

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/344

- Applicant** : Ming Kee Iron Works Co. 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 1,605m²
- 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
- Zonings** : “Government, Institution or Community” (“G/IC”) (93.4%)
[Restricted to a maximum building height (BH) of 3 storeys] and
“Other Specified Uses” annotated “Port Back-up, Storage and Workshop Uses” (“OU(PBUSWU)”) (6.6%)
[Restricted to a maximum plot ratio of 7 and a maximum BH of 110 mPD]
- Application** : Proposed Temporary Vehicle Repair Workshop with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary vehicle repair workshop with ancillary office for a period of 3 years so as to relocate its existing business being affected by the First Phase development of Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) (**Plan A-1**). The Site falls within an area mainly zoned “G/IC” (93.4%) with a minor portion zoned “OU(PBUSWU)” (6.6%) on the approved HSK and HT OZP. According to the Notes of the OZP of the “OU(PBUSWU)” zone, ‘Vehicle Repair Workshop’ use is always permitted and no planning permission is required. However, ‘Vehicle Repair Workshop’ is neither a Column 1 nor Column 2 use under the “G/IC” zone. 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 zone 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 partly vacant and partly used for open storage of construction machinery and materials 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.
- 1.3 The Site is accessible from Kai Pak Ling Road via a local track with the ingress/egress point located at the north-eastern corner of the Site (**Drawings A-1 and A-2 and Plan A-3**). As shown on the proposed layout plan at **Drawing A-2**, 2 single-storey temporary structures (about 6m high; total GFA of about 450m²) for vehicle repair workshop and ancillary office purpose are proposed. 4 private car parking spaces (each of 2.5m x 5m), 1 loading/unloading space for light goods vehicles (3.5m x 7m) and 3 medium goods vehicle repair bays (each of 3.5m x 11m) will be provided within the Site. According to the applicant, the operation hours of the applied use are from 9:00 a.m. to 6:00 p.m. on Mondays to Saturdays. There will be 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 16.11.2021 with planning statement and drawings (**Appendix I**)
 - (b) Further Information received on 23.12.2021 clarifying the type of traffic involved and number of trip generation (**Appendix Ia**)
 - (c) Further Information received on 29.12.2021 in response to the comments from the Civil Engineering and Development Department (CEDD) (**Appendix Ib**)
[(b) and (c) 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 I**. They can be summarized as follows:

- (a) The applicant is affected by the implementation of HSK/HT NDA as its existing business near Fung Kong Tsuen¹ had been resumed and reverted to the Government in 2021. The applicant needs to find an alternative and suitable site to continue its business operation. The size of application site would also be the same as the original premises.
- (b) The applicant has spent effort in identifying suitable sites for relocation of his premises. Apart from the Site, 8 other locations had been considered, but these sites were considered not suitable or impracticable due to various issues such as land use incompatibility, environmental concerns, land ownership, accessibility, or size being too small.
- (c) The applicant will surrender the application site unconditionally to facilitate the

¹ The applicant's existing business falls within an area partly zoned "Village Type Development (1)" ("V(1)") and partly shown as 'Road' on the OZP (**Plan A-1**), which was subject to a planning permission (Application No. A/HSK/95) approved by the Committee on 21.9.2018.

implementation of the HSK/HT NDA upon Government's request in the future even within the planning approval period. The applicant will search for suitable long-term premises for its business in coming years and liaise with respective bureaux/departments to ensure that the proposed development would not affect the proposed works under HSK/HT NDA.

- (d) The applied use is considered not incompatible with the surrounding area which is dominated by open storage, vehicle park and workshop uses.
- (e) The applied use will not create adverse impact to the surrounding area. Upon approval of the planning application, the applicant will make effort in complying with approval conditions/relevant government regulations related to fire services, drainage and landscape aspects.
- (f) The special background of the application should be considered on individual merit, such that approval of the current application would not set an undesirable precedent for the "G/IC" and the "OU(PBUSWU)" zones.

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.

