

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/139

- Applicant** : Wealthiest Property Development Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 1511 S.B (Part), 1512 (Part), , 1521 (Part), 1522 (Part), 1533 (Part), 1534 (Part), 1535 (Part), 1536 (Part), 1538 RP (Part) and 1540 (Part) in D.D. 125, Ha Tsuen, Yuen Long
- Site Area** : 3,486 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** : “Other Specified Use” annotated “Logistics Facility” (“OU(LF)”) (about 77 %)
[Restricted to maximum plot ratio of 5 and maximum building height of 110mPD];

and area shown as ‘Road’ (about 23%)
- Application** : Temporary Open Storage of Recyclable Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary open storage of recyclable materials for a period of 3 years (**Plan A-1a**). The Site falls partly within an area zoned “OU(LF)” (77%) and partly within an area shown as ‘Road’ (23%) on the approved HSK and HT OZP. According to the Notes of the OZP, the proposed open storage use is always permitted in the “OU(LF)” zone. In areas shown as ‘Road’ on the OZP, all uses or developments require planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without a valid planning permission.
- 1.2 The Site is related to 6 previous applications No. A/YL-HT/322, 413, 434, 557, 659 and 840 for various open storage and port back-up uses (**Plan A-1b**). The last application No. A/YL-HT840 for temporary open storage of containers with

ancillary workshops and logistics centre was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 3.5.2013 for a period of 3 years. All the time-specific approval conditions had been complied with. However, the planning permission lapsed on 3.5.2016.

- 1.3 The Site is accessible via a local track branching off from Ha Tsuen Road and its ingress/egress is located at the south-western corner (**Plans A-2 and A-3**). A total of 7 structures, with a total floor area of 419m², comprises a single-storey converted containers for a guard room, a rainshelter, a loading/unloading platform, a changing room, a toilet and 2 electricity meter rooms will be provided. 2 loading/unloading spaces for medium/heavy goods vehicles are proposed. The applicant indicates that the operation hours are from 8:00 am to 8:00 pm from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The proposed landscape and drainage plans are at **Drawings A-3 to A-4**.
- 1.4 A comparison of the major development parameters of the last approved application and the current application is given in the following table:

Major Development Parameters	Previous Application (A/YL-HT/840) (a)	Current Application (A/HSK/139) (b)	Difference (b) – (a)
Site Area	about 10,809m ²	About 3,468m ²	-7,341m ²
Applied Use	Temporary Open Storage of Containers with Ancillary Workshops and Logistics Centre for a Period of 3 Years	Temporary Open Storage of Recyclable Materials for a Period of 3 Years	N.A.
No. of Structures	7	7	No change
Total Floor Area	1,697m ²	419m ²	-1,278m ²
Uses of Structures	Site Office, Sheds, Sorting Area, Container Repair Workshop	Electricity meter rooms, guard room, changing room, toilet, rain shelter, loading/unloading platform	N.A.
No. of Parking Spaces	14 (3 for private cars, light goods vehicles, 3 for heavy goods vehicles and 8 for container trailers/tractors)	nil	-14
Loading/unloading spaces	0	2 (11m x 3m) each for medium/heavy goods vehicles	+2

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

- (a) Application Form dated 22.2.2019 (Appendix I)
- (b) Supplementary Planning Statement with site plan, location plan, layout plan, proposed landscape & tree preservation plan and as-built drainage plan (Appendix Ia)

