

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/HSK/402**

<b><u>Applicant</u></b>	: 水喜有限公司
<b><u>Site</u></b>	: Lot 256 (Part) in D.D. 125, San Wai, Ha Tsuen, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 2,700m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
<b><u>Zoning</u></b>	: (i) “Government, Institution or Community” (“G/IC”) (about 72%); and [Restricted to a maximum building height of 8 storeys] (ii) Area shown as ‘Road’ (about 28%)
<b><u>Application</u></b>	: Temporary Open Storage of Recyclable Materials (Metal) with Ancillary Workshop and Office for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary open storage of recyclable materials (metal) with ancillary workshop and office for a period of 3 years at the application site (the Site) (**Plan A-1a**). 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. 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-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Kai Pak Ling Road via a local track and the ingress/egress point is at the northern part of the Site (**Plans A-2 and A-3**). According to the applicant, there are 5 single-storey temporary structures (not more than 6m high) including 3 covered structures for ancillary workshops and 2 offices/staff common rooms, with a floor area of about 874.32m<sup>2</sup>. There is also a working area for open storage of recyclable materials (with movable dust and acoustic cover) of about 620m<sup>2</sup> at the Site. One loading/unloading bay (6.5m x 16m)

is provided (**Drawing A-1**). The ancillary workshop activities will involve sorting and polishing of metal. No crushing, washing, melting or burning activities are involved. The operation hours are from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. Plans showing the proposed site layout, drainage proposed, the proposed fire service installations (FSIs) and the vehicular access leading to the Site submitted by the applicant are at **Drawings A-1 to A-4**.

- 1.3 The Site is involved in 3 previous planning applications (details at paragraph 6 below).
- 1.4 A comparison of the major development parameters of the last rejected application and the current application is summarised as follows:

<b>Major Development Parameters</b>	<b>Last Rejected Application (A/HSK/303) (a)</b>	<b>Current Application (A/HSK/402) (b)</b>	<b>Difference (b) – (a)</b>
Applied Use	Temporary Open Storage of Metals and Plastics with Ancillary Office and Plastic Processing Workshop for a Period of 3 Years	Temporary Open Storage of Recyclable Materials (Metal) with Ancillary Workshop and Office for a Period of 3 Years	<b>No open storage of plastic and plastic processing workshop</b>
Site Area	About 2,700m <sup>2</sup>		<b>No change</b>
No. of Structures	5 (open-sided structures for plastic processing workshop and offices/staff common rooms)	5 (covered structures for ancillary workshop and offices/staff common rooms)	<b>Similar layout but with covered structures for workshop use</b>
No. of Storey and Building Height	1-storey, not more than 6m		<b>No change</b>
Total Floor Area	874.32m <sup>2</sup>	1,494.32m <sup>2</sup>	<b>+620m<sup>2</sup></b>
No. of Loading / Unloading Bay	0	1 (6.5m x 16m)	<b>+1</b>
Operation Hours	from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays, no operation on Sundays and public holidays		<b>No change</b>

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

- (a) Application Form with annex and plans received on (**Appendix I**) 17.8.2022
- (b) Supplementary information (SI) received on 18.8.2022 (**Appendix Ia**)
- (c) Further information (FI) received on 7.9.2022 (**Appendix Ib**)  
[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 and SI at **Appendices I and Ia**. They can be summarized as follows:

- (a) The applied use involves workshop activities including sorting and polishing of recyclable metals. No crushing, washing, melting or burning activities will be involved.
- (b) Four air purifiers have been installed to reduce air pollution. Dust and acoustic cover have been provided to block and reduce dust and noise nuisances from the workshops and working area.
- (c) No heavy vehicles and container trailer/tractor will be allowed to enter 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 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 subject to an on-going planning enforcement case (No. E/YL-HSK/87) against an unauthorized development (UD) involving workshop and storage (including deposit of containers) uses. Enforcement Notice (EN) was issued on 26.7.2022 to the concerned parties requiring discontinuation of the UD.

