

RNTPC Paper No. A/HSK/393A
For Consideration by
the Rural and New Town
Planning Committee
on 23.12.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/393

- Applicant** : Gainman Development Limited represented by R-riches Property Consultants Limited
- Site** : Lot 1080 (Part), 1083 (Part), 1084 (Part), 1085 (Part), 1087 (Part), 1088 (Part), 1089 (Part), 1090 (Part), 1091 RP (Part), 1104 (Part) and 1109 (Part) in D.D. 124, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : About 8,610 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2
- Zonings** : (i) “Government, Institution or Community”(“G/IC”) (about 55.6%);
[restricted to maximum building height of 3-storey]
(ii) “Open Space” (“O”) (about 10.7%); and
(iii) area shown as ‘Road’ (about 33.7%)
- Application** : Temporary Open Storage of Construction Material and Machinery with Ancillary Parking of Special Purpose Vehicle and Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning approval for temporary open storage of construction material and machinery with ancillary parking of special purpose vehicle and office for a period of three years at the application site (the Site) (**Plan A-1**). 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). In any area shown as ‘Road’ on the OZP, all uses or developments require planning permission from the Board. The Site is currently occupied by the applied use without planning permission.
- 1.2 The Site is accessible from Hung Chi Road via a local track and the ingress/egress point is located at its east (**Plans A-1 and A-2**). Three single-storey structures (4.5m high) for office and storage of construction materials and documents, with a total floor area of about 638m², are provided at the northeastern and southern parts of the

Site respectively. Six private car parking spaces, four special purpose vehicles parking spaces and one loading/unloading for container vehicle are provided. According to the applicant, the operation hours are 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The vehicular access and layout plans submitted by the applicant are at **Drawings A-1 and A-2** respectively.

- 1.3 The Site is involved in one previous planning application (No. A/YL-HT/732) (details at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form and attachments received on 19.7.2022 **(Appendix I)**
 - (b) Further Information (FI) received on 3.11.2022 **(Appendix Ia)**
[exempted from publication and recounting requirements]
- 1.5 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) on 9.9.2022 agreed to defer a decision on the application for two months.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form (**Appendix I**). They can be summarised as follows:

- (a) The Site is operated by a construction company to store construction machinery (tower cranes, crawler cranes, telehandlers etc.) and materials (cement, steel beams, columns etc.) at the Site. The ancillary parking of special purpose vehicles (truck crane) and office are to support the daily operation of the Site. The applied development would support the implementation of the new development areas.
- (b) Sufficient space is provided for vehicle manoeuvring within the Site to ensure no queuing and turning back outside the Site during the planning approval period.
- (c) As traffic generated by the applied development is minimal, adverse traffic impact should not be anticipated.
- (d) The applicant pledges to follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise the possible environmental impacts and nuisance on the surrounding areas.

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 notice and sending notice to Ha Tsuen Rural Committee

by registered post. 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 at **Appendix II**.

5. Background

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

6. Previous Application

There is one previous application No. A/YL-HT/732¹ for temporary public vehicle park (excluding container vehicle) with ancillary warehouse (excluding dangerous goods) for a period of three years, which was rejected by the Committee on 19.8.2011 on the grounds of being not in line with the then planning intentions of the "Residential (Group D)" ("R(D)") and "Residential (Group C)" ("R(C)") zones; failing to demonstrate that the adverse environmental impacts of the development could be addressed; and setting of undesirable precedent. Details of the application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

7. Similar Application

There is no similar application within the same "G/IC" and "O" zones on the OZP.

8. Planning Intentions

- 8.1 The planning intention of the "G/IC" zone is primarily for the provision of Government, institution and 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.
- 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.

¹ The Site was partly zoned "R(D)" on the then Ha Tsuen OZP Plan No. S/YL-HT/10 and partly zoned "R(C)" on the then Ping Shan OZP No. S/YL-PS/12 at the time of consideration of the application.

- 8.3 'Road' is a comprehensive road network of a primary distributor, eight district distributors and local roads is planned within the OZP boundary to provide convenient connection among various development areas and activity nodes

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

9.1 The Site is:

- (a) accessible from Hung Chi Road via a local access (**Plan A-3**); and
- (b) paved, fenced off and used for the applied use without planning permission (**Plan A-4**).

