

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/375

- Applicant** : Excel Champ Limited represented by Goldrich Planners and Surveyors Limited
- Site** : Lots 33 (Part), 34 (Part) and 41 (Part) in D.D. 124, Ha Tsuen, Yuen Long, New Territories
- Site Area** : 1,585m² (about)
- 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** : (i) “Village Type Development” (“V”) (about 79.6%); and
(ii) “Open Space” (“O”) (about 20.4%)
- Application** : Proposed Temporary Wholesale Trade and Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary wholesale trade and ancillary office for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls within an area mainly zoned “V” and partly zoned “O” on the 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 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 occupied by a warehouse without planning permission (**Plan A-4**).
- 1.2 The Site is accessible from Tin Ha Road via a local access with the ingress/egress point at the southern side of the Site (**Plan A-2**). As shown on the proposed layout plan at **Drawing A-2**, the applied use comprises 5 temporary structures, with a total floor area of not more than 1,451m². These include two single-storey (5m in height) temporary structures for container storage, toilet and office use, one single-storey (2.6m in height) guardroom, one single-storey (2.6m in height) open shed, and one single-storey (10m in height) temporary structure for wholesale use. 2 parking

spaces for private cars and 2 medium goods vehicles will be provided within the Site. According to the applicant, the site operator and retailers will order products in bulk for a competitive price from suppliers, and the products would be temporarily stored at the Site before delivery to retailers or self-collection by retailers. The operation hours will be between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The location plan, proposed layout plan and proposed drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.3 In support of the application, the applicant has submitted an application form with attachments received on 5.5.2022 (**Appendix I**).

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) There is strong demand for construction material, food products, electronic gadgets, home appliances, household products etc. in the area. The proposed use will offer products at competitive price to the retailers and could provide job opportunities.
- (b) The proposed use is temporary in nature and there is no present Small House (SH) application within the subject “V” zone. The proposed use would not jeopardise the long term planning intentions of the “V” and “O” zones.
- (c) The proposed use is compatible with the operations in the vicinity.
- (d) There are existing drainage facilities on the Site. No flooding occurred in the past few years.
- (e) The Site is accessible from a local track connecting to Tin Ha Road and low trip generation is anticipated. Therefore, the proposed use would not generate adverse traffic impact.

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 Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently subject to an on-going planning enforcement case No. E/YL-HSK/76 against unauthorised development (UD) involving storage use. Enforcement Notice (EN) was issued on 13.7.2021 to the concerned parties requiring discontinuation of the UD. Since the requirements as stipulated in the EN have not been complied with upon expiry of the EN, prosecution action against the concerned parties is currently being considered.

5. Previous Application

The Site does not involve any previous application.

6. Similar Application

There is no similar application within the subject “V” and “O” zones on the OZP.

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

7.1 The Site is:

- (a) being used as a warehouse without valid planning permission; and
- (b) accessible from Tin Ha Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its east and northeast are some open storage yards for construction materials and heavy vehicles, car services establishments, parking of heavy vehicles and trailer, and a residential dwelling (being 38m away); while to its southeast are some open storage yards of vehicles and containers, parking of vehicles and trailer and a storage yard at Kau Lee Uk Tsuen which are mostly suspected UD;
- (b) to its west and northwest are two warehouses and a logistics centre which are suspected UD;
- (c) to its south is a logistics centre which is a suspected UD; to its southwest is a warehouse with valid planning permission.

8. Planning Intentions

- 8.1 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of SH by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.
- 8.2 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. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other

departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices II and III** respectively.

9.2 The following government department does not support the application:

Environment

9.2.1 Comment of the Director of Environmental Protection (DEP):

- (a) he does not support the application because there are sensitive users in vicinity of the site (the closest residential dwelling being about 38m away) (**Plan A-2**) and the applied use involves the use of heavy vehicles. Environmental nuisance is expected;
- (b) there was no substantiated environmental complaint pertaining to the Site received in the past 3 years; and
- (c) the applicant should note his advisory comments in the Recommended Advisory Clauses in **Appendix III**.

10. Public Comments Received During Statutory Publication Period

On 13.5.2022, 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 (**Appendix IV**). An individual objects to the application on the grounds that the applied use being in the vicinity of residential dwellings will generate environmental nuisances, pose fire safety hazards, and adversely affect the safety and living quality of the villagers. The other individual expresses concerns about the extensive area of land zoned “V” on the HSK and HT OZP, and the Board should reject the application as it has no previous approval history and the Site should be reserved for SH development.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary wholesale trade and ancillary office for a period of 3 years at the Site mainly zoned “V” (about 79.6%) and partly zoned “O” (about 20.4%) on the approved HSK and HT OZP. The planning intention of the “V” zone is primarily for development of SH by indigenous villagers, whereas 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. Since the proposed use involves temporary storage of products at the Site before delivery to retailers or self-collection by retailers, it is akin to a warehouse use. Whilst the proposed use is not in line with the planning intentions of the “V” and “O” zones, District Lands Officer/Yuen Long has no adverse comment on the application and advises that there is no Small House application approved or under processing at the Site. Besides, the Project Manager (West), Civil Engineering and Development Department advises that the implementation programme for this part of Hung Shui Kiu/Ha Tsuen New Development Area (i.e. part of the Site zoned “O”) is still being formulated, and has no comment on the temporary use for a period of 3 years at the

Site. Director of Leisure and Cultural Services also has no adverse comment on the application. 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 the implementation of government projects.

- 11.2 The surrounding areas of the Site are predominantly used for logistics centres, warehouses and workshops. As such, the proposed use is considered not incompatible with the surrounding land uses (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned government departments, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the nearest residential dwelling is about 38m away) (**Plan A-2**), and the applied use involves the use of heavy vehicles and thus environmental nuisance is expected. However, there was no substantial environmental complaint pertaining to the Site in the past 3 years. To address the concerns on the possible environmental nuisances or the technical requirements of the other 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 UD 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.
- 11.4 Two public comments objecting to/expressing concerns on the application were 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 comments mentioned on paragraph 10, the Planning Department considers that the proposed temporary wholesale trade and 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 **24.6.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 **24.12.2022**;
- (b) in relation to (a) 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 **24.3.2023**;
- (c) in relation to (b) above, the implemented drainage facilities on Site shall be

maintained at all times during the planning approval period;

- (d) 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 **24.12.2022**;
- (e) in relation to (d) 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 **24.3.2023**;
- (f) if the above planning condition (c) 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
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 III**.

12.3 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 "V" and "O" zones, which are primarily for development of Small Houses by indigenous villagers, and 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. 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 fails to demonstrate that the applied use would not have adverse environmental impact on 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 received on 5.5.2022

Appendix II

Government Departments' General Comments

Appendix III	Recommended Advisory Clauses
Appendices IV-1 and IV-2	Public Comments
Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2022**