## **6. Previous Applications**

- 6.1 The Site is the subject of 3 previous applications (No. A/YL-HT/949 and A/HSK/89 and 303) for proposed pond filling for permitted agricultural use, temporary open storage and recyclable materials collection centre with pond filling and temporary open storage with ancillary office and plastic processing workshop respectively. The earlier previous application (No. A/YL-HT/949) is not relevant to the current application. Application No. A/HSK/89 was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 17.8.2018 on the considerations that the applied uses were not incompatible with the surrounding areas, change in planning circumstances of the concerned area in that similar application was approved adjacent to the Site within the same “G/IC” zone and no

major adverse comments from concerned government departments. However, the planning permission was subsequently revoked due to non-compliance with time-limited approval conditions.

- 6.2 The last application No. A/HSK/303 for temporary open storage of metals and plastics with ancillary office and plastic processing workshop was rejected by the Committee on 10.9.2021 mainly on the ground that the applicant failed to demonstrate that the applied use, which would involve sorting, crushing, washing, melting, cooling and cutting of plastic materials into plastic particles, would not generate adverse environmental impact to the surrounding areas. Compared with the last rejected application, the current application is submitted by the same applicant for a similar open storage with workshop use with a similar layout but without storage of plastic and relevant processing at the same site. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.

## **7. Similar Applications**

There are 4 similar applications (No. A/HSK/132, 166, 272 and 311) for temporary open storage with/without workshop uses within/straddling the subject “G/IC” zone in the past 5 years. All applications were approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.1 above. Three permissions of these applications 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-1a**.

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

### **8.1 The Site is:**

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

### **8.2 The surrounding areas have the following characteristics:**

- (a) to its north and northwest are a logistics centre, a warehouse and logistics yard under valid planning permissions and 2 open storage yards which are suspected UDs;
- (b) to its east and northeast are some open storage yards under valid planning permissions;
- (c) to its south and southwest are a number of open storage yards (two under valid planning permissions), warehouses, storage and parking of vehicles which are suspected UDs, a residential dwelling and vacant land; and
- (d) to its west are some open storage yards of recycling materials which are suspected UDs.

## **9. Planning Intention**

The planning intention of the “G/IC” zone is 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.

## **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 was a substantiated environmental complaint pertaining to the Site in the past 3 years, which was against the recycling facility operating at the Site. Air Pollution Abatement Notice (APAN) under the Air Pollution Control Ordinance was issued to the recycling operator in April 2022 and due to non-compliance of the APAN spotted in June 2022, prosecution action against the operator is in progress;
- (b) there are sensitive receivers of residential use in the vicinity (with the nearest one being about 38m away) (**Plan A-2**) and environmental nuisance is expected;
- (c) should the application be approved, the following approval conditions should be imposed to minimize environmental nuisance arising from the proposed use:
  - (i) all workshop activities shall be carried out inside the enclosed structures at all times on the Site, as proposed by the applicant, during the planning approval period;
  - (ii) no cleaning, washing, pulverizing, melting and burning activity is allowed on the Site during the planning approval period; and
  - (iii) all open storage or stockpiling of metal stock shall be fully and properly covered at any times on the Site; and
- (d) his other advisory comments are provided in the Recommended Advisory Clauses in **Appendix V**.