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 development is temporary in nature and would not jeopardise the long term planning intention of the area. The proposed use is compatible with the surrounding land uses which are mostly open storage and port back-up uses such as logistic centre, warehouse and container depots. The majority of adjacent developments are either existing use or uses with temporary planning approvals.
- (b) The applicant has complied with all the approval conditions of the previous planning application No. A/YL-HT/840 for temporary open storage of containers with ancillary workshops and logistics centre which was approved by the Committee on 3.5.2013.
- (c) There is a pressing demand for open storage and port back-up facilities in the proximity to the Kong Sham Western Highway. Ha Tsuen is considered in general satisfaction for open storage use and port back-up activities as revealed by the Study commissioned by the Government (Study on Port Back-up Land and Open Storage Requirement – Final Report (1994)). It is the applicant's intention to solicit the Board to sympathetically approve this application on a temporary basis.
- (d) It is estimated that the proposed development would not generate significant amount of traffic and it would not affect the traffic condition of Ha Tsuen Road especially that it is in operation with planning approval since 2008. Furthermore, adequate space for manoeuvring of vehicle would be provided within the site and queuing up of traffic would not be resulted as the traffic generated is insignificant. The negligible increase in traffic would not aggravate the traffic condition of Ha Tsuen Road which is close to Kong Sham Western Highway.
- (e) The applicant has proposed a number of preventive and mitigation measures to avoid degradation of the surrounding environment including no operation between sensitive hours from 8:00 p.m. to 8:00 a.m.; no operation on Sundays and public holidays; and a 2.5 m high peripheral fencing will be provided for screening purpose. The applicant will comply with the measures laid down in the "Code of Practice of Handling Environmental Aspects of Temporary Uses and Open Storage Sites". As such, the applicant's sincerity and conscientious in maintaining the surrounding environmental condition should be appreciated and taken as a merit in assessing 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. Background

The Site is currently not a subject of any active enforcement case.

5. 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 (TPB PG-No. 13E). The Site falls partly within Category 1 areas under the Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Applications

- 6.1 The Site is the subject of 6 previous planning applications No. A/YL-HT/322, 413, 434, 557 and 659 and 840 for various open storage and port back-up uses.
- 6.2 3 applications were rejected by the Committee/ Board between 2004 and 2006 when the Site was zoned “Recreation” (“REC”) on the then Ha Tsuen OZP. Applications Nos. A/YL-HT/322 and 413 for temporary public vehicle park including container tractors/trailers, lorries and private cars and temporary open storage of containers were rejected by the Board upon review on 19.3.2004 and 18.11.2005 respectively. Application No. A/YL-HT/434 for temporary open storage of containers was rejected by the Committee on 21.7.2006. The reasons of rejection were that the development was not in line with the planning intention of the “REC” zone and the Town Planning Board Guidelines for Application for Open Storages and Port Back-up Uses, and there was insufficient information to demonstrate that the development would not have adverse traffic, drainage and environmental impacts on the surrounding areas. Details of these previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.3 The other 3 applications (Nos. A/YL-HT/557, 659 and 840) were approved with conditions by the Committee between 2008 and 2013 where the application sites fell within the previous “Open Storage”(“OS”) and “REC” zones on the then Ha Tsuen OZP. Compared with the last approval application No. A/YL-HT/840, the current application is submitted by the same applicant for the open storage of recyclable materials at the southern portion of the previous application site. The

site area and gross floor area are therefore reduced by 7,341m² and 1,278m² respectively. No parking space for private vehicles is proposed but 2 loading and unloading bays for medium/heavy vehicles are proposed.

7. Similar Applications

Within the same “OU(LF)” and ‘Road’ zones, there are 4 similar applications for temporary open storage/port back-up uses since the promulgation of TPB PG-No. 13E on 17.10.2008. These applications were approved with conditions by the Committee between 2014 and 2019. 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-3)

8.1 The site is:

- (a) currently used for the applied use without valid planning permission; and
- (b) accessible to Ha Tsuen Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are warehouses and logistics centres. Across the nullah to its north is an open storage of construction machinery and material under a valid permission (Application No. A/HSK/45);
- (b) to its west are a logistic centre and open storage of recycling materials and warehouse;
- (c) to its south are logistics centres, warehouse and two yards open storage of containers; and
- (d) to its immediate east is an open storage of vehicles, logistics centre and warehouse. Further east is a residential dwelling which is about 55m away (**Plan A-2**). Further beyond are cultivated agricultural land, scattered residential dwellings and the village settlement of Sik Kong Wai falling within the “Village Type Development” (“V”) zone.

9. Planning Intention

9.1 The planning intention of the “OU(LF)” zone is intended primarily for development of modern logistics facilities to complement the development of Hong Kong as a Regional Distribution Centre and Logistics Hub on the OZP.

