

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

APPLICATION NO. A/HSK/135

- Applicant** : Wah Tung Development Co. Ltd.
- Site** : Lots 80 (Part), 89 (Part), 90 (Part), 91 (Part) and 92 (Part) in D.D.125, Ha Tsuen, Yuen Long
- Site Area** : 4,480 m² (about)
- 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** : “Residential (Group A)3” (“R(A)3”) (about 95%);
“Government, Institution or Community” (“G/IC”) (about 3 %)
[Restricted to maximum building height of 3 storeys];
and area shown as ‘Road’ (about 1 %).
- Application** : Temporary Open Storage of Containers and Logistics Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of containers and logistics centre for a period of 3 years (**Plan A-1a**). The Site is mostly zoned “R(A)3” (95%) with minor encroachment onto the adjoining “G/IC” (3%) zone and an area shown as ‘Road’ (1%) on the approved HSK and HT OZP No. S/HSK/2. 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. The Site is currently used for the temporary open storage of containers and logistics centre without a valid planning permission.

- 1.2 The Site is related to 5 previous applications (No. A/YL-HT/480, 569, 761, 935 and 994) for the same use submitted by the same applicant (**Plan A-1b**). The last application (No. A/YL-HT/994) for open storage of containers and logistics centre use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 8.1.2016. All the time-specific approval conditions have been complied with. However, the planning permission lapsed on 9.1.2019.
- 1.3 The Site is accessible from Ping Ha Road via a local track. The Site is fenced off with the ingress/egress point at its south-western corner (**Drawing A-1** and **Plan A-3**). A total of two 1-storey structures (3.5m high) with a total floor area of 255.5m² are proposed including one converted container (46.5m²) as temporary ancillary office use at the northern boundary of the Site, and a set of 3 converted containers (209m²) for site office and toilet use at the eastern boundary of the Site. 3 parking spaces for private cars and 3 loading/unloading bays for lorries and container vehicles are proposed along the southern boundary. The north-eastern portion of the Site (about 1,800m²) is for open storage of containers. According to the applicant, there will be no workshop activity at the Site. The operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The proposed layout plan, landscape plan and drainage plan submitted by the applicant are at **Drawings A-2, A-3 and A-4**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received by the Board on 15.2.2019 (**Appendix I**)
 - (b) Supplementary planning statement with proposed layout plan, tree preservation and landscape proposal and drainage plan (**Appendix Ia**)
- 1.5 A comparison of the major development parameters of the current application and the last approved application is given in the following table:

Major Development Parameters	Last Approved Application (A/YL-HT/994) (a)	Current Application (A/HSK/135) (b)	Difference (b) – (a)
Site Area	about 4,480 m ²	about 4,480 m ²	No change
Applied Use	Temporary Open Storage of Containers and Logistics Centre for a Period of 3 Years	Temporary Open Storage of Containers and Logistics Centre for a Period of 3 Years	No change
No. of Structures	2	2	No change
Total Floor Area	210 m ²	255.5 m ²	+ 45.5 m ²
No. of Parking Spaces	3 for private cars	3 for private cars (2.5m x 5m each)	No change
Loading/unloading Bays	3 lorry and container vehicles	3 for lorries and container vehicles (12.5m x 5m each)	No change

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement in **Appendix Ia**. They can be summarized as follows:

- (a) The Site falls within the “Category 1 areas” of the Board’s Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) in which open storage and port back-up uses are considered suitable. The Site is the subject of 5 previous planning permissions for temporary logistics centre, warehouse and open storage uses since 2007. The proposed use is on temporary basis. There is no permanent structure constructed within the Site. The applied use will not jeopardise the long term planning intention of the area.
- (b) The proposed development could utilise the land resources in the area and to meet the demand of for port back-up uses in the logistic industry.
- (c) With proper management, the proposed operation would improve the public safety and environmental hygiene of the area in general. Abandoned land, illegal occupation of land and illegal dumping would be avoided.
- (d) The applicant has complied with all the approval conditions with the previous planning approval.
- (e) The proposed use is compatible with the surrounding land use which is predominantly logistics and port-back up uses. Locals were consulted and no adverse comments have been received. The applicant pledges to adopt a cooperative attitude, actively communicate with Government departments, comply with various regulations and make genuine efforts in implementation of environmental mitigation works to ensure that the development would not generate any adverse impacts to the surrounding areas.
- (f) As the development would not generate any adverse impact on the surrounding areas, the applicant appeals to the Board for approval of the application.

