

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

APPLICATION NO. A/HSK/415

- Applicant** : Maxtop Sky Limited represented by R-riches Property Consultants Limited
- Site** : Lot 269 in D.D. 125, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 1,716m²
- 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) “Open Space” (“O”) (about 82%); and
(ii) “Residential (Group A) 2” (“R(A)2”) (about 18%)
[Restricted to a maximum plot ratio of 6 and a maximum building height of 140mPD]
- Application** : Proposed Temporary Warehouse (Excluding Dangerous Goods Godown) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) 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). The Site is currently used for the open storage of new vehicles without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Ping Ha Road via a local track and the ingress/egress point is at the eastern part of the Site (**Plans A-2 and A-3**). According to the applicant, a temporary structure (1 storey, about 8m high) with a total floor area of about 1,454m² for warehouse for storage of building materials such as tiles and pipes is proposed at the major portion of the Site. There also would be a rain shelter with a total floor area of about 54m² (1 storey, about 5m high) at the eastern part of the Site. One parking space for private car and one loading/unloading bay for light goods vehicle would be provided (**Drawing A-2**). The operation hours

are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays and there would be no operation on Sundays and public holidays. Plans showing the vehicular access leading to the Site and site layout submitted by the applicant are at **Drawings A-1 and A-2** respectively.

- 1.3 In support of the application, the applicant has submitted the Application Form (received on 3.10.2022) with attachments.

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 summarised as follows:

- (a) The adjoining areas are occupied by open storage yards, warehouse and logistics centres which make the proposed use not incompatible with the surrounding environment. Similar planning permissions within the same “O” and “R(A)2” zones were granted by the Board. The planning circumstances of the current application are similar to that of the adjacent planning permissions for similar uses.
- (b) The Site is accessible from Ping Ha Road via a local track. Minimal traffic impact is anticipated as sufficient manoeuvring space is provided within the Site to ensure no queuing or turning back outside the Site onto the public road (**Drawing A-2**).
- (c) The proposed development will not generate significant environmental and drainage impacts to the surrounding areas as adequate mitigation measures will be provided. The applicant pledges to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize the possible environmental impacts.

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. Background

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

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

There are nine similar applications (No. A/HSK/3, 9, 49, 258, 282, 289, 296, 311 and 313) for temporary warehouse and open storage uses within/straddling the subject “O” and

“R(A)2” zones in the past five years. All applications were approved with conditions by the Committee on the considerations that the applied uses were generally not incompatible with the surrounding areas; approval of the applications on a temporary basis would not jeopardise the long-term development of the sites; and concerned Government departments had no adverse comment. Details of these applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Ping Ha Road via a local track; and
- (b) currently used for open storage of new vehicles without valid planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and northeast are three logistics centres and an open storage yard which are suspected unauthorized developments (UDs), a warehouse and another open storage yard under valid planning permissions and some residential dwellings;
- (b) to its east and southeast are four open storage yards which are suspected UD's and a residential dwelling (the closest one being about 20m away); and
- (c) to its south is an open storage yard which is a suspected UD.

8. Planning Intentions

The planning intention of the “O” zone is intended 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, whereas that of the “R(A)2” zone is intended primarily for high-density residential developments.

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 Comment Received During the Statutory Publication Period

On 11.10.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received (**Appendix V**) expressing concern that approval of the application would impede the planned development in the subject “O” and “R(A)2” zones.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) for a period of three years at the Site straddling over “O” (about 82%) and “R(A)2” (about 18%) zones on the OZP. Whilst the proposed use is not in line with the planning intentions of the “O” and “R(A)2” zones, 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 three years would not jeopardise 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 proposed use is considered not incompatible with the surrounding areas which are predominately used for logistics centres and open storage yards with some of them covered by valid planning permissions (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned government departments including Director of Environmental Protection, Commissioner for Transport, Director of Fire Services and Chief Engineer/Mainland North of Drainage Services Department on the application. The proposed use would unlikely create significant adverse environmental, traffic, fire safety and drainage impacts on the surrounding area. To address the technical requirements of the concerned departments, relevant approval conditions have been recommended in paragraph 12.2 below.
- 11.4 While there is no previous application at the Site, there are nine similar approvals for temporary warehouse and open storage uses within/straddling the subject “O” and “R(A)2” zones on the OZP (**Plan A-1**). Approval of the subject application is generally in line with the Committee’s previous decisions.
- 11.5 A public comment expressing concerns on the application was received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above 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 comment mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse (excluding dangerous goods godown) could be tolerated for a period of three 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 three years until **25.11.2025**. 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 the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **25.5.2023**;

- (b) in relation to (a) above, the implementation of the 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 **25.8.2023**;
- (c) in relation to (b) above, the implemented drainage facilities 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 **25.5.2023**;
- (e) in relation to (d) 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 **25.8.2023**;
- (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 IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use is not in line with the planning intentions of the "O" and "R(A)2" zones which are 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 and for high-density residential developments respectively. There is no strong planning justification in the submission for a departure from the planning intentions, 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

Appendix I	Application Form with Attachments received on 3.10.2022
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2022**