

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/310

- Applicant** : Wealthy Great Investment Limited represented by Lanbase Surveyors Limited
- Site** : Lots 844 RP (Part), 845 (Part) and 850 S.B RP (Part) in D.D. 125, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 1,130 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Residential (Group A) 3” (“R(A)3”) (about 56%); and
[restricted to a maximum plot ratio of 5.5 and a maximum building height of 140 mPD]
an area shown as ‘Road’ (about 44%)
- Application** : Temporary Open Storage of Construction Materials with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning approval to use the application site (the Site) for temporary open storage of construction materials with ancillary office for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “R(A)3” (56%) and shown as ‘Road’ (44%) on the approved HSK and HT OZP. According to the covering Notes of the OZPs, 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 was involved in 2 previous applications for temporary open storage for construction materials (**Plan A-1**). The last application No. A/YL-HT/1068 for temporary open storage of construction materials and storage with ancillary office was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 3.3.2017. All time-limited approval conditions had been complied with. However, the planning permission lapsed on 4.3.2020.

- 1.3 The Site is directly abutting Ping Ha Road (**Drawing A-1 and Plan A-2**) with the ingress/egress located at the western boundary of the Site. As shown on the layout plan at **Drawing A-1**, 9 temporary structures/converted containers/rain shelters, with a total floor area of about 388.81 m² and building height not exceeding 5.9 m (1-2 storeys) for storage, office, meter room and toilet uses are proposed. 1 loading/unloading bay for heavy goods vehicle (HGV) is also proposed. According to the applicant, the proposed operation hours will be between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The proposed layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 A comparison of the major development parameters of the current application and the last approved application is given in the following table.

Major Development Parameters	Last Approved Application (A/YL-HT/1068) (a)	Current Application (A/HSK/310) (b)	Difference (b) - (a)
Applied Use	Temporary open storage of construction materials and storage with ancillary office (3 years)	Temporary open storage of construction materials with ancillary office (3 years)	Deletion of storage use
Site Area	1,130 m ²		Same
No. of Structures	5	9	+4 (additional structures for storage, meter room and toilet)
Total Floor Area	410.16 m ²	388.81 m ²	-21.35 m ² (-5.2%)
Loading/unloading bay	Nil	1 for HGV	+1 for HGV
Operation Hours	9:00 a.m. to 6:00 p.m., from Mondays to Friday, with no operation on Sundays and public holidays		Same

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 29.4.2021 **(Appendix I)**
 - (b) Planning Statement with plans **(Appendix Ia)**
 - (c) Further Information (FI) received on 25.5.2021 & 31.5.2021 in response to Transport Department's (TD) comments with clarification on the size of loading/unloading bay **(Appendix Ib)**
 - (d) FI received on 3.6.2021 in response to TD's comments **(Appendix Ic)**
[(c) and (d) exempted from publication and recounting requirements]

2. Justifications from the Applicant

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

- (a) The Site was granted with 9 planning permissions¹ for similar uses between 2000 and 2017. As the site condition remain unchanged, the current application should be approved.
- (b) All approval conditions imposed in the last application had been complied with, thus demonstrating the applicant's genuine efforts in complying the conditions. As such, favourable consideration should be given.
- (c) Planning applications with similar port back-up uses in the vicinity were approved in recent years. Besides, the surrounding area is generally occupied by public vehicle parks, open storage yards and other port back-up uses, the applied use is compatible with the surrounding land uses.
- (d) The proposed development is in line with TPB PG-No.13F in that previous approvals were given and the Site is not required for the current stage of the NDA implementation programme.
- (e) The applied use and site condition are similar to those of the last approved application. In this regard, no additional drainage, environment and traffic impacts are anticipated.

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

The applicant is one of the “current land owners” 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 Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the relevant rural committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site falls within Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

6.1 The Site was involved in two previous applications (No. A/YL-HT/879 and 1068)

¹ The Site is only subject to two previous applications (No. A/YL-HT/879 and 1068) as the other applications mentioned by the applicant only overlapped minor portions of the Site.

for temporary open storage of construction materials with ancillary office. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

- 6.2 Both previous applications were approved with conditions by the Committee for a period of 3 years in 2014 and 2017 respectively on the considerations that the applied use was not incompatible with the surrounding areas; generally in line with the then Town Planning Board Guidelines TPB PG-No. 13; and no major adverse comment from concerned Government departments.
- 6.3 The last application No. A/YL-HT/1068 for temporary open storage of construction materials and storage with ancillary office was approved with conditions for a period of 3 years by the Committee on 3.3.2017. All time-limited approval conditions had been complied with. The planning permission lapsed on 4.3.2020.
- 6.4 Compared with the last application, the current application is submitted by a different applicant at the same site for similar open storage use, and the site layout primarily remain unchanged.

7. Similar Application

There is one similar application No. A/HSK/24 within the same “R(A)3” zone on the HSK and HT OZP for temporary open storage of construction materials and construction machinery, warehouse and container vehicle park for a period of 3 years, which was approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.2 above. Details of this application are summarized at **Appendix IV** and its location is shown on **Plan A-1**.

