

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/401

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| <u>Applicant</u> | : Silver Photo Industrial Limited represented by Metro Planning & Development Company Limited |
| <u>Site</u> | : Lots 23 RP (Part), 28 RP (Part), 30 RP (Part), 43 (Part), 193, 194 (Part), 195 (Part) and 196 (Part) in D.D. 128 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long, New Territories |
| <u>Site Area</u> | : About 4,550m ² (including GL of about 635m ² or 14%) |
| <u>Land Status</u> | : Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2 |
| <u>Zoning</u> | : “Open Space” (“O”) |
| <u>Application</u> | : Temporary Warehouse for Storage of Construction Materials, Machinery and Spare Parts for a Period of 3 Years |

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of construction material, machinery and spare parts for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls within an area 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 used for the applied use with valid planning permission (**Plans A-4a and A-4b**).
- 1.2 The Site is accessible from Deep Bay Road with an ingress/egress point at the north-western part of the Site (**Drawing A-2 and Plans A-2 and A-3**). As shown on the layout plan at **Drawing A-2**, there are 2 temporary structures (1 to 2-storey, not exceeding 12m high) with a floor area of not exceeding 1,310m² and 1,100m² respectively for warehouse purpose at the major portion of the Site. There are also 7 temporary structures at other parts of the Site for ancillary uses with a total floor area of 380m², including site offices, guard room, toilets and water tank and pump room (not exceeding 3m to 7m high). Two parking spaces for private car and 1 loading/unloading space for medium goods vehicle (MGV) 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, the proposed landscape & tree preservation plan and the as-built drainage plan submitted by the applicant are shown on **Drawings A-2 to A-4.**

- 1.3 The Site is involved in 9 previous planning applications (details at paragraph 5 below).
- 1.4 A comparison of the major development parameters of the last approved application and the current application is summarised in the following table:

| Major Development Parameters | Last Approved Application (A/HSK/196) (a) | Current Application (A/HSK/401) (b) | Difference (b) – (a) |
|-------------------------------------|---|---|--|
| Applied Use | Temporary Warehouse for Storage of Construction Material, Machinery and Spare Parts for a Period of 3 Years | | No change |
| Site Area | About 4,550m ² | | No change |
| No. of Structures | 9 (guardroom, warehouse, site office, pump room and toilet) | 9 (guardroom, warehouse, site office, water tank and pump room and toilet) | No change |
| No. of Storey and Building Height | 1-2 storeys, 3-8m | 1-2 storeys, 3-12m | Structure 3 (+1 storey) (+4m) Structure 8 (+4m) |
| Total Floor Area | About 2,540m ² | Not more than 2,790m ² | +250m² |
| No. of Parking Spaces | 2 for private cars | | No change |
| No. of Loading / Unloading Bay | 1 for MGVS | | No change |
| Operation Hours | from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays, no operation on Sundays and public holidays | | No change |

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

- (a) the Application Form with annex and drawings received on 11.8.2022 **Appendix I**
- (b) Further Information (FI) received on 13.9.2022 **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) The Site is subject to a number of previous planning permissions. The Site is currently covered by an approved planning application (No. A/HSK/196) for similar warehouse use and all the approval conditions have been complied with. The current application is to include additional gross floor area. Similar treatment is requested.
- (b) The development conforms with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F), and the applied use is temporary in nature and compatible with the surrounding environment, which would not jeopardize the long-term planning intention.
- (c) The adjoining areas are occupied for open storage and port back-up uses which make the applied use not incompatible with the surrounding environment. Most of them were granted with planning permissions. The planning circumstances of the current application are similar to that of the adjacent planning permissions for open storage and port back-up uses.
- (d) The impacts to the environment, traffic and drainage are expected to be insignificant.