## **11. Public Comments Received During the Statutory Publication Period**

On 26.8.2022, 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 VII-1 and VII-2**) with one of them objecting to the application on the grounds that the applied use will increase traffic flow, cause traffic congestion and environmental nuisance, pose fire safety hazard and adversely affect the safety and living quality of the local villagers while the other expressing concern on whether enforcement action has been taken against the UD at the Site.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for temporary open storage of recyclable materials (metal) with ancillary workshop and office for a period of 3 years at the Site within an area zoned “G/IC” (about 72%) and area shown as ‘Road’ (about 28%) on the OZP. The planning intention of the “G/IC” zone is 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. 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) has 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.
- 12.2 The proposed use is not incompatible with the surrounding areas which are predominantly used for open storage yards, warehouses and logistics centre 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 is involved in a previous planning approval (No. A/HSK/89) for temporary open storage of construction materials and recycled materials collection centre with pond filling. The current application is submitted by a different applicant for similar use at the similar site with a different layout. Although the planning permission was revoked on 17.11.2020 due to non-compliance with the time-limited approval conditions on the submission and implementation of the revised drainage proposal and the implementation of the landscape proposal and FSIs proposal, the applicant has submitted the proposed drainage plan and FSIs plan in the current application and the Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to the application. In this regard, sympathetic consideration may be given to the application.
- 12.4 Other concerned departments have no objection to or no adverse comment on the application, except DEP. DEP does not support the application because APAN under the Air Pollution Control Ordinance was issued to the recycling operator of the Site (i.e. the applicant) in April 2022 and due to non-compliance of the APAN spotted in June 2022, prosecution action against the operator is in progress. Also, there are sensitive receivers of residential use in the vicinity of the Site (with the closest one being about 38m away) (**Plan A-2**) and environmental nuisance is expected. However, the applicant proposes that the workshop activities will only involve sorting and polishing of metal, which will be enclosed by dust and acoustic cover to avoid air and noise pollution. No other processing of metals will be carried out on the Site. The open storage area will also be covered by movable dust and

acoustic cover. To address the concerns on the possible environmental nuisances or the technical requirements of the concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approved conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. 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 There are also 4 similar applications within/straddling the subject "G/IC" zone approved in the past 5 years (**Plan A-1a**). Approval of the current application is generally in line with the Committee's previous decisions. While there was a previous application (No. A/HSK/303) in the subject "G/IC" zone rejected mainly on the ground that the applicant failed to demonstrate that the applied use would not generate adverse environmental impact to the surrounding areas, the current applied use is different from the previous one by omitting the storage of plastic and relevant processing such as melting and burning.
- 12.6 Two public comments objecting to or expressing concern on the application were received during the statutory publication period as summarised in paragraph 11 above. The background and planning considerations and assessments in paragraphs 5 and 12.1 to 12.5 above 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 in paragraph 11, the Planning Department considers that the temporary open storage of recyclable materials (metal) with ancillary workshop and office 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 **14.10.2025**. 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 8:00 a.m. from Mondays to Saturdays, 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) all workshop activities shall be carried out inside the enclosed structures at all times on the Site, as proposed by the applicant, during the planning approval period;
- (d) no cleaning, washing, pulverizing, melting and burning activity is allowed on the Site during the planning approval period;
- (e) all open storage or stockpiling of metal stock shall be fully and properly

covered at all times on the Site during the planning approval period;

- (f) the submission of a revised drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **14.4.2023**;
- (g) in relation to (f) above, the implementation of the revised drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **14.7.2023**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 **25.11.2022**;
- (j) 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 **14.4.2023**;
- (k) in relation to (j) above, the implementation of the revised 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 **14.7.2023**;
- (l) if any of the above planning condition (a), (b), (c), (d), (e) or (h) 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
- (m) if any of the above planning condition (f), (g), (i), (j) or (k) 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 reasons for rejection are suggested for Members' reference:

the applicant fails to demonstrate that the proposed 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**

<b>Appendix I</b>	Application Form received on 17.8.2022
<b>Appendix Ia</b>	SI received on 18.8.2022
<b>Appendix Ib</b>	FI received on 7.9.2022
<b>Appendix II</b>	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
<b>Appendix III</b>	Previous and Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	'Good Practice for Open Storage Sites' by the Fire Services Department
<b>Appendices VII-1 and VII-2</b>	Public Comments
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Drainage Plan
<b>Drawing A-3</b>	Proposed FSIs Plan
<b>Drawing A-4</b>	Vehicular Access Plan
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2022**