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

- 8.1 The Site is:
 - (a) currently used for the applied use without valid planning permission; and
 - (b) directly abutting Ping Ha Road.
- 8.2 The surrounding areas have the following characteristics:
 - (a) to its north are an open storage yard of motorcycles, a residential dwelling and a logistics centre; to its further northwest is an open storage yard and vehicle repair workshop under valid planning permission;
 - (b) to its immediate east is an open storage of construction materials, machinery and warehouse; while to its further east are some vegetated land;
 - (c) to its immediate south is a warehouse with valid planning permission; while to its further south is a residential dwelling (being about 35 m away) and a workshop (**Plan A-2**); and
 - (d) to its west is Ping Ha Road; to its further west across Ping Ha Road are some village houses of Tung Tau Tsuen.

9. Planning Intention

The planning intention of the “R(A)3” zone is 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.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) Details of the private lots covered by Short Term Waivers (STWs) are at **Appendix VII**.
- (c) Should the application be approved, the STW holders should apply to his office for modification of the STW conditions where appropriate, if any. Besides, given the proposed use is temporary in nature, only application for regularization 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 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 on the application from traffic engineering viewpoint.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.

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/drainage.
- (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) He does not support the application because there are sensitive receivers in the vicinity (the nearest residential dwelling being about 35 m away) (**Plan A-2**) and environmental nuisance is expected.
- (b) There was no environmental complaint pertaining to the Site received in the past three years.
- (c) 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' to minimize any potential environmental nuisance.

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 the previous application No. A/YL-HT/1068 will be maintained. He has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, he would suggest to stipulate a condition requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (c) The applicant should be reminded of the detailed comments at **Appendix VII**.

Building Matters

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site.
- (b) The applicant should be reminded of the detailed comments at **Appendix VII**.

Fire Safety

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

- (a) He has no objection in principle to the 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 applicant should adhere to the ‘Good Practice Guidelines for Open Storage’ at **Appendix V**.
- (d) Having considered the nature of the open storage, an additional approval condition requiring “the provision of fire extinguisher(s) within 6 weeks from the date of planning approval” should be stipulated. To address this approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval.
- (e) The applicant should be reminded of the detailed comments at **Appendix VII**.

Long-Term Development

10.1.8 Comments of the Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD):

- (a) He has no objection to the application for temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of HSK/HT NDA. To ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot(s) concerned falls within the Site under Remaining Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that the site formation and engineering infrastructure works for Remaining Phase development will commence in 2030.

District Officer’s Comment

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

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

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

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

11. Public Comments Received During Statutory Publication Period

On 7.5.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received. The commenters raised concerns/objected to the application on the reasons that the proposed development would increase traffic flow, resulting in traffic congestion, environmental degradation and posing potential fire hazard, thus affecting the villagers' safety and quality of life; and approval of the current application would frustrate the planned development of the NDA (**Appendices VI-1 to 2**).

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of construction materials with ancillary office for a period of 3 years at the Site falling within an area zoned "R(A)3" (56%) and shown as 'Road' (44%) on the OZP. The planning intention of the "R(A)3" zone is 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. Whilst the applied use is not in line with the planning intention of the "R(A)3" zone, the implementation programme for this part of NDA is still being formulated, and PM/W of CEDD has no objection to the proposed 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 area. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government projects.

12.2 The Site is situated in an area mixed with warehouse, open storage yard, workshop and village houses. The applied use is generally not incompatible with the surrounding land uses (**Plan A-2**).

12.3 The Site falls within the HSK/HT NDA. For applications in NDAs, the following considerations under the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against

such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.

- 12.4 The applied use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and previous planning approvals have been given. Further, the applied use of the current application is similar to the proposed development under the last approved application No. A/YL-HT/1068. Noting that all approval conditions of the last application had been complied with and the permission has recently lapsed, sympathetic consideration could be given to the current application.
- 12.5 There is no objection to or adverse comment on the application from concerned Government departments, except DEP. DEP does not support the application because there are sensitive receivers in the vicinity (the nearest residential dwelling being about 35 m away), and environmental nuisances are expected (**Plan A-2**). However, there has not been any environmental complaints 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 any unauthorized development on the Site would be 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 surrounding areas.
- 12.6 There were two previously approved planning applications for the same applied use at the Site (**Plan A-1 and Appendix III**) and one similar approved application within the same "R(A)3" zone on the OZP (**Plan A-1 and Appendix IV**). Approval of the current application is in line with the Committee's previous decisions.
- 12.7 There were two public comments received during the statutory publication period as summarized in paragraph 11 above. The planning considerations and assessments in the above paragraphs are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary open storage of construction materials with ancillary office 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 **25.6.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference

Approval conditions

- (a) no operation from 6:00 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 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 landscape planting on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **25.9.2021**;
- (g) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **6.8.2021**;
- (h) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **25.12.2021**;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **25.3.2022**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (k) if any of the above planning conditions (f), (g), (h) or (i) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the applied use is not in line with the planning intention of the "R(A)3" zone, which is intended primarily for high-density residential developments. There is no strong planning justification to deviate from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied use would not have adverse environmental impact on the surroundings areas.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 29.4.2021
Appendix Ia	Planning Statement with plans
Appendix Ib	FI received on 25.5.2021 & 31.5.2021
Appendix Ic	FI received on 3.6.2021
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Previous Applications
Appendix IV	Similar Application
Appendix V	Good Practice Guidelines for Open Storage issued by the Director of Fire Services
Appendices VI-1 to 2	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**