

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/338

- Applicant** : Honest Board Development Limited represented by Metro Planning and Development Company Limited
- Site** : Lots No. 31 RP (Part) and 32 RP in D.D. 128, Lots No. 2433 (Part), 2436 (Part), 2437 (Part), 2438 S.B (Part), 2958 (Part), 2959 (Part), 2960 (Part), 2961 S.A ss.1 (Part), 2961 RP (Part), 2962 (Part), 2963 (Part), 2964, 2965, 2966, 2967 S.A, 2967 RP, 2968 S.A, 2968 S.B, 2969, 2970, 2971, 2972, 2973, 2974 (Part), 2975 S.A (Part), 2975 S.B (Part), 2976 (Part), 2977 S.A (Part), 2977 S.B (Part), 2983 RP (Part), 2984, 2985, 2986, 2987, 2988 (Part), 2989 RP (Part), 2991 RP (Part), 3085 (Part), 3086 (Part) and 3087 (Part) in D.D. 129 and Adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 17,256 m² (including GL of about 398 m² or 2.3%)
- Land Status** : 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
- Zonings** : (i) Open Space” (“O”) (77%);
(ii) “Residential (Group B)2” (“R(B)2”) (10.8%)
[Restricted to maximum plot ratio of 2.5 and maximum building height (BH) of 60mPD];
(iii) “Government, Institution or Community” (“G/IC”) (0.2%)
[Restricted to maximum BH of 8 storeys]; and
(iv) an area shown as ‘Road’ (12%)
- Application** : Temporary Logistics Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary logistics centre for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls within an area straddling the “O” (about 77%) and “R(B)2” (about 10.8%) zones and an area shown as ‘Road’ (about 12%) with a very minor portion with the “G/IC” zone on the approved HSK and HT OZP. 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 “O” and “R(B)2” 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. In any area shown as 'Road' on the OZP, all uses or developments require planning permission from the Board. The Site is currently used for the applied use without valid planning permission (**Plans A-4a and A-4b**).

- 1.2 The Site is accessible from Lau Fau Shan Road via a local track (**Drawing A-1 and Plans A-2 and A-3**) through the ingress/egress point at the eastern corner of the Site. As shown on the layout plan at **Drawing A-2**, 2 single-storey temporary structures (both not exceeding 13m high) for logistics centres occupy the northern and western portions of the Site, and 3 other single-storey temporary structures (all 3m high) for toilets and pump room respectively are also provided. The southern and central strips of the Site are for passage, manoeuvring and parking of vehicles, 4 loading/unloading (L/UL) spaces for medium/heavy goods vehicles (11m x 3.5m each) and 4 L/UL spaces for container trailers/tractors (16m x 3.5m each). No recycling, cleansing, repairing, dismantling and workshop activities are allowed. The operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays and no operation will be held on Sundays and public holidays. The as-built drainage plan and the fire service installations (FSIs) proposal submitted by the applicant are shown on **Drawings A-3 and A-4** respectively.
- 1.3 The Site is related to 5 previous applications (No. A/YL-HT/99, 166, 268 and 690 and No. A/HSK/160) for various open storage uses and logistic centre approved by the Rural and New Town Planning Committee of the Board (the Committee) between 1999 and 2019. The last approved application No. A/HSK/160 for temporary logistics centre was approved by the Committee on 19.7.2019. The planning permission was subsequently revoked on 19.12.2021 due to non-compliance with time-limited approval condition on the implementation of the FSIs proposal.
- 1.4 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/HSK/160) (a) | Current Application No. A/HSK/338 (b) | Difference (b) - (a) |
|-------------------------------------|---|---|-----------------------------|
| Applied Use | Temporary Logistics Centre for a period of 3 years | Temporary Logistics Centre for a period of 3 years | Same |
| Site Area | 17,256 m ² | 17,256 m ² | Same |
| No. of Structures | 4 | 5 | +1 |
| Total GFA | 13,520 m ² | 12,272m ² | -1,248 m ² |
| Height of Structure | 1-2 storeys (3m-13m high) | 1 storey (3m-13m high) | -1 storey |
| No. of L/ UL Spaces | 8 (4 for medium/heavy goods vehicles and 4 for container trailers/tractors) | 8 (4 for medium/heavy goods vehicles and 4 for container trailers/tractors) | Same |

| | | |
|------------------------|--|------|
| Operation Hours | Mondays to Saturdays: 7:00 a.m. to 11:00 p.m. 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 with annex and plans received on 2.11.2021 **(Appendix I)**
- (b) Supplementary information (SI) received on 3.11.2021 **(Appendix Ia)**
- (c) Further information (FI) received on 24.2.2022 **(Appendix Ib)**

