

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/370

- Applicant** : Mr TSUI Sum Wah represented by Ever United Planning and Development Limited
- Site** : Lots 1835 (Part), 1839, 1840 (Part), 1841 S.A (Part), 1841 S.B (Part), 1842 (Part), 1854, 1855 (Part), 1856 (Part), 1857 RP (Part), 1864 RP (Part), 1889 (Part), 1890 (Part), 1894 (Part) and 1895 RP (Part) in D.D. 125, Ha Tsuen, Yuen Long
- Site Area** : About 6,075 m²
- 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) “Residential (Group A)4” (“R(A)4”) (about 77%);
[Restricted to maximum plot ratio (PR) of 5 and maximum building height (BH) of 120mPD]
(ii) “Residential (Group A)3” (“R(A)3”) (about 9%); and
[Restricted to maximum PR of 5.5 and maximum BH of 140mPD]
(iii) Area shown as ‘Road’ (about 14%)
- Application** : Temporary Warehouse for Storage of Electrical Appliances for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of electrical appliances for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls within an area straddling “R(A)4” (77%) and “R(A)3” (9%) zones and the area shown as ‘Road’ (14%) on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the 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 to A-4c**).

- 1.2 The Site is accessible from Ping Ha Road via a local track (**Drawing A-1 and Plans A-2 and A-3**) and the ingress/egress point is at its southern boundary. As shown on the layout plan at **Drawing A-2**, a two-storey temporary structure (with a floor area of about 4,020m²; 11m high) for warehouse use is proposed at the major portion of the Site. 7 other temporary structures are proposed at other parts of the Site for office, toilet, meter room, water tank and pump room purposes (3.5m to 7m high). 2 parking spaces for private car/light goods vehicles and 2 loading/unloading spaces for medium/heavy goods vehicles are provided. The operation hours are 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. No cutting, dismantling, cleansing, repairing, compaction, type repair, vehicle and container repair, and workshop activity are proposed. The as-planted landscape and tree preservation plan, the as-built drainage plan and the fire service installations (FSIs) proposal submitted by the applicant are shown on **Drawings A-3, A-4 and A-5** respectively.
- 1.3 The Site is involved in 10 previous planning applications (details at paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with annex and plans received on **(Appendix I)** 21.4.2022
 - (b) Further information (FI) received on 16.5.2022 **(Appendix Ia)**
[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 Application Form at **Appendix I**. They can be summarized as follows:

- (a) For the last approved planning application No. A/HSK/177, the applicant had complied with all approval conditions except the implementation of FSIs proposal, which was because of tight schedule and missing of documents including approval of water supply and FS251 covering the fire extinguisher. The applicant is a sincere and consciousness person in complying with the regulations stipulated by the Board and commits to make every effort in complying with this condition in the future.
- (b) Sympathetic consideration may be given to the application as the Site falls within the Hung Shui Kiu and Ha Tsuen New Development Area (HSK/HT NDA) and is not required for implementation of the NDA at this stage.
- (c) The applied use is temporary in nature and would not jeopardise the long-term planning intention of the zoned uses.
- (d) Many similar applications for warehouses, open storage yards and logistics centres in the surrounding area of the Site have been approved by the Board and therefore similar treatment to the current application is requested. The applied use is compatible with such uses in the surrounding area where no major residential development is found.
- (e) The applied use has been operated at the Site for many years and the facilities required in previous approvals such as the drainage facilities are well maintained.

Environmental mitigation measures including restrictions on operation hours and workshop activities would be implemented to minimize environmental impacts. The traffic impact would be insignificant with low traffic generation and provision of manoeuvring space inside the Site. Approval of the applied use would not result in additional traffic, drainage and environmental impacts.

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.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

5.1 The Site is involved in 10 previous applications (No. A/YL-HT/7, 128, 216, 380, 534, 716, 827, 993, A/HSK/122 and 177) for various temporary open storage and warehouse uses. All applications were approved with conditions by the Committee between 1996 and 2019 on the considerations that the applied uses would not jeopardise the long-term planning intention of the zoned uses; were not incompatible with the surrounding areas; being generally in line with the previous decision of the Board; and no major adverse comments from concerned government departments. However, the planning permissions for 4 of them (No. A/YL-HT/7, 128, 716 and A/HSK/177) were subsequently revoked due to non-compliance with time-limited approval conditions. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.

