

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/422

- Applicant** : Double Industries Co. (得寶實業公司) represented by Miss HUI Hang Yu (許幸如)
- Site** : Lot 1326 (Part) in D.D. 124, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 1,215m²
- Land Status** : 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 94%); and
(ii) “Other Specified Uses” annotated “Enterprise and Technology Park” (“OU (E&TP)”) (about 6%);
[Restricted to a maximum plot ratio of 5 and maximum building height of 90mPD]
- Application** : Proposed Temporary Shop and Services with (Retail Shop for Pet Goods) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (retail shop for pet goods) for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “O” (about 94%) with a minor portion within “OU(E&TP)” zone (about 6%) on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the zone requires planning permission from the Town Planning Board (the Board). The Site is currently used as warehouse without valid planning permission (**Plan A-4**).
- 1.2 The Site is accessible from a local track via Kong Sham Western Highway (**Plans A-2 and A-3**) with the ingress/egress points at the southern part of the Site. As shown on the submitted layout plan at **Drawing A-2**, there are five temporary structures (with a total floor area of about 1,045m²; including two single-storey structures (7m and 8m in height) for shop and services (pet goods retails) use, and three other one to two-storey structures (all 7m in height) for ancillary facilities including security guard room, pump room, rain shelter and office. Two loading/

unloading spaces for ~~medium~~ **light** goods vehicle (**MLGV**) are also provided within the Site for delivery use. According to the applicant, the operation hours are from 8:00 a.m. to 8:00 p.m. (Mondays to Saturdays) and there will be no operation on Sundays and public holidays. The layout plan with vehicular access is at **Drawing A-2**.

- 1.3 In support of the application, the applicant has submitted the Application Form with attachments received on 7.11.2022 (**Appendix I**).

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 proposed use is temporary in nature and would not jeopardise the long-term planning intention of the zones.
- (b) It would put rural land resources under good management. The applicant pledges to provide good management for the Site to avoid mosquito and dumping/littering problems. The proposed development is compatible with the surrounding areas.
- (c) Given the nature and small scale of the proposed development, the impacts on the environment are expected to be insignificant. The proposed development does not involve tree felling, filling of land or any workshop activities.
- (d) The traffic impacts of the proposed development would be minimal as it only involves delivery purpose.

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 the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Applications

The Site is the subject of three previous applications (No. A/YL-HT/126, 152 and 217) for temporary open storage and warehouse uses rejected by the Rural and New Town Planning Committee (the Committee) and the Board on review in 2000 and 2001, on the considerations of being not in line with the planning intention of the then “Residential (Group D)” zone¹; possible adverse environmental impacts; land use incompatibility; and

¹ The Site was zoned “R(D)” on the then Ha Tsuen Outline Zoning Plan (OZP) Plan No. S/YL-HT/10 at the time

setting of undesirable precedent. Details of the previous application are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

There are four similar applications (No. A/HSK/51, 55, 300 and 301) for temporary shop and services within/straddling the same “O” zone on the OZP. The application were approved with conditions by the Committee between 2018 and 2021 on the considerations that the applied use would not jeopardise the long-term planning intention of the zoned uses; being not incompatible with the surrounding areas; and no major adverse comments from concerned government departments. Details of the application 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 Plan A-4)

7.1 The Site is:

- (a) accessible from a slip road of Kong Sham Western Highway via a local track; and
- (b) currently used as warehouse without valid planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north are open storage yards and a warehouse which are suspected unauthorized developments (UDs); and to its northeast are residential dwellings and some vacant /unused land;
- (b) to its east and southeast are open storage yards (two of them under valid planning permissions and remaining ones being UD) and some residential dwellings; and
- (c) to its south and west are some residential dwellings (the nearest one being 21m away) and open storage yards (one under valid planning permission and remaining ones being UD).

8. Planning Intentions

8.1 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.

8.2 The planning intention of the “OU(E&TP)” zone is primarily to provide development space for accommodating a variety of innovation and technology uses, including research centre, testing and certification, data centre, modern industries and other related businesses and non-polluting industrial uses.

9. Comments from Relevant Government Departments

All departments consulted have no objection to or no adverse comments 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 Statutory Publication Period

On 14.10.2022, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received (**Appendix V**) objecting to the application on the grounds that the Site is used as brownfield operation.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (retail shop for pet goods) for a period of three years at the Site mainly zoned “O” with a minor portion within the “OU(E&TP)” zone on the OZP. Whilst the applied use is not entirely in line with the planning intentions of the “O” and “OU(E&TP)” zones, the implementation programme for this part of the Hung Shui Kiu / Ha Tsuen New Development Area 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.
- 11.2 The applied use is considered not incompatible with the surrounding land uses, which mainly comprise various open storage yards with some residential dwellings scattered between (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North of Drainage Services Department on the application. The proposed use would unlikely create significant adverse traffic, environmental, fire safety and drainage impacts on the surrounding area. To address the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 12.2 below.
- 11.4 The Committee has approved four similar applications (No. A/HSK/51, 55, 300 and 301) for temporary shop and services use within / straddling the same “O” zone from 2018 to 2021 (**Plan A-1**). Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 One public comment objecting to the application was received during the statutory publication period as summarised in paragraph 10. 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, the Planning Department considers that the proposed temporary shop and services (retail shop for pet goods) 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 **23.12.2025**. 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 planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **23.6.2023**;
- (b) in relation to (a) 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**;
- (c) in relation to (b) above, the implemented drainage facilities on the Site 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 **23.6.2023**;
- (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 **23.9.2023**;
- (f) if any of 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 applied use is not in line with the planning intentions of the "O" and "OU(E&TP)" 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

residential as well as the general public; and to provide development space for accommodating a variety of innovation and technology uses, including research centre, testing and certification, data centre, modern industries and other related businesses and non-polluting industrial uses 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 7.11.2022
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2022**