1.6 At the request of the applicant, the Committee on 24.12.2021 agreed to defer a decision on the application for two months so as to allow time for the applicant to submit FI to address departmental comments. After the deferment, the latest FI was received on 24.2.2022. The application is therefore scheduled for consideration by the Committee at this meeting.

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 proposed development conforms to the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) as it is the subject of several planning approvals including the last approved application No. A/HSK/160 which was for the same use. The open storage and port back-up uses adjoining the Site were granted with planning permissions and preferential treatment to this application is requested.
- (b) The proposed development is temporary in nature for a period of 3 years and will not jeopardize the long-term planning of the area.
- (c) The applied use is not incompatible with its surrounding uses which are predominantly open storage and port back-up uses.
- (d) The traffic impact is expected to be minimal. The noise, environmental and drainage impacts to the surrounding areas are envisaged to be insignificant because the applied use will be operated within enclosed structures and there are existing drainage facilities to serve the Site. No recycling, cleaning, repairing, dismantling work nor other workshop activities would be carried out in the Site.
- (e) There is a shortage of land for port back-up uses in Ha Tsuen.

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 publishing newspaper notice. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPG PG-No.31A are not applicable

to the GL portion.

4. Background

The Site is currently not subject to planning enforcement action.

5. 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**.

6. Previous Applications

- 6.1 The Site is related to 5 previous applications No. A/YL-HT/99, 166, 268, 690 and A/HSK/160 for various open storage uses and logistics centre. All previous applications were approved with conditions by the Committee between 1999 and 2019 on the considerations that the applied uses were not incompatible with the surrounding areas; being generally in line with the then Town Planning Board Guidelines TPB PG-No.13; and no major adverse comments from concerned government departments. However, the planning permissions for 3 of the approved applications (No. A/YL-HT/166, 690 and A/HSK/160) were subsequently revoked due to non-compliance with time-limited approval conditions. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 The last application No. A/HSK/160 for proposed temporary logistics centre for a period of 3 years was approved by the Committee on 19.7.2019. The planning permission was subsequently revoked on 19.12.2021 due to non-compliance with the approval condition regarding the implementation of the FSIs proposal. Compared with the last approved application, the current application is submitted by a different applicant for the same use at the same site with similar layout and development parameters.

7. Similar Applications

- 7.1 There are 7 similar applications (No. A/HSK/5, 7, 50, 59, 216, 249 and 283) within the same “O”, “R(B)2” and “G/IC” zones on the OZP for temporary logistics centre; 6 of which were approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.1 above. However, 4 of these applications (No. A/HSK/5, 7, 50 and 59) were subsequently revoked due to non-compliance with time-limited approval conditions. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1a**.
- 7.2 Application No. A/HSK/249 was rejected by the Committee on 9.10.2020 for the reason that three previous planning permissions granted for the Site by the Board were revoked due to non-compliance with the approval conditions. Approval of the

application with repeated non-compliance with approval conditions would set an undesirable precedent for other similar applications and thus nullifying the statutory planning control mechanism.

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

8.1 The Site is:

- (a) accessible from Lau Fau Shan Road via a local track; and
- (b) currently used for the applied use without valid planning permission.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are two open storage yards of containers and two logistics centres; all except a logistics centre are under valid planning permissions;
- (b) to its east are two warehouses and an open storage yard of construction materials intermixed with some residential dwellings (the nearest one being about 13m away) (**Plan A-2**);
- (c) to its south are three logistics centres and three open storage yards of construction materials with or without construction machinery, among them two logistics centres and an open storage yard are under valid planning permissions; and
- (d) to its west are two open storage yards of construction materials and two warehouses (one open storage yard and one warehouse with valid planning permissions) and some storage use. Further west is a vegetated knoll with graves.