4. Background

The Site is currently not subject to any planning enforcement action.

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 for a period 3 years (**Plan A-1**). The application was approved with conditions by the Committee on 8.12.2017 mainly on the considerations that temporary approval 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 permission was subsequently revoked on 8.12.2018 due to non-compliance with the time-limited conditions. The proposed development had not commenced. Details of that application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

5.2 Compared with the previous application, the current application is submitted by a different applicant for a different use at a smaller site.

6. Similar Application

There is no similar application within the same "G/IC" zone.

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

7.1 The Site is:

- (a) currently partly vacant and partly used for open storage of construction materials and machinery without valid planning permission; and
- (b) accessible from Kai Pak Ling Road and a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and northwest are some open storage yards of vehicles, construction materials and/or machinery and recycling materials, and a vehicle repair workshop;
- (b) to its east are residential dwellings of Fung Kong Tsuen (the nearest residential dwelling being about 47m away)(**Plan A-2**) mixed with vacant and unused land;
- (c) to its south and southeast are some open storage yards of vehicles, construction materials and containers, and a warehouse mixed with unused land; and
- (d) to its southwest is a piece of vacant land. Further west is a fish farm under valid planning permission.

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:

Long-Term Development

9.1.1 Comments of the Secretary for Development (SDEV):

- (a) The application is to facilitate interim relocation of a vehicle repairing workshop, which will be displaced by the First Phase development of the HSK/HT NDA project. The Site mainly falls within the Remaining Phase Development of the NDA, with a minor portion within the Second Phase Development. The proposed relocation is for temporary decanting purpose so as to allow time for the applicant to search for a suitable long-term premises.
- (b) According to the applicant, he has endeavored to identify suitable site for re-establishment of his business elsewhere in order to pave way for the clearance under the NDA project. However, site search has not been easy and nine alternative sites (including the Site under application) had been identified but those other eight sites were

considered not suitable given different reasons including land use compatibility, traffic accessibility, site area or other technical issues. The Site under the current application is the only one considered suitable and practicable after the above extensive site search.

- (c) The proposed vehicle repairing workshop is of similar scale as the existing one to be cleared by the Government. According to the concerned departments, the proposed use is not incompatible with surrounding land use of the Site which is dominated by open storage, vehicle park and workshops uses and would not create insurmountable impacts in technical terms subject to imposition of appropriate approval conditions.
- (d) The Site largely falls within the Remaining Phase Development of the NDA, the clearance of which is tentatively scheduled for 2030 onwards. In this regard, the applicant has indicated his willingness to hand over the Site unconditionally upon Government's request in the future even during the planning approval period, and will liaise with the Government to ensure that the proposed development will not affect the NDA project. As such, approval of the application should not jeopardise the implementation programme for the NDA project.
- (e) From the perspectives of facilitating smooth clearance for the NDA project and providing operating space for displaced brownfield operations still needed by the community, the application is supported.

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

- (a) 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 sites under Second Phase development 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 and the Remaining Phase development will commence in 2024 and 2030 respectively. The applicant is required to pay attention to the development programme mentioned above and ensure their proposed development would not affect the proposed works under HSK/HT NDA.
- (b) The existing operation of the applicant is affected under First Phase development of the HSK/HT NDA and has been resumed by the government for the implementation of the project.

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots (OSALs). 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 applicant should be reminded of the detailed comments in **Appendix IV**.

Traffic

9.1.4 Comments of the Commissioner for Transport (C for T):

- (a) He has no adverse comment 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**.

9.1.5 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 running from the Site to nearby public roads and drains.
- (b) The access road and Kai Pak Ling Road connecting the Site with Fung Kong Tsuen Road is not and will not be maintained by her Office and HyD shall not be responsible for the maintenance of the access road and Kai Pak Ling Road.

Environment

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

- (a) He does not support the application as there are sensitive uses in the vicinity of the Site (the nearest residential dwelling being about 47 m away) (**Plan A-2**), and the proposed use involves the use of medium goods vehicles. Environmental nuisance is expected.
- (b) There was no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) 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

9.1.7 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 and to implement and maintain the proposed drainage facilities to the satisfaction of her Division.

