

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/507

- Applicant** : Mr. FUNG Kam Tong represented by Metro Planning & Development Company Limited
- Site** : Lots 674 (Part), 675 S.A (Part), 675 S.B (Part) and 676 in D.D. 125 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 845m² (including GL of about 40m² or 4.7%)
- 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
- Zoning** : “Open Space” (“O”)
- Application** : Temporary Warehouse for Storage of Food Provision for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of food provision 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 requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is accessible from San Sik Road via a local track and the ingress/egress point is at the southern part of the Site (**Plans A-2 and A-3**). According to the applicant, there are five single-storey temporary structures with a total floor area of not more than 628m² used for warehouse for storage of food provision, rain shelters and toilet. One loading/unloading space for light goods vehicle (7m x 3.5m) is provided (**Drawing A-2**). The operation hours are from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays and there would be no operation on Sundays and public holidays. Plans showing the access leading to the Site, site layout and proposed drainage facilities submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The Site is involved in a previous application for temporary warehouse for storage of food provision for a period of three years which was approved by the Rural and

New Town Planning Committee (the Committee) of the Board on 26.3.2021 (details at paragraph 5 below). Compared with the last approved application No. A/HSK/296, the current application is submitted by the same applicant for the same use at the same site with the same layout.

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

- (a) Application Form with attachments received on 1.2.2024 (Appendix I)
- (b) Supplementary Information (SI) received on 6.2.2024 (Appendix Ia)
- (c) Further Information (FI) received on 29.2.2024 (Appendix Ib)

[accepted and 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 summarised as follows:

- (a) The Site has been used for the applied use for more than two decades and the applicant wishes to regularise the applied use. A previous application No. A/HSK/296 for the applied use at the Site was approved by the Board.
- (b) The applied use is not incompatible with the surrounding environment. Similar planning applications for warehouse and open storage and port back-up uses have been approved by the Board in the adjoining areas.
- (c) The applied use is temporary in nature and would not jeopardise the long-term planning intention of the concerned zone.
- (d) The impacts in terms of 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. 31B) 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. The “Owner’s Consent/Notification” Requirements under TPB PG-No. 31B are not applicable to the GL portion.

4. Background

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

5. Previous Application

The Site is involved in a previous application No. A/HSK/296 for temporary warehouse for storage of food provision for a period of three years which was approved by the Committee on 26.3.2021 on the considerations that the applied use was not incompatible

with the surrounding areas, and there were no major adverse comments from government departments. However, the planning permission was subsequently revoked on 26.8.2023 due to non-compliance with time-limited approval condition regarding the implementation of drainage proposal. Details of the application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

There are five similar applications for temporary warehouse use within/straddling the subject “O” zone in the past five years. All of them were approved with conditions by the Committee between 2021 and 2023 on similar considerations as mentioned in paragraph 5 above. Three of the planning approvals were subsequently revoked due to non-compliance with time-limited approval conditions. 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-4b)

7.1 The Site is:

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

7.2 The surrounding areas are predominantly occupied by open storage yards, warehouses, storage facilities, vehicle repair workshops intermixed with residential dwellings and unused land. Some of these uses are covered by valid planning permissions, whilst some are suspected unauthorized developments subject to planning enforcement action.

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

9.1 Apart from the government departments 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 III** and **IV** respectively.

9.2 The following government department has adverse comment on the application.

Land Administration

9.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) he has reservation on the application since there is unauthorized

structure(s) on the private Lot 676 in D.D. 125 which is already subject to lease enforcement actions according to case priority. The lot owner should apply for regularization of the lease breaches as demanded by LandsD;

- (b) there is no lease modification/land exchange application or building plan submission in relation to development at the Site approved/under processing; and
- (c) his advisory comments are at **Appendix IV**.

10. Public Comment Received During Statutory Publication Period

On 9.2.2024, the application was published for public inspection. During the statutory public inspection period, a public comment from an individual was received (**Appendix V**) expressing views on the application that the approval conditions under the previous application have not yet been complied with and the applied use may cause drainage problems.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of food provision for a period of three years at the Site zoned “O” on the OZP. Whilst the applied use is not in line with the planning intention of the “O” zone, the Project Manager (West), Civil Engineering and Development Department and the Director of Leisure and Cultural Services have no adverse comment on the application. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site. Notwithstanding this, 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 are predominantly open storage yards, warehouses, storage facilities, vehicle repair workshops intermixed with residential dwellings and unused land (**Plan A-2**).
- 11.3 While the planning permission granted under the last application No. A/HSK/296 in 2021 was revoked due to non-compliance with the time-limited approval condition regarding implementation of drainage proposal, relevant proposal has been submitted in the current application and the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) has no objection to the application. In this regard, sympathetic consideration may be given to the application. The applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of planning permission, sympathetic consideration may not be given to any further applications.
- 11.4 There is no adverse comment from the concerned government departments including the Director of Environmental Protection, Commissioner for Transport, Director of Fire Services and CE/MN, DSD on the application regarding environmental, traffic, fire safety and drainage aspects respectively. To address the technical requirements of the concerned departments, relevant approval

conditions have been recommended in paragraph 12.2 below. Regarding DLO/YL, LandsD's comments on unauthorized structure(s) on Lot 676 in D.D. 125, should the application be approved, the applicant will be advised to apply for regularization of the lease breaches with LandsD.

- 11.5 Given a previous approval for the applied use was granted for the Site in 2021 and six similar applications had been approved by the Committee in the past five years, approval of the current application is in line with the previous decisions of the Committee.
- 11.6 A public comment expressing views on the application as summarised in paragraph 10 above, the planning considerations and assessments in paragraphs 11.1 to 11.5 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 temporary warehouse for storage of food provision 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 **15.3.2027**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 **15.9.2024**;
- (b) in relation to (a) above, the implementation of the revised 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 **15.12.2024**;
- (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 **15.9.2024**;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **15.12.2024**;
- (f) if the above planning condition (c) is not complied with during the planning 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 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

Appendix I	Application Form received on 1.2.2024
Appendix Ia	SI received on 6.2.2024
Appendix Ib	FI received on 29.2.2024
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Location Plan with Vehicular Access
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2024**