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. The “Owner’s Consent/Notification” Requirements under TPB PG-No. 31A are not applicable to the GL portion.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site is the subject of 9 previous applications (No. A/YL-HT/174, 192, 301, 484, 673, 748, 894 and 1067 and A/HSK/196) for various temporary open storage, port back-up, warehouse and vehicle park uses covering different extents of the Site. Seven of these applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2004 and 2019 on the considerations that the applied uses were not incompatible with the surrounding areas, generally in line with the then Town Planning Board Guidelines TPB PG-No. 13E and no major adverse comments from concerned government departments. Amongst them, a planning permission (No. A/YL-HT/748) was subsequently revoked due to non-compliance with time-specific approval conditions. The

remaining 2 applications (No. A/YL-HT/174 and 192) for temporary vehicle park were rejected by the Board in 2000 and 2001, which are not relevant to the current application. 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/196 for temporary warehouse for storage of construction material, machinery and spare parts was approved with conditions by the Committee on 13.12.2019 for a period of 3 years. All time-limited approval conditions have been complied with. Compared with the last approved application, the current application is submitted by different applicant for the same use at the same site with a larger floor area and similar layout.

6. Similar Application

There is a similar application (No. A/HSK/156) for temporary warehouse and logistics centre for a period of 3 years partly within the same “O” zone on the OZP in the past 5 years. The application was approved with conditions by the Committee on similar considerations as mentioned in paragraph 5.1 above. However, the planning approval was subsequently revoked due to non-compliance with time-specific approval conditions. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1a**.

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

7.1 The Site is:

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

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate northeast is an open storage yard of converted containers which is a suspected unauthorized development (UD) while to its northwest are two churches, a sitting-out area and a refuse collection point. Further northeast are a nullah, a vacant site and a sewage pumping station;
- (b) to its east is across the nullah are 2 open storage yards of containers under valid planning permissions;
- (c) to its southeast are an open storage yard of construction materials under valid planning permission and an storage area and workshop which are suspected UD. Further southeast is a logistics centre under valid planning permission; and
- (d) to its west is a woodland scattered with some graves.

8. 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.

9. Comments from Relevant Government Departments

All 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 III and IV** respectively.

10. Public Comments Received During Statutory Publication Period

On 19.8.2022, 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 V-1 and V-2**) with one objecting to the application on the grounds that the applied use will cause environmental nuisance, pose fire safety hazard and adversely affect their living quality. Another individual expresses concern that the approval of the application would affect the development of the Northern Metropolis.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction material, machinery and spare parts for a period of 3 years at the Site zoned “O” 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 serving the needs of local residents as well as the general public. 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 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 implementation of government projects.
- 11.2 The applied use is not incompatible with the surrounding land uses which are predominantly used for open storage yards and logistics centre with most of them covered by valid planning permissions (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned government departments including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services on the application. The applied use would unlikely create significant adverse traffic, environmental, drainage and fire safety impacts to the surrounding areas. To address the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 12.2 below.
- 11.4 In addition to 7 previous planning approvals for various temporary open storage, port back-up and warehouse uses at the Site (**Plan A-1b**), there is an approval for similar application within the same “O” zone on the OZP (**Plan A-1a**). Approval of

the current application is in line with the Committee's previous decisions. For the last approved application No. A/HSK/196, all time-limited approval conditions had been complied with.

- 11.5 Two public comments objecting to or expressing concern 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 in paragraph 10, the Planning Department considers that the temporary warehouse for storage of construction material, machinery and spare parts 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 **23.9.2025**. 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 **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **23.12.2022**;
- (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 **23.3.2023**;
- (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 **23.6.2023**;
- (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 “O” zone, which 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. 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

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| Appendix I | Application Form received on 11.8.2022 |
| Appendix Ia | FI received on 13.9.2022 |
| Appendix II | Previous and Similar Applications |
| Appendix III | Government Departments' General Comments |
| Appendix IV | Recommended Advisory Clauses |
| Appendices V-1 and V-2 | Public Comments |
| Drawing A-1 | Location Plan |
| Drawing A-2 | Proposed Layout Plan |
| Drawing A-3 | Proposed Landscape & Tree Preservation Plan |
| Drawing A-4 | As-built Drainage Plan |
| Plan A-1a | Location Plan with Similar Application |
| Plan A-1b | Previous Applications Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and A-4b | Site Photos |

**PLANNING DEPARTMENT
SEPTEMBER 2022**