Building Matters

- 9.1.8 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

- 9.1.9 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 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**.

District Officer's Comments

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

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

- 9.2 Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD) has no objection to the application.

10. Public Comments

On 23.11.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received. The commenters objected to/raised concern on the application on the grounds that the proposed use will increase traffic flow, causing traffic congestion and environmental nuisances, and pose fire safety hazards to the villagers; and it is concerned with both the number of vehicles used at the Site and how the operation would affect the NDA development (**Appendices III-1 to 2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed vehicle repairing workshop with ancillary office for a period of 3 years at a site mainly zoned "G/IC" (93.4%) with a minor portion

zoned “OU(PBUSWU)” (6.6%) on the OZP. According to the Notes of the OZP, the applied temporary vehicle repairing workshop is always permitted within the “OU(PBUSWU)” zone. 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. Whilst the proposed use is not in line with the planning intention of the “G/IC” zone, SDEV advises that the application is to facilitate the interim relocation of an existing operation which will be displaced by the earlier phase development of the NDA. He notes that much efforts were spent by the applicant on searching a suitable relocation site and the Site is the only one considered suitable and practicable after the extensive site search. It is also noted that the proposed use is of similar scale with its existing operation, the applicant is willing to hand over the Site to the government when required and hence the application would not jeopardize the implementation programme of the NDA. From the perspectives of facilitating smooth clearance for the NDA project and providing operating space for displaced brownfield operation still needed by the community, SDEV supports the application. Moreover, PM/W, CEDD does not object to the temporary use for a period of 3 years at the Site as the implementation programme for this part of NDA is still being formulated. In view of the above, sympathetic consideration may be given to the application. Nevertheless, 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 proposed vehicle repairing workshop under application is not incompatible with the open storage yard within the adjoining “OU(PBUSWU)” zone where such use is always permitted.
- 11.3 There is no adverse comment from concerned government departments, except DEP. DEP does not support the application as there are domestic structures in the vicinity (the nearest residential dwelling being about 47m away), and environmental nuisance is expected (**Plan A-2**). In this regard, the applicant indicates that workshop activities will be carried out within the two proposed enclosed structures whereas the open areas will only be used for parking of vehicles and manoeuvring of vehicles (**Drawing A-2**). Nevertheless, relevant approved conditions are recommended in paragraph 12.2 to address the concerns on 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 thus 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’ in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The previously approved application (No. A/HSK/27) including part of the Site was for a different use of fish farm and is not relevant for the consideration of the current application. There is no similar application within the same “G/IC” zone.
- 11.5 Two public comments objecting to the application were received during statutory publication period as summarised in paragraph 10. 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 above, the Planning Department considers that the proposed temporary vehicle repairing workshop with ancillary office 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 **14.1.2025**. 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 the Site during the planning approval period;
- (c) no workshop activities, including vehicle dismantling, maintenance, repairing, cleaning or paint spraying, are allowed in the open area of the Site during the planning approval period;
- (d) 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 **14.7.2022**;
- (e) in relation to (d) 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 **14.10.2022**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 **14.7.2022**;
- (h) in relation to (g) 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 **14.10.2022**;
- (i) if any of the above planning condition (a), (b), (c) or (f) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) if any of the above planning condition (d), (e), (g) or (h) 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

reasons for rejection are suggested for Members' reference:

- (a) the proposed 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; and
- (b) the applicant fails to demonstrate that the proposed use would not generate adverse environmental impact to the surrounding areas.

13. Decision Sought

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

14. Attachments

Appendix I	Application Form and plans received on 16.11.2021
Appendix Ia	FI received on 23.12.2021
Appendix Ib	FI received on 29.12.2021
Appendix II	Previous Application Covering the Site
Appendices III-1 to 2	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	The Original Premises of the Applicant
Plan A-1	Location Plan with Previous Application and the Original Location of the Business
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**