

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/296

- Applicant** : Mr. FUNG Kam Tong represented by Metro Planning & Development Company Limited
- Site** : Lots 674 (Part), 675 S.A (Part), 675 S.B (Part) and 676 in D.D. 125 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long
- Site Area** : About 845m² (including GL of about 40m² or 4.7%)
- 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** : “Open Space” (“O”)
- Application** : Temporary Warehouse for Storage of Food Provision 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 warehouse for storage of food provision for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “O” on the approved HSK and HT OZP. According to the covering Notes of the OZP, temporary use not exceeding a period of three years 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 (**Plan A-4**).
- 1.2 The Site is accessible from San Sik Road via a local track and the ingress/egress point is at the southern corner of the Site (**Drawing A-2 and Plans A-2 to A-3**). 5 single-storey temporary structures with a total floor area of about 628m² (not exceeding 5.5m in height) for a warehouse for storage of food provision, 3 rain shelters and a toilet are proposed. A loading/unloading bay for light goods vehicle (7m x 3.5m) is also proposed. The operation hours will be from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays, and no operation will be held on Sundays and public holidays. The proposed tree preservation plan and drainage plan submitted by the applicant are at **Drawings A-3 and A-4**.
- 1.3 A summary of the major development parameters of the current application is given in the following table:

Applied Use	Temporary warehouse for storage of food provision (3 years)
Site Area	845m ²
No. of Structures	5 (warehouse, 3 rain-shelters and toilet)
Total Floor Area	628m ²
Height of Structures	Single-storey (not more than 5.5m high)
No. of Loading/ Unloading Spaces	1 for light goods vehicle
Operation Hours	9:00 a.m. to 7:00 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays

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

- (a) Application Form received on 5.2.2021 **(Appendix I)**
- (b) Supplementary Information (SI) received on 9.2.2021 providing replacement pages of application form, updated annexes and gist of application **(Appendix Ia)**
- (c) Further Information (FI) received on 18.3.2021 clarifying loading/unloading space for light goods vehicle **(Appendix Ib)**

2. Justifications from the Applicant

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

- (a) The Site has been used for the applied use for more than two decades and the applicant wish to regularize the proposed development as the temporary structures are required to be regularized by Squatter Control Unit of Lands Department.
- (b) The Site just adjoins a similar warehouse for storage of food provision with planning permission under application No. A/HSK/49 within the same “O” zoning. The planning circumstances pertaining to the Site are similar to the recent approval of adjacent open storage and port back-up uses. Preferential consideration should be given to the current application.
- (c) The proposed development conforms to the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) since the applied use existed for two decades.¹ The proposed development is not a new development on green site and does not involve erection of new structures.
- (d) The proposed development is a temporary use for a period of 3 years and would not jeopardize the long-term planning intention of the current zoning.
- (e) The applied use is not incompatible with the surrounding environment including open storage and port back-up uses.
- (f) There is a shortage of land for port back-up purpose in Ha Tsuen.
- (g) There are insignificant environmental and noise impacts since the applied use is housed within an enclosed structure and no operation will be held during sensitive hours. There will also be insignificant drainage impact because surface U-channel has been provided at the Site. Minimal traffic impact is expected.

¹ TPB PG-No. 13F is not applicable to the applied warehouse use.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPB PG-No. 31A are not applicable to the Government land portion.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Application

The Site is not the subject of any previous planning application.

6. Similar Applications

- 6.1 There are two similar applications (No. A/HSK/49 and 282) for warehouse use at one site within the same “O” zone. Details of these applications are summarized at **Appendix II** and its location is shown on **Plan A-1**.
- 6.2 Both applications were approved with conditions by the Committee on 2.3.2018 and 22.1.2021 on the considerations that approval of the application on a temporary basis would not jeopardize the long-term development; the applied use was generally not incompatible with the surrounding land uses; and no adverse comment from concerned Government departments.

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

- 7.1 The Site is:
 - (a) currently used for storage of food provision without valid planning permission; and
 - (b) accessible to San Sik Road via a local track.
- 7.2 The surrounding areas have the following characteristics:
 - (a) to its immediate north and northeast are an open storage yard of recycling materials and a piece of unused land while to its further north and northwest are two open storage yards of recycling materials under valid planning permissions;
 - (b) to its immediate east is an open storage yard of recycling materials while to its further east are some village houses (Grantham) within the adjoining “Village Type Development” (“V”) zone;
 - (c) to its south across a local track, are two residential dwellings (the closest being 7m away), an open storage yard of recycling materials and some parking of vehicles; and

- (d) to its immediate west is a warehouse for storage of food provision under valid planning permission, while to its further west are a warehouse, several open storage yards of recycling materials and construction materials, and a vehicle repair workshop intermixed with some residential dwellings.