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. 31) by posting site notice and sending notice to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

On 17.10.2008, the Board promulgated the revised Town Planning Board Guidelines for

Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E). The Site falls within Category 1 areas under the TPB PG-No. 13E. Relevant extracts of the Guidelines are at **Appendix II**.

5. **Background**

As the storage use on the Site is not covered by a valid planning approval, it would be subject to planning enforcement action.

6. **Previous Applications**

6.1 The Site is the subject of 5 previous applications No. A/YL-HT/480, 569, 761, 935 and 994 for the open storage of containers, logistics centre and warehouse uses submitted by the same applicant. All of the applications were approved with conditions by the Committee from 2007 to 2016. However, applications Nos. A/YL-HT/480 and 935 were subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.

6.2 Compared with the last approved application No. A/YL-HT/994 approved by the Committee on 8.1.2016, the current application is submitted by the same applicant for the same use. There is no change of the proposed use, numbers of temporary structures, numbers of car parking spaces and numbers of loading/unloading bays for lorries and container vehicles. However, the total floor area has been increased by 45.5m².

7. **Similar Applications**

Within the same “R(A)3” zone, there are 7 similar applications for temporary open storage/port-back up, logistics centre and warehouse uses since the promulgation of TPB PG-No. 13E on 17.10.2008. These applications were approved with conditions by the Committee. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

8. **The Site and Its Surrounding Areas** (Plan A-2 to Plan A-4b)

8.1 The Site is:

- (a) currently used for the open storage of containers and logistics centre; and
- (b) accessible from Ping Ha Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is an open storage of containers under a valid planning permission (Application No. A/HSK/63), to further north is a

small cluster of residential dwellings, with the nearest one about 75m away (**Plan A-2**);

- (b) to its immediate east is an open storage of construction machinery and generators;
- (c) to its immediate south is a logistics centre under a valid planning permission (Application No. A/HSK/99); to the further south is a logistics centre with ancillary parking of vehicles under a valid planning permission (Application No. A/HSK/85); and
- (d) to its west and southwest is a yard for open storage of containers and logistics centres under a valid planning permission (Application No. A/HSK/9).

9. Planning Intentions

- 9.1 The planning intention of “R(A)3” zone is intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purpose-designed non-domestic building up to five storeys.
- 9.2 The Site is mostly designated for “Residential Zone 1” use for the development of subsidised sale flats with minor encroachment onto areas designated for “Education” use for the development of a primary school and a secondary school on the adopted HSK and HT Outline Development Plan (ODP) No. No. D/HSK/1.

10. Comments from Relevant Government Departments

- 10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contain the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No(s). in D.D. 125	STW	Purposes
69, 73 and 80	4017	Temporary Logistics Yard, Open storage of Containers, Container Vehicle Park with Ancillary Workshop (For Works Including Compacting and Dismantling, and Repairing of Tyre) and Canteen
90	4594	Temporary Open Storage of Containers and Logistics Centre

- (c) The Site is accessible from Ping Ha Road through both private lots and Government Land (GL). His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or to regularise any irregularities on Site, if any. The STW holders will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Drainage

10.1.2 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from a drainage point of view.
- (b) The existing drainage facilities which were implemented under an approved application No. A/YL-HT/994 will be maintained for the subject development. Should the Board consider that the application is acceptable from the planning point of view, a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit

condition record of the existing drainage facilities to the satisfaction of his division.

Environment

10.1.3 Comment of the Director of Environmental Protection (DEP):

- (a) He does not support the application because there are sensitive uses in the vicinity of the Site (the nearest dwelling is about 75m away) (**Plan A-2**) and along the access road (Ping Ha Road), and environmental nuisance is expected.
- (b) The applicant is advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.
- (c) No environmental complaint pertaining to the Site has been received over the past 3 years.

Traffic

10.1.4 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no adverse comment to the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under his purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

10.1.5 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the Site to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Ping Ha Road.

Fire Safety

10.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
 - (ii) The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans; and
 - (iii) Good practice guidelines for open storage (**Appendix V**) should be adhered to.
- (c) Moreover, having considered the nature of the open storage, the following approval condition shall be added:

‘The provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of D of FS’.

To address the above approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

10.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The

granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulation respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

Long Term Development

10.1.8 Comments of Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD):

He has no objection to the temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities. However, the Site falls within the boundary of HSK NDA. According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The lot(s) concerned falls within a site under Stage 3 Works stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

10.1.9 Comments of the Director of Housing Department (D of H):

It is noted that the proposed temporary use falls within part of the planned public housing sites (Areas 16B and 52A) under the approved HSK and HT OZP No. S/HSK/2. He has no objection to the proposal provided that it would not affect the development programme of Public Rental Housing/Subsidised Sale Flats (PRH/SSF) development under the implementation of HSK NDA.