9. Planning Intentions

9.1 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.

9.2 The planning intention of the “R(B)2” zone is primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted with or without application to the Board.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comments on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

10.2 The following government department has objection to the application.

Environment

10.2.1 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 (the nearest one about 13m to its east) (**Plan A-2**), and the proposed development involves use of container vehicles. Environmental nuisance is expected.
- (b) There was no environmental complaint pertaining to the Site received in the past 3 years.
- (c) Should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (‘COP’).

11. Public Comments Received During Statutory Publication Period

On 9.11.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals (**Appendices VI-1 to 2**) were received objecting to the application on the grounds that the proposed development will increase traffic flow and cause environmental nuisances and pose fire safety hazards to the villagers; the applicant fails to comply with the approval conditions in previous planning approvals and it is imperative that community facilities should be developed in tandem with housing to avoid the mistakes made at Tin Shui Wai.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary logistics centre for a period of 3 years at the Site mainly zoned “O” (77%) and “R(B)2” (10.8%) and partly within an area shown as ‘Road’ (12%) on the approved HSK and HT 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, whereas the “R(B)2” zone is intended primarily for medium-density residential developments. Whilst the applied use is not in line with the planning intentions of the “O” and “R(B)2” zones, PM(W) of CEDD envisages that the site formation and engineering infrastructure works for this part of the NDA will commence in 2030 and DLCS indicates that there is no plan to develop the portion of the Site zoned “O” into public open space at present. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects.
- 12.2 The applied use is not incompatible with the surrounding land uses which are predominantly occupied by open storage yards, warehouses and logistics centres.
- 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 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 being a port back-up use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and previous planning approvals for various port back-up uses were given. For the last approved application (No. A/HSK/160), three of the four time-limited approval conditions had been complied with and efforts had been made to comply with the remaining condition on implementation of FSIs proposal. Although the planning permission was subsequently revoked on 19.12.2021 due to non-compliance with that time-limited approval condition, the applicant has submitted a FSIs proposal in the current application and D of FS considers the FSIs proposal acceptable. In this regard, sympathetic consideration may be given to the application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of planning permission, sympathetic consideration would not be given to any further applications.
- 12.5 Concerned government departments have no objection to or no adverse comment on the application, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the nearest residential dwelling being 13m away) (**Plan A-2**), and the applied use involves the use of container vehicles and thus environmental nuisance is expected. However, there is no environmental complaint pertaining to the Site in the past three years. 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 13.2 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.
- 12.6 In addition to the previous planning approval for the same applied use (No. A/HSK/160) at the Site (**Plan A-1b**), there are 6 similar approvals for logistics centre within the same zones on the OZP (**Plan A-1a**). Approval of the current application is in line with the Committee's previous decisions.

- 12.7 Two public comments objecting the application were received during the statutory publication period as summarised in paragraph 11. 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 logistics centre could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **22.4.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no recycling, cleaning, repairing, dismantling work nor other workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities on the 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 **22.7.2022**;
- (f) the implementation of the accepted 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 **22.10.2022**;
- (g) if any of the above planning condition (a), (b), (c) or (d) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (h) if any of the above planning condition (e) or (f) 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 V**.

- 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 intentions of the "O" and

“R(B)2” 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 medium-density residential developments respectively. 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 has failed to demonstrate that the applied use would not have adverse environmental impacts on the surrounding 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

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|-----------------------------|---|
| Appendix I | Application Form received on 2.11.2021 |
| Appendix Ia | SI received on 3.11.2021 |
| Appendix Ib | FI received on 24.2.2022 |
| 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 and Similar Applications |
| Appendix IV | Government Departments' General Comments |
| Appendix V | Recommended Advisory Clauses |
| Appendices VI-1 to 2 | Public Comments |
| Drawing A-1 | Proposed Vehicular Access Plan |
| Drawing A-2 | Proposed Layout Plan |
| Drawing A-3 | As-built Drainage Plan |
| Drawing A-4 | FSIs Proposal |
| Plan A-1a | Location Plan with Similar Applications |
| Plan A-1b | Previous Applications Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and 4b | Site Photos |

**PLANNING DEPARTMENT
APRIL 2022**