8. Planning Intention

The planning intention of the “O” zone is 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 received 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 (OSALs) and GL. The OSALs are 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 of Lot Nos. 675 S.A and 675 S.B in D.D. 125 is covered by Short Term Waiver (STW) No. 4523 to permit structures for the purpose of “Temporary Storage of Food Provision”.
- (c) No permission is given for occupation of the GL included in the Site (about 40m² subject to verification). The act of occupation of GL without Government’s prior approval is not allowed.
- (d) Should the application be approved, the STW holders will need to apply to his office for modification of the STW conditions where appropriate. 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 to regularize any irregularities on Site, if any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

9.1.2 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 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 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/drain.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and San Sik Road.

Environment

9.1.4 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'.

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, he would suggest that a condition should be stipulated requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (c) The applicant should be reminded of the detailed comments in **Appendix IV**.

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

- (a) With reference to the site visit conducted by his office on 24.2.2021, the Site is mainly occupied by a large temporary structure with some small existing trees at the southern and north-eastern portions of the Site. The Site is situated in an area of rural landscape character predominated by temporary structures and village houses. Significant change to the landscape character arising from the application is not envisaged. Hence, he has no objection to the application from landscape planning perspective.
- (b) In view that the Site is not facing any prominent public frontage, it is suggested to impose an approval condition to maintain all existing trees within the Site in good condition during the planning approval period.
- (c) The applicant should be reminded of the detailed comments in **Appendix IV**.

Building Matters

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

- (a) Existing structures are found on the Site. The applicant's attention shall be drawn if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of Building Authority, they are unauthorized building works (UBW) under Buildings Ordinance.
- (b) The applicant should be reminded of the detailed comments in **Appendix IV**.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire services 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 be reminded of the detailed comments in **Appendix IV**.

Long-Term Development

9.1.9 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, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of Hung Shui Kiu/Ha Tsuen New Development Area (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 Second Phase and 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 Second Phase development will commence in 2024. In this regard and subject to the necessary approval as required, the Government planned to acquire these relevant sites by end 2023 for the development of HSK/HT NDA.

Others

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

- (a) The Site is zoned “O” on the approved HSK & HT OZP No. S/HSK/2. It is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.
- (b) Since the application is for three years only, he has no in-principle objection to the application.

District Officer’s Comments

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

- (a) He has no comment on the application from departmental point of view.
- (b) His office has not received any comment from the locals on the application.

9.2. The following Government departments have no comments on the application:

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

10. Public Comment Received During Statutory Publication Period

On 19.2.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four 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 including air and noise pollution for the villagers and request for early implementation of the intended use on the OZP (**Appendices III-1 to 4**).

11. Planning Considerations and Assessment

- 11.1 The application is for proposed temporary warehouse for storage of food provision for a period of 3 years at a site within an area zoned “O” on the OZP. The planning intention of the “O” zone is 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 applied use is not in line with the planning intention of the “O” zone, PM/W of CEDD and DLCS have no objection to the temporary use at the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government projects.
- 11.2 The Site is located in an area predominantly occupied by various warehouse and open storage uses. The applied use is generally not incompatible with the surrounding major land uses.
- 11.3 Relevant Government departments, including C for T, CE/MN, DSD, DEP and D of FS, have no objection to or adverse comment on the application. It is anticipated that there would be no significant traffic, drainage, environmental and fire safety impacts from the applied use. 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 12.2 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.
- 11.4 The Committee has approved two similar applications for the same use at an adjoining site (**Plan A-1**). Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 There are four public comments received on the application during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in the above paragraphs are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary warehouse for storage of food provision 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 **26.3.2024**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation from 7:00 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 goods vehicles exceeding 5.5 tonnes, as defined in the Road Traffic Ordinance, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (e) the existing trees on the Site shall be maintained in good condition at all times during the planning approval period;
- (f) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **26.9.2021**;
- (g) in relation to (f) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **26.12.2021**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (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 **26.9.2021**;
- (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 **26.12.2021**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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 (f), (g), (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 IV**.

- 12.3 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 "O" zone which is 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. There is no strong planning justification to deviate from the planning intention, 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 5.2.2021 with drawings
Appendix Ia	SI received on 9.2.2021
Appendix Ib	FI received on 18.3.2021
Appendix II	Similar Applications Within the Same “O” Zone on the approved Hung Shui Kiu and Ha Tsuen OZP
Appendices III-1 to 4	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Tree Preservation Plan
Drawing A-4	Proposed Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**