10.1.10 Comments of the Secretary for Education (S for E):

On the understanding that the proposal is effective for 3 years and renewal is subject to further approval, his comments are as follow:

- (a) The reserved primary/secondary school site is to cater for the population in HSK NDA and the commencement of facilities will tie in with the nearby housing development in HSK NDA.

- (b) Reservation of sites for primary/secondary schools should be made on a district basis. So long as a suitable site can be identified within the district by the Planning Department, EDB would not have specific preference over the exact location of the school site.

District Officer's Comments

10.1.11 The District Officer (Yuen Long) has not received any comment from the locals on the application.

10.2 The following Government departments have no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Director of Social Welfare (D of SW); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

The application was published for public inspection on 22.2.2019. During the statutory public inspection periods which ended on 15.3.2019, no public comment was received.

12. Planning Considerations and Assessment

12.1 The Site is mostly zoned "R(A)3" (95%) with minor encroachment onto the adjoining "G/IC" (3%) zone and an area shown as 'Road' (1%) on the OZP. The planning intention of the "R(A)" zone is intended primarily for high-density residential developments. Whilst the development is not in line with the planning intention, the implementation programme for this part of NDA is still being formulated, PM/NTW of CEDD, D of H and S for E have no objection to the proposed temporary use for a period of 3 years at the Site. 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 Site is located in an area which is predominantly occupied by open storage/storage yards, logistics centres, warehouses, vehicle repair workshops and parking of vehicles uses. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).

12.3 The Site falls within Category 1 areas under the TPB PG-No. 13E "Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance". The following considerations in the Guidelines are relevant:

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

- 12.4 The proposed development is generally in line with the TPB PG-No. 13E in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up uses; relevant proposals have been submitted to demonstrate that the proposed use would not generate adverse impacts; and technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.
- 12.5 There is no major adverse comment from concerned Government departments, except DEP who does not support the application because there are sensitive uses in the vicinity of the Site (the nearest dwelling is about 74m away) and along the access road (Ping Ha Road), and environmental nuisance is expected (**Plans A-1a** and **Plan A-3**). However, there has not been any environmental complaint against the Site over the past 3 years. Furthermore, relevant approval conditions have been recommended in paragraph 13.2 to address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission on Site would thus be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the possible environmental impacts on the nearby sensitive receivers
- 12.6 The Committee has approved 5 previous applications for open storage and logistics centre uses at the Site (**Plan A-1b**) and 7 similar applications within areas covered by the same "R(A)3" zone on the OZP since the promulgation of TPB PG-No. 13E on 17.10.2008 (**Plan A-1a**). Approval of the current application is in line with the previous decisions of the Committee.
- 12.7 There is no public comment received on the application.

13. **Planning Department's Views**

- 13.1 Based on the assessment made in paragraph 12 above, the Planning Department considers that the temporary open storage of containers and logistics centre 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 **12.4.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m. on Mondays to Saturdays, as proposed by the applicant, is allowed on the Site during the 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) no cutting, cleansing, melting, dismantling or other workshop activity, as proposed by the applicant, is allowed to be carried out on the Site at any time during the planning approval period;
- (d) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from the public road at any times during the planning approval period;
- (f) the stacking height of containers stored on the Site shall not exceed 8 units, as proposed by the applicant, at all times during the planning approval period;
- (g) the existing trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a condition record of the existing drainage facilities on 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 **12.7.2019**;
- (j) the provision of fire extinguisher(s) and the submission of a valid fire certificate (FS251) 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 **24.5.2019**;
- (k) 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 **12.10.2019**;
- (l) in relation to (k) 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 **12.1.2020**;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) 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;

- (n) if any of the above planning conditions (i), (j), (k) or (l) 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; and

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

13.3 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 "R(A)3" zone, which is intended primarily for high intensity residential development. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received by the Board on 15.2.2019
Appendix Ia	Supplementary planning statement with proposed layout, tree preservation and landscape and drainage plan
Appendix II	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
Appendix III	Previous applications covering the application site
Appendix IV	Similar applications for open storage and port back-up uses within the adjacent "R(A)2" zone on the Hung Shui Kiu and Ha Tsuen OZP
Appendix V	'Good Practice for Open Storage Sites' by the Fire Services Department
Appendix VI	Advisory Clauses
Drawing A-1	Location Plan

Drawing A-2	Site Layout Plan
Drawing A-3	Landscape Plan
Drawing A-4	Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2019**