open storage uses with ancillary packaging activities at the Site (**Plan A-1b**).
- 12.7 There is no public comment received on the application during the statutory publication period.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 above, 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 **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., 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 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**.

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

the temporary logistics centre is not in line with the planning intention of the "G/IC" zone, which are intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the 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 reasons for rejection should be given to the applicant.

15. Attachments

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| Appendix I | Application Form received on 26.4.2018 |
| Appendix Ia | Supplementary planning statement with vehicular access plan, proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan |
| Appendix II | Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) |
| Appendix III | Previous applications covering the Application Site |
| 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 | 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 4c | Site Photos |