

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

**APPLICATION NO. A/HSK/81**

- Applicant** : Ka Hung Investment Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 770 S.A (Part), 770 S.B, 771 S.B ss.3 (Part), 817 S.A RP (Part) and 817 S.B RP in D.D. 125 and Adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : 3,194 m<sup>2</sup> (about) (including about 614 m<sup>2</sup> 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** : "Open Space" ("O") (72.3%), an area shown as 'Road' (27.2%) and "Residential (Group A) 3" ("R(A)3") (0.5%)
- Application** : Temporary Vehicle Repair Workshop with Ancillary Vehicle Parking 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 vehicle repair workshop with ancillary vehicle parking for a period of 3 years. The Site falls within "O" zone (72.3%), "R(A)3" zone (0.5%), and an area shown as 'Road' (27.2%). 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. The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is related to 7 previous applications (Application Nos. A/YL-HT/89, 163, 239, 370, 527, 789 and 951) for the various open storage and logistic centre uses. The last application No. A/YL-HT/951 for temporary open storage of plastic and metal and storage of used electrical appliances with ancillary workshop was approved by the Committee with conditions for a period of 3 year on 22.5.2015 and was lapsed on 23.5.2018.
- 1.3 According to the layout plan at **Drawings A-1 and A-2**, the Site is accessible

from Ping Ha Road via a local track through an ingress/egress point at the western boundary of the Site. 3 temporary structures (one to two-storey) are proposed for vehicle repair workshop, store room and office uses with a total floor area of 1,550m<sup>2</sup>. They include a single storey (11m high) structure (1,250m<sup>2</sup>) for vehicle repair workshop; a single storey (4m high) structure (100m<sup>2</sup>) for store room; and a two-storey (7m high) structure (200m<sup>2</sup>) for site office. 12 private car parking spaces, 10 vehicle repair bays for private car/light goods vehicle and 3 vehicle repair bays for medium goods vehicle/heavy goods vehicle are also proposed. The operation hours of the Site are from 8:00 a.m. to 7:00 p.m. from Mondays to Saturdays. No operation will be held on Sundays and public holidays. The proposed landscape and tree preservation plan and as-built drainage plan are at **Drawings A-3 and A-4** respectively.

1.4 Compared with the last approved application (No. A/YL-HT/951), the current application is submitted by the same applicant for different use on the same Site.

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

- (a) Application Form received on 1.6.2018 **(Appendix I)**
- (b) Supplementary Planning Statement with layout plan, **(Appendix Ia)** proposed landscape and tree preservation plan and as-built drainage plan

## **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 planning intentions of the “O” and “R(A)3” zones could not be realized in the near future.
- (b) The Board has approved similar development adjacent to the Site.
- (c) Inadequacy of conventional godown and industrial premises for the applied use.
- (d) The applicant has complied with all the planning conditions for the last planning permission No. A/YL-HT/951.
- (e) The Site is located in “Category 1 areas” in the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) where open storage and port back-up uses are considered suitable.
- (f) The proposed development would not generate significant impact to and is compatible with the surrounding environment. The applicant has proposed mitigation measures, including: provision of 2.5m high peripheral fencing and restricting the operation hours from 8:00 a.m. to 7:00 p.m. 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” and 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 TPO (TPB PG-No. 31) by posting Site notice and sending notice to the Ha Tsuen Rural Committee by registered mail and posting the application notice outside the Site. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The Site is not subject to any enforcement case. Notwithstanding, as the previous planning permission (No. A/YL-HT/951) on this Site has expired on 22.5.2018, should a material change of use be identified on site, which constitutes an authorized development under the Town Planning Ordinance, enforcement action would be instigated subject to sufficient evidence collected.

