

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/147

- Applicant** : Container System Limited represented by Mr. Kwok Chi Man Clement
- Site** : Lot 108 S.B (Part) in D.D.124, Ