

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/391

- Applicant** : Mr. WONG Kwok Wing represented by Metro Planning and Development Company Limited
- Site** : Lots 2438 S.A RP (Part), 2447 (Part), 2455 S.B ss.1 S.A (Part), 2455 S.B ss.1 S.C (Part), 2455 S.B ss.1 RP (Part), 2958 (Part), 2961 S.A ss.1 (Part), 2961 S.A RP (Part) and 2961 RP (Part) in D.D. 129, Ha Tsuen, Yuen Long, N.T.
- Site Area** : About 1,820m²
- 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** : (i) “Open Space” (“O”) (about 97%); and
(ii) “Village Type Development” (“V”) (about 3%)
[Restricted to maximum building height (BH) of 3 storeys (8.23m)]
- 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 mainly zoned “O” (97%) with minor encroachment onto the “V” zone (3%) 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 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. The Site is currently used for the applied use with valid planning permission (**Plans A-4a and 4b**).
- 1.2 The Site is accessible from Lau Fau Shan Road via a local track (**Drawing A-1, Plans A-2 and A-3**) with the ingress/egress point at the southern side of the Site (**Plan A-2**). As shown on the layout plan at **Drawing A-2**, a 13m high single-storey temporary structure (with a floor area of not exceeding 1,200 m²) at the major portion of the Site is used for logistics centre. There are 3 other temporary structures at the southern part of the Site for site office, toilet and pump room uses

(3m to 6m high). 2 loading/unloading bays for medium/heavy goods vehicles are provided. According to the applicant, the operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The proposed layout plan, proposed tree preservation plan, as-built drainage plan and proposed fire service installations (FSIs) layout plan are at **Drawings A-2 to A-5**.

1.3 The Site is involved in 8 previous planning applications (details at paragraph 6 below).

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

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|---|-------------------------------|
| (a) the Application Form with annex and drawings received on 7.7.2022 | Appendix I |
| (b) Supplementary Information (SI) received on 11.7.2022 | Appendix Ia |
| (c) Further Information (FI) received on 8.8.2022 and 15.8.2022
<i>[exempted from publication and recounting requirements]</i> | Appendices Ib & Ic |

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) Three previous applications for temporary logistics centre were approved by the Board at the Site. Compared with the last application No. A/HSK/216, the current application has a different layout and a separate FSIs system will be provided.
- (b) The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) is applicable to the proposed use. A FSIs proposal is submitted in support of the current application.
- (c) The proposed use is not incompatible with the surrounding area which is occupied by open storage and port back-up uses. The Board has approved similar port back-up uses in the vicinity of the Site and therefore similar treatment to the current application is requested.
- (d) The proposed development is temporary in nature and it would not jeopardize the long-term planning intention of the area.
- (e) There is a shortage of land for port back-up uses in Ha Tsuen.
- (f) The impacts to the environment, traffic and drainage are expected to be insignificant as the proposed use is housed within enclosed structures and surface U-channel has been provided. No recycling, cleaning, repairing, dismantling or workshop activities would be allowed at the Site.

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. 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**.

5. Background

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

6. Previous Applications

- 6.1 The Site is involved in 8 previous applications (No. A/YL-HT/99, 166, 268, 468, 657 and 970 and A/HSK/5 and 216) for various open storage or logistics centre uses covering different extents of the Site. All the applications were approved by the Committee between 1999 and 2020 on the similar considerations that approval of the applications would not jeopardize the long-term development of the site; the applied uses were not incompatible with the surrounding areas; being generally in line with the then TPB PG-No.13; and no major adverse comments from concerned government departments. However, 3 planning permissions (under Applications No. A/YL-HT/166 and 970 and A/HSK5) 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/216 for temporary logistics centre was approved by the Committee on 29.5.2020 for a period of 3 years with validity up to 29.5.2023. The time-limited approval condition on the submission of condition record of the drainage facilities has been complied with. However, the other 2 conditions regarding the submission and the implementation of the FSIs proposal have yet been complied with. Compared with the last approved application, the current application is submitted by the same applicant for the same use covering the eastern portion of the site under the last approved application.

7. Similar Applications

- 7.1 There are 12 similar applications (No. A/HSK/7, 50, 59, 108, 145, 160, 245, 249, 283, 305, 321 and 338) for temporary logistics centre and/or ancillary site office uses within the same “O” zone on the OZP. 11 of these applications were approved with conditions by the Committee based on similar considerations as mentioned in paragraph 6.1 above. 6 of them were subsequently revoked due to non-compliance with time-limited approval conditions. The remaining application (No. A/HSK/249) was rejected by the Committee in 2020 on the considerations that approval of the application with repeated non-compliance with approval conditions would set an undesirable precedent for other similar applications. Details of these applications

are summarized at Appendix III and their locations are shown on Plan A-1a.