9.2 The Site is designated for “OU(LF)” use for the development of modern logistics facilities on the adopted Hung Shui Kiu and Ha Tsuen Outline Development Plan 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 and/or the public comments received are summarised as follows:

Land Administration

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

- (a) The Site comprises Old Scheduled Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without 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	Purpose
1519 and 1536	4867	Temporary Warehouse for Storage of Recyclable Materials
1535	4869	
1538RP	4871	

- (c) The Site is accessible to Ha Tsuen 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 the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given, 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 application from a drainage point of view.
- (b) The existing drainage facilities which were implemented under the approved application No. A/YL-HT/840 will be maintained for the subject development. Should the Board consider that the application is acceptable from the planning point of view, conditions 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 office.

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 55m away) and along the access road (Ha Tsuen 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 Commissioner for Transport (C for T):

- (a) He has no adverse comment on the application from engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to public road or reverse onto/ from public road.
- (c) The local track leading to the Site is not under TD's 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 Highways Engineer/New Territories West (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 Tin 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 (FSI) 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.
- (c) 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.
- (d) 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 Director of Fire Services.”

To address the above approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval.

- (e) 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.

District Officer's Comments

10.1.9 The District Officer (Yuen Long) has not received any comment from 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); and
- (c) Chief Engineer/Development (2), Water Supplies Department (CE/Dev (2), WSD).

11. Public Comments Received During Statutory Publication Period

The application was published for public inspection on 1.3.2019. During the first three weeks of the statutory public inspection period which ended on 22.3.2019, no public comment was received.

12. Planning Considerations and Assessment

12.1 The Site falls within an area partly zoned "OU (LF)" (77%) and partly shown as as 'Road' (23%) on the OZP. The planning intention of the "OU(LF)" is intended primarily for the development of modern logistics facilities to complement the development of Hong Kong as a Regional Distribution Centre and Logistics Hub. According to the Notes of the OZP, the proposed open storage use is always permitted under the "OU(LF)" zone. On the other hand, according to covering Notes, all uses or developments on areas shown as 'Road' require planning permission from the Board. Whilst the development is not in line with the planning intention for the 'Road' area, the implementation programme for this part of NDA is still being formulated, PM/NTW of CEDD has 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 the implementation of government projects.

12.2 The Site is located in an area predominantly occupied by open storage yards, logistics centres and warehouses. 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 DEP does not support the application because there are sensitive uses in the vicinity of the Site (the nearest dwelling is about 55m away) (**Plan A-2**). However, there has not been any substantiated environmental complaint against the Site over the past 3 years. Relevant approval conditions have been recommended in paragraph 13.2 to minimize any potential environmental impacts, or to address the technical concerns raised by concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorised development on the Site would be subject to enforcement action by the Planning Authority. Besides, the applicant will also be advised to follow the “Code of Practice” on Handling Environmental Aspect of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental impacts on the adjacent areas.
- 12.6 3 previous applications were rejected by the Committee between 2004 and 2006 where the application sites were within “REC” zone with adverse departmental comments. However, the Committee had approved 3 previous applications (**Plan A-1b**) for various open storage and port back-up uses at the Site between 2008 and 2015 where the application sites were within “REC” and “OS” zones and approved 4 similar applications (**Plan A-1a**) for similar uses on the same “OU(LF)” zone since the promulgation of TPB PG-No. 13E on 17.10.2008. Approval of the subject application is in line with the Committee’s previous decisions.
- 12.7 There is no public comment received on the application during the statutory publication period.

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 recyclable materials 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 night-time operation from 8:00p.m. to 8:00a.m., 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) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (d) the existing trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (f) the submission of record of drainage facilities 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**;
- (g) the provision of fire extinguisher(s) and the submission of a valid fire certificate (FS251) within 6 weeks from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **24.5.2019**;
- (h) the submission of fire service installations proposals within 6 months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **12.10.2019**;
- (i) in relation to (h), the provision of fire service installations within 9 months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **12.1.2020**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (k) if any of the above planning conditions (f), (g), (h) or (i) 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 VI**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

no information has been provided in the submission to demonstrate that the development will not have adverse noise impact to the nearby residential dwellings.

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 dated 22.2.2019
Appendix Ia	Supplementary Planning Statement with site plan, location plan, layout plan, proposed landscape & tree preservation plan and as-built 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 within the subject "OU(LF)" zone on the HSK and HT OZP
Appendix V	Detailed comments of the Director of Fire Services
Appendix VI	Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Tree Preservation and Landscape Plan
Drawing A-3	As-built Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2019**