9.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to its north and northeast are some open storage yards, vehicle repair workshop and warehouse which are suspected unauthorized development (UD) and some residential dwellings;
- (b) to its east and southeast is a vehicle repair workshop and some logistics centres which are suspected UD; and
- (c) to its south is a food factory, some parking of vehicles, an open storage yard and a storage facility which are suspected UD. To its west and northwest are a place for parking of vehicles, a site office and an open storage yard which are suspected UD.

10. Comments from Relevant Government Departments

10.1 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 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 receivers of residential use in the vicinity of the Site (the closest residential dwelling being about 41m away) (**Plan A-2**) and the applied use involves the use of heavy vehicles. Environmental nuisance is expected; and
- (b) no environmental complaint pertaining to the Site was received in the past three years.

11. Public Comments Received During the Statutory Publication Period

On 26.7.2022, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received objecting to the application on the grounds that the applied use will generate extra traffic, environmental nuisances, pose fire safety hazards to the villagers and adversely affect their living quality; and opining that no previous approval was given for brownfield use within the Site (**Appendices VI-1 and 2**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction material and machinery with ancillary parking of special purpose vehicle and office for a period of three years at the Site zoned “G/IC” and “O”, and an area shown as ‘Road’ on the OZP. Whilst the applied use is not in line with the planning intentions of the “G/IC” and “O” zones as well as the area shown as ‘Road’, the implementation programme for this part of the HSK/HT NDA is still being formulated. The Project Manager (West), Civil Engineering and Development Department and Director of Leisure and Cultural Services have no objection to the proposed temporary use at the Site. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area. 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 considered not incompatible with the surrounding land uses which are predominantly occupied by open storage yards, workshops, warehouse and logistics centres (**Plan A-2**).
- 12.3 The applied use is generally in line with the TPB PG-No. 13F in that the Site falls within the HSK/HT NDA. According to Planning Department’s record, part of the Site and its adjoining areas were previously occupied by structures including some for workshop use before the first gazettal of the respective statutory town plans covering the Site. The applicant also pledges to take appropriate environmental mitigation measures to minimise any possible environmental impact and nuisance on the surrounding areas. As such, sympathetic consideration may be given to the application.
- 12.4 There is no objection to or adverse comment on the application from concerned government departments, except DEP. DEP does not support the application because there are sensitive receivers in the vicinity (the nearest residential dwelling being about 41m away), and environmental nuisance is expected (**Plan A-2**). To address the possible environmental nuisance or the technical requirements of the other 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 UD on the Site would be subject to planning enforcement action. Should the application be approved, the applicant will be advised to follow the ‘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 Two public comments objecting to the application were received as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.4 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary open storage of construction material and machinery with ancillary parking of special purpose vehicle and office could be tolerated for a period of three 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 three years until **23.12.2025**. 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) 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 **23.6.2023**;
- (d) in relation to (c) 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 **23.9.2023**;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **3.2.2023**;
- (g) the submission of a 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 **23.6.2023**;
- (h) in relation to (g) 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 **23.9.2023**;

- (i) if any of the above planning condition (a), (b) or (e) 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 (c), (d), (f), (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 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 "G/IC" and "O" zones, which are 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; and for the provision of outdoor open-air public space for active and/or recreational uses serving the needs of local residents as well as the general public 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 fails to demonstrate that the applied use would not generate adverse environmental impact 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

Appendix I	Application Form with attachments received on 19.7.2022
Appendix Ia	FI received on 3.11.2022
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Previous Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses

Appendix VI

Appendices VII-1 and 2

Drawing A-1

Drawing A2

Plan A-1

Plan A-2

Plan A-3

Plan A-4

Good Practice Guidelines for Open Storage issued by the

Director of Fire Services

Public Comments

Vehicular Access Plan

Site Layout Plan

Location Plan

Site Plan

Aerial Photo

Site Photos

**PLANNING DEPARTMENT
DECEMBER 2022**