- 7.2 Another similar application No. A/HSK/389 submitted by the same applicant for temporary logistics centre with ancillary staff canteen covering the western portion of the site under the last approved application (No. A/HSK/216) is scheduled for consideration of the Committee at this meeting.

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

8.1 The Site is:

- (a) accessible from Lau Fau Shan Road via local track; and
- (b) currently used for the applied use with valid planning permission.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are a logistics centre and a vehicle repair workshop which are suspected unauthorized developments (UDs);
- (b) to its east and northeast are some residential dwellings, a storage yard and a warehouse, the latter two are suspected UD. Further northeast and east across Lau Fau Shan Road are some residential dwellings;
- (c) to its south and southeast are a vehicle repair workshop, an open storage of construction materials and machinery which are suspected UD, a storage yard of vehicles and an open storage of scrap metal under valid permissions and some residential dwellings (the nearest one being adjoining the Site); and
- (d) to its west and southwest are 2 logistics centres under valid planning permissions.

9. Planning Intention

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.

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 comment 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 does not support the application:

Environment

10.2.1 Comments 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 adjoining the Site) (**Plan A-2**) and the applied use involves the use of heavy vehicles. Environmental nuisance is expected;
- (b) no environmental complaint pertaining to the Site was received in the past 3 years; and
- (c) his other advisory comments are provided in the Recommended Advisory Clauses in **Appendix V**.

11. Public Comment Received During Statutory Publication Period

On 15.7.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from two individuals were received (**Appendices VI-a and VI-b**) objecting to the application on the grounds that the proposed development will increase traffic flow, cause traffic congestion and environmental nuisance, pose fire safety hazard to the villagers and adversely affect their living quality. One commenter opines that the current application should be considered together with Application No. A/HSK/389.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary logistics centre for a period of 3 years at the Site falling within an area mainly zoned “O” (97%) with minor encroachment onto the “V” (3%) zone on the 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. 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) and the Director of Leisure and Cultural Services (DLCS) have no objection to the temporary use for a period of 3 years on the Site. 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.
- 12.2 The applied use is not incompatible with the surrounding land uses which are predominantly used for logistics centres and open storage yards with some of them covered by valid planning permissions (**Plan A-2**).
- 12.3 The applied use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and 8 previous planning approvals for various open storage or logistics centre uses were given. For the last approved application (No. A/HSK/216) covering a much larger site area, one of the three time-limited approval conditions regarding the submission of a condition record of the drainage facilities had been complied with and efforts had been made to comply with the remaining conditions on the submission and implementation of FSIs proposal. The applicant has submitted a FSIs proposal in support of the current application, and the Director of Fire Services has no 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 resulting

in revocation of planning permission, sympathetic consideration would not be given to any further applications.

- 12.4 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 being adjoining the Site) (**Plan A-2**), and the applied use involves the use of heavy vehicles and thus environmental nuisance is expected. However, there was no environmental complaint pertaining to the Site received 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 are recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorised 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 latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimise the possible environmental impacts on the surrounding areas.
- 12.5 In addition to 8 previous planning approvals, there are 12 similar approvals for temporary logistics centre and/or ancillary site office uses within the same "O" zone on the OZP. Approval of the subject application is generally in line with the Committee's previous decisions.
- 12.6 Two public comments objecting to 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 on 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 **26.8.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. to 7:00 a.m., as proposed by the applicant, is allowed on the Site during the 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, cleansing, repairing, dismantling and other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) the existing drainage facilities 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 the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **26.11.2022**;
- (f) the submission of a revised 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 **26.2.2023**
- (g) in relation to (f) above, the implementation of the revised 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 **26.5.2023**;
- (h) 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
- (i) if any of the above planning condition (e), (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 V**.

- 13.3 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 "O" zone which is primarily for provision of outdoor open-air public space for active and/or passive recreational uses. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

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

Appendix I
Appendix Ia

Application Form received on 7.7.2022
SI received on 11.7.2022

Appendix Ib	FI received on 8.8.2022
Appendix Ic	FI received on 15.8.2022
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 VI-2	Public Comments
Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Drawing A-5	Proposed Fire Service Installations Layout Plan
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 4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2022**