

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/328

- Applicant** : Lead Rise International Limited represented by R-riches Property Consultants Limited
- Site** : Lots 6 S.C (Part) and 7 (Part) in D.D. 125, Fung Kong Tsuen, Yuen Long, New Territories
- Site Area** : about 1,346m²
- 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** : “Government, Institution or Community” (“G/IC”)
[Restricted to a maximum building height of 8 storeys]
- Application** : Proposed Temporary Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (construction materials retail shop) for a period of 5 years (**Plan A-1**). The Site falls within an area zoned “G/IC” on the approved HSK and HT OZP. According to the Notes of the OZP, ‘Shop and Services’ under “G/IC” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for open storage of construction materials and machinery without valid planning permission (**Plan A-4**).
- 1.2 The Site is partly involved in a previous application (No. A/HSK/27) for proposed temporary fish farming (accredited fish farm) and orchard (**Plan A-1**), which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 8.12.2017 for a period of 3 years. The planning approval was subsequently revoked on 8.12.2018 due to non-compliance with time-limited approval conditions. The current application is submitted by a different applicant at a smaller site for a different use for a longer period of 5 years.
- 1.3 The Site is accessible from Fong Kong Tsuen Road and Kai Pak Ling Road via a local track with the ingress/egress point located at the north-western corner of the Site (**Drawing A-1, Plans A-2 and A-3**). As shown on the proposed layout plan

at **Drawing A-2**, 3 temporary structures (1 or 2-storey; 3m to 6m high) with a total floor area of 276m² are proposed for shop and services, office and storage purposes. Site coverage of the structures are about 18% and the uncovered area (82%) will be used for circulation and parking (4 parking spaces for private cars and 1 loading/unloading space for light goods vehicle). According to the applicant, no workshop activities and no storage of dangerous goods would be carried out in the Site. The operation hours of the Site are from 9:00 a.m. to 6:00 p.m. daily including Sundays and public holidays.

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

- (a) Application Form received on 27.7.2021 with plans (Appendix I)
- (b) Further Information on the estimated trip generation (Appendix Ia)
received on 10.8.2021

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 application is submitted on a temporary basis and would not jeopardise the long-term planning intention of the “G/IC” zone.
- (b) Sufficient manoeuvring space is provided within the Site to ensure no queueing and turning back outside the Site onto the public road. Medium or heavy goods vehicles including container trailer/tractor are prohibited to be parked or stored at the Site.
- (c) The applicant will strictly follow the ‘Professional Persons Environmental Consultative Committee Practice Notes’ for sewage treatment at the Site and the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department (EPD) to minimize all possible environmental impacts on the nearby sensitive receivers. No workshop activities and no storage of dangerous goods will be carried out at the Site at any time during the planning approval period.
- (d) The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Adequate mitigation measures by way of submission of drainage, landscape and fire service installations (FSIs) proposals will be provided after granting of planning approval.

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 notices and sending notices to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action. Should there be sufficient evidence to prove that the current operation on the Site constitutes an unauthorized development under the Town Planning Ordinance, appropriate enforcement action will be taken.

5. Previous Application

- 5.1 The Site is partly involved in one previous application (No. A/HSK/27) for proposed temporary fish farming (accredited fish farm) and orchard (**Plan A-1**). Details of that application are summarized at **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 The application (No. A/HSK/27) was approved with conditions by the Committee on 8.12.2017 for a period of 3 years on the considerations that approval of the application on a temporary basis would not jeopardise the long-term development of the site; the applied use was not incompatible with the surrounding areas, and no major adverse comment from concerned Government departments. The planning approval was subsequently revoked on 8.12.2018 due to non-compliance with time-limited approval conditions on the submission and implementation of both revised landscape and drainage proposals, as well as implementation of FSIs proposal. The proposed development had not commenced. Compared with the last application, the current application is submitted by a different applicant at a smaller site with a different use, layout and development parameters.

6. Similar Applications

- 6.1 There are four similar applications (No. A/HSK/193, 233, 255 and 291) within the same “G/IC” zone on the OZP for temporary shop and services with or without wholesale trade. Two of the applications (No. A/HSK/233 and 291), both straddling over the “G/IC” and “Village Type Development” (“V”) zones, were approved with conditions by the Committee in 2020 and 2021 on the considerations that approval of the applications on temporary basis would not jeopardise the long-term development of the Site; the anticipated environmental impacts on the surrounding would not be significant given their small scale (about 630m² in No. A/HSK/233 and about 508m² in No. A/HSK/291), even though the proposed development was not entirely compatible with the surrounding areas; and the sites fell partly within the “V” zone and could serve the needs of the nearby villagers.
- 6.2 Other 2 applications (No. A/HSK/193 and 255) on the same site were rejected by the Committee in 2019 and 2020 on the grounds that the applied uses were not in line with the planning intention of “G/IC” zone; the proposed development was not compatible with the surrounding residential uses, although there were open storage and workshop in the vicinity of the site, they were mostly suspected unauthorised developments; the open area of the application site not commensurate in scale with the proposed development¹; and approval of the application would create an undesirable precedent. Details of the applications are summarized at **Appendix III**

¹ For application No. A/HSK/255, the open area within the application site, constituting to 87% of the site area (about 1,635m²) and intended for circulation, manoeuvring and parking purposes, was considered not commensurate in scale with the proposed development with a total floor area of about 307.5m².