5.2 The last application No. A/HSK/177 was approved with conditions by the Committee on 6.9.2019 for a period of 3 years but the planning permission was revoked on 6.2.2022 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 the same applicant for the same use at the same site with similar layout and development parameters.

6. Similar Applications

6.1 There are 5 similar applications (No. A/HSK/31, 70, 105, 183 and 225) for various temporary warehouse and storage uses within the same “R(A)4” and “R(A)3” zones on the OZP in the past 5 years. All of these applications were approved with conditions by the Committee from 2017 to 2020 on similar considerations as mentioned in paragraph 5.1 above. However, 3 of these approvals (No. A/HSK/31, 70 and 105) were subsequently revoked due to non-compliance with time-limited approval conditions. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1a**.

- 6.2 A similar application (No. A/HSK/356) for temporary storage of construction materials and containers, logistics centre and ancillary workshop within the same “R(A)4” zone on the OZP is scheduled for consideration by the Committee at this meeting (**Plan A-1a**).

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

7.1 The Site is:

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

7.2 The surrounding areas have the following characteristics:

- (a) to its north are a warehouse under valid planning permission, and a logistics centre and an open storage yard of recycling materials which are suspected unauthorized development (UD);
- (b) to its east are an open storage yard of construction material and machinery under valid planning permission and a piece of grassland;
- (c) to its south is a yard for parking of vehicles and trailers with repairing workshop which is a suspected UD; and
- (d) to its west are a warehouse and an open storage yard of recycling materials, both under valid planning permissions. There are another warehouse and an open storage yard of recycling materials which are suspected UD and there is a vacant structure further west.

8. Planning Intention

The planning intention of the “R(A)4” and “R(A)3” zones is primarily for high-density residential developments where 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.

9. Comments from Relevant Government Departments

All 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 III and IV** respectively.

10. Public Comment Received During Statutory Publication Period

On 3.5.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual (**Appendix V**) was received objecting to the application on the grounds that the proposed development will increase traffic flow, cause traffic congestion and environmental nuisance, and pose fire safety hazard to the villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of electrical appliances for a period of 3 years at the Site falling within “R(A)4” (77%) and “R(A)3” (9%) zones and shown as ‘Road’ (14%) on the OZP. The planning intention of the “R(A)4” and “R(A)3” zones is primarily for high-density residential developments. Whilst the applied use is not in line with the above planning intention, the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) envisages that the site formation and engineering infrastructure works for this part of the NDA will commence in 2030. 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.
- 11.2 The applied use is not incompatible with the surrounding land uses which are predominantly occupied by open storage yards, warehouses, logistics centres, parking of vehicle and vehicle repair workshop (**Plan A-2**).
- 11.3 For the last approved application (No. A/HSK/177), 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 6.2.2022 due to non-compliance with that condition, the applicant has submitted a FSIs proposal in the current application and the Director of Fire Services has no in-principle objection to the application. In this regard, sympathetic consideration may be given to the application. 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.
- 11.4 There is no adverse comment from the concerned government departments. It is anticipated that no significant adverse traffic, environmental, drainage and fire safety impacts would be generated from the applied use. To minimize any possible environmental impacts and nuisance on the surrounding areas, and to address the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 12.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorized development on the Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimize the possible environmental impacts on the surrounding areas.
- 11.5 In addition to 10 previous planning approvals for storage or warehouse uses at the Site (**Plan A-1b**), there are 5 approvals for similar applications within the same “R(A)4” and “R(A)3” zones on the OZP (**Plan A-1a**). Approval of the current application is in line with the Committee’s previous decisions.
- 11.6 One public comment objecting the application was received during the 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 comment mentioned in paragraph 10, the Planning Department considers that the temporary warehouse for storage of electrical appliances 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 **10.6.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (b) the submission of a condition record of the existing drainage facilities on the Site 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 **10.12.2022**;
- (c) 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 **10.12.2022**;
- (d) in relation to (c) 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 **10.3.2023**;
- (e) if the above planning condition (a) 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
- (f) if any of the above planning condition (b), (c) or (d) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intention of the "R(A)4" and "R(A)3" zones, which is primarily for high-density residential developments. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

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

14. Attachments

Appendix I	Application Form received on 21.4.2022
Appendix Ia	FI received on 16.5.2022
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-planted landscape and tree preservation plan
Drawing A-4	As-built Drainage Plan
Drawing A-5	Proposed 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 to 4c	Site Photos

**PLANNING DEPARTMENT
JUNE 2022**