### **5. Previous Applications**

- 5.1 The Site is the subject of 7 previous applications Nos. A/YL-HT/89, 163, 239, 370, 527, 789 and 951 for similar temporary open storage and logistics centre uses. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Applications Nos. A/YL-HT/89, 163 and 239 for temporary open storage of marble with ancillary office and caretaker’s room were approved by the Committee on 30.7.1999, 25.8.2000 and 15.3.2002 respectively. However, the planning permission of Application No. A/YL-HT/163 was subsequently revoked due to non-compliance with approval conditions on 25.5.2001. Application No. A/YL-HT/370 for temporary logistic transit centre with ancillary vehicle parking facilities for a period of 3 years and the renewal of planning approval (Application No. A/YL-HT/527) under Application No. A/YL-HT/370 for a period of 3 years were approved by the Committee on 28.1.2005 and 18.1.2008 respectively. Application No. A/YL-HT/789 for temporary open storage of plastic and metal and storage of used electrical appliances with ancillary workshop for a period of 3 years was approved by the Committee on 18.5.2012.
- 5.3 The last planning permission (Application No. A/YL-HT/951) for temporary open storage of plastic and metal and storage of used electrical appliances with ancillary workshop for a period of 3 years was approved by the Committee on 22.5.2015. All the approval conditions including the provision of condition record of the drainage facilities and fire extinguishers, and the submission and implementation of FSIs and tree and preservation landscape proposals have been complied with. The planning permission expired on 22.5.2018.
- 5.4 Compared with the last approved application (No. A/YL-HT/951), the current application is submitted by the same applicant for different use on the same Site. However, there are an increase of total floor area from 1,335m<sup>2</sup> to 1,550m<sup>2</sup> (+215m<sup>2</sup>) and provision of parking spaces (12) for private cars and 13 repair bays for vehicles.

## **6. Similar Application**

There is no similar application within the same “O” and “R(A)3” zones.

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

7.1 The Site is:

- (a) currently being used for the applied use without valid planning permission; and
- (b) accessible from Ping Ha Road via a local track through an ingress/egress point at the western boundary of the Site.

7.2 The surrounding areas have the following characteristics:

- (a) predominately open storage/storage yards, logistics centres, vehicle repair workshops, vacant lands, unused lands and graves;
- (b) scattered residential structures are found in the vicinity of the Site with the nearest one located to its immediate west;
- (c) there are an open storage yard and a warehouse to its west under valid planning application Nos. A/YL-HT/1014 and A/HSK/66 respectively, a public vehicle park under valid planning application No. A/HSK/35 to its northwest, and a logistics centre with warehouse under valid planning application No. A/YL-HT/1078 to its east across Ping Ha Road (**Plan A-2**);
- (d) other open storage/storage yards, logistics centres and vehicle repair workshops in the vicinity are suspected unauthorized developments (UDs) subject to enforcement action taken by the Planning Authority.

## **8. Planning Intentions**

8.1 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.

8.2 The “R(A)3” zone is 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.

## **9. Comments from Relevant Government Departments**

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

**Land Administration**

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Government Land (GL) in the Site is covered by Short Term Tenancy (STT) No. 2860 for the propose of “Temporary Open Storage of Plastic and Metal and Storage of Used Electrical Appliances with Ancillary Workshop”.
- (c) The Site is accessible to Ping Ha Road through GL and private lot(s). Her office provides no maintenance works for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No(s). in D.D. 125	STW	Purposes
771 S.B ss.3	3243	Uses Ancillary to Open Storage of Marble and Logistics Transit Centre
817 S.A RP	4186	Temporary Open Storage of Plastic and Metal and Storage of Used Electrical Appliances with Ancillary Workshop
817 S.B RP	4187	Temporary Open Storage of Plastic and Metal and Storage of Used Electrical Appliances with Ancillary Workshop

- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should the planning application be approved, the STT/STW holders will need to apply to her 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 her 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 such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

### **Traffic**

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

- (a) He has no objection in principle to the application from traffic engineering viewpoint.
- (b) Sufficient manoeuvring spaces shall be provided within the subject Site. No vehicles are 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 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**

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one located to its immediate west) (**Plan A-2**) and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant will be 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".

### **Landscape**

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

- (a) The Applicant is advised that approval of the S.16 application by the Town Planning Board does not imply approval of the tree

works such as pruning, transplanting and /or felling. Application for tree works should be submitted direct to DLO for approval.

- (b) In consideration of the temporary nature of the site and its constraints, the Applicant may propose tree species of short life span habit or with less vigorous roots in lieu of the *Ficus microcarpa* should any tree require replacement.
- (c) Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 ([http://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Pictorial\\_Guide\\_for\\_Tree\\_Maintenance.pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf)) and the Handbook of Tree Management (Chinese Version: [https://www.greening.gov.hk/tc/tree\\_care/Handbook\\_on\\_Tree\\_Management.html](https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html)) published by the GLTM Section, DEVB.