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

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

7.1 The Site is:

- (a) currently fenced off and used for open storage of construction materials and machinery without valid planning permission; and
- (b) accessible from Fung Kong Tsuen Road and Kai Pak Ling Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its northwest are two open storage yards of construction materials and/or machinery and a vehicle repair workshop, while further northwest are an open storage yard of recycling material and a vacant formed site;
- (b) to its east and northeast are vacant land and residential dwellings of Fung Kong Tsuen (the nearest residential dwelling being about 46m away)(**Plan A-2**);
- (c) to its south and southeast are open storage yards of vehicles, construction materials and containers; and
- (d) to its immediate west is an open storage yard of construction materials, while further west are a fish farm and some vacant formed land.

8. Planning Intention

The planning intention of the “G/IC” zone is 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.

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 an Old Schedule Agricultural Lot 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 applicant should be reminded of the detailed comments in **Appendix IV**.

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 or reverse onto/ from public roads.
- (c) The applicant should be reminded of the detailed comments in **Appendix IV**.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/ drains.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Fung Kong Tsuen 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 planning 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' ('COP').

Drainage

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

- (a) She has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, 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 her Division.

Building Matters

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

The applicant should be reminded of the detailed comments in **Appendix IV**.

Fire Safety

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

- (a) He has no objection in principle to the application subject to 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 him for approval.
- (c) The applicant should be reminded of the detailed comments in **Appendix IV**.

Long-Term Development

9.1.8 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 5 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 Hung Shui Kiu/Ha Tsuen (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 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 Remaining Phase development will commence in 2030.

District Officer's Comments

9.1.9 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 comment from the locals on the application.

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

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

10. Public Comment

On 3.8.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessment

- 11.1 The application is for temporary shop and services for a period of 5 years at the Site within an area zoned “G/IC” on the OZP. The planning intention of the “G/IC” zone is 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. The applicant seeks planning permission for ‘shop and services’ use for retailing of construction materials. However, the proposed development only has a total floor area of about 276m² with site coverage of about 18% (**Drawing A-2**), which includes a single-storey structure (3m high) with a floor area of 108 m² for ‘shop and services’ purpose, one single-storey structure for office and storage uses and another 2-storey structure for office use. The applicant also indicates in the submission that the open area within the Site is intended for circulation and parking purposes only. In this regard, the open area constituting to 82% (about 1,100m²) of the site area is considered excessive and not commensurate in scale with the proposed ‘shop and services’ use. The applied use is therefore considered not in line with the planning intention of the “G/IC” zone. The applicant has not provided strong justifications in the submission for a departure from the planning intention, even on a temporary basis.
- 11.2 The Site is situated in an area in close proximity to residential dwellings within the adjoining “V” zone of Fung Kong Tsuen to its northeast and east (the nearest residential dwelling being 46m away) (**Plan A-2**). Although there are open storage yards and workshops in the vicinity of the Site, they are mostly suspected unauthorised developments subject to enforcement actions by the Planning Authority. The applied use involving construction materials retail shop is not entirely compatible with the surrounding environment, in particular the village cluster of Fong Kong Tsuen.
- 11.3 Other concerned government departments, including C for T, CE/MN, DSD, D of FS and DEP, have no objection to or adverse comment on the application.
- 11.4 The Site is partly involved in a previous approved application for a different use. There are two similar applications on the same site (No. A/HSK/193 and 255) for proposed temporary shop and services rejected by the Committee mainly on the grounds of being not in line with the planning intention of the “G/IC” zone, not compatible with the surrounding residential areas, the proposed open area being not commensurate in scale with the total floor area of the proposed development and setting of an undesirable precedent for similar applications. Rejecting the current application is in line with the Committee’s previous decisions. Although there are other two similar applications for shop and services use (No. A/HSK/233 and 291) partly within the subject “G/IC” zone approved by the Committee (**Plan A-1**), these applications were of smaller scale (about 508m² and 630m²) and the resulting environmental nuisance was anticipated to be less significant.
- 11.5 No public comment was received on the application during the statutory publication period.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 above, the Planning Department does not support the application for the following reason:

the applied use, which involves excessive open area not commensurate in scale with the proposed shop and services use, is not in line with the planning intention of the "G/IC" zone which is 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.

12.2 Alternatively, 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 5 years until **24.9.2026**. 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 workshop activities and no storage of dangerous goods, as proposed by the applicant, is allowed on the site during the planning approval period;
- (c) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **24.3.2022**;
- (d) in relation to (c) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **24.6.2022**;
- (e) in relation to (d) above, the implemented drainage facilities on Site shall be maintained at all times during the planning approval period;
- (f) 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 **24.3.2022**;
- (g) in relation to (f) 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 **24.6.2022**;
- (h) if any of the above planning conditions (a), (b) 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
- (i) if any of the above planning conditions (c), (d), (f) or (g) 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**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application Form and plans received on 27.7.2021
Appendix Ia	FI received on 10.8.2021
Appendix II	Previous Applications Covering the Site
Appendix III	Similar Applications Within the Same “G/IC” zone
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan (from Fong Kong Tsuen Road)
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**