### **Drainage**

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

- (d) He has no objection in principle to the proposed application from a drainage point of view.
- (e) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application no. A/YL-HT/951 will be maintained for the subject development.
- (f) 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 his satisfaction.

### **Building Matters**

9.1.7 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 structures existing at the Site and Buildings Department (BD) is not in a position to offer comments on their suitability for the use related to the application.
- (b) If the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized under the BO and should not be designated for any approved use under the captioned application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The

granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the application Site under the BO.

- (d) Before any new building works (including containers/open shed as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Building Works (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.

### **Nature Conservation**

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

As the Site is paved and disturbed, she has no strong view on the application from nature conservation point of view. Should the application be approved, the applicant is advised to ensure that the proposed development would not encroach on and affect the nearby wooded area to the south of the Site.

### **Fire Safety**

#### 9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire services installation (FSIs) being provided to the satisfaction of D of FS.
- (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of



formal submission of general building plans.

### **Long Term Development**

#### 9.1.10 Comments of the Director of Leisure and Cultural Services (DLCS):

The Site falls within the area zoned “R(A)3”, “Road” and “O” on the draft HSK&HT OZP Np. S/HSK/1. It is not on the priority list for development agreed by the Yuen Long District Council. Her office has no plan to develop the Site into public open space at present. Her office notes the application period is only three years and has no in-principle objection to the application.

#### 9.1.11 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 infrastructures 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 stage. 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.

### **District Officer’s Comments**

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

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

#### 9.1.13 The following Government departments have no comment on the application:

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

## **10. Public Comments Received During Statutory Publication Period**

On 8.6.2018, the application was published for public inspection. During the first

three weeks of the statutory public inspection period which ended on 29.6.2018, no public comment was received.

## 11. **Planning Considerations and Assessment**

- 11.1 The Site falls within “O” zone (72.3%), “R(A)3” zone (0.5%), and an area shown as ‘Road’ (27.2%). “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. “R(A)3 zone is intended primarily for high-density residential developments. Whilst the development is not in line with the planning intentions of the “O” zone and “R(A)3” zone, the Site falls within area partly shown as ‘Road’, the implementation programme for this part of NDA is still being formulated, PM/NTW of CEDD and DLCS have 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.
- 11.2 The applied use is not incompatible with the surrounding uses which are predominantly occupied for open storage, public vehicle park, logistics centre, and warehouse uses.
- 11.3 There is no adverse comment on the application from concerned Government departments, except DEP. DEP does not support the application as there are sensitive uses in vicinity (with the nearest residential structure is next to the immediate south of the Site (**Plan A-2**)), and environmental nuisance is expected. However, there has been no substantial environmental complaint concerning the Site received in the past 3 years. To address the concerns on environmental aspect and the technical requirements of other concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact, and to keep the Site clean and tidy at all times.
- 11.4 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 above, the Planning Department considers that the temporary vehicle repair workshop with ancillary vehicle parking 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 **20.7.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the public road at any times during the planning approval period;
- (d) the existing trees and landscape planting on the Site shall be maintained at all time during the planning approval period;
- (e) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (f) the existing drainage facilities on-Site shall be maintained at all times during the planning approval period;
- (g) the submission of a condition record of existing drainage facilities within **3** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **20.10.2018**;
- (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 **20.1.2019**;
- (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 **20.4.2019**;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) 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;
- (k) if any of the above planning conditions (g), (h) or (i) 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
- (l) upon expiry of the planning permission, the reinstatement of the application 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 attached at **Appendix III**.

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

- (a) the applied use is not in line with the planning intentions of the "O" and "R(A)3" zones which are 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, and for high-density residential developments. There is no strong planning justification in the submission for a departure from the planning intentions, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied development would not have adverse environmental impact on the surrounding areas.

### **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**

<b>Appendix I</b>	Application Form received on 1.6.2018
<b>Appendix Ia</b>	Supplementary Planning Statement with layout plan, proposed landscape and tree preservation plan and as-built drainage plan
<b>Appendix II</b>	Previous Applications covering the Application Site
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Landscape and Tree Preservation Plan
<b>Drawing A-4</b>	As-built Drainage Plan
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a to 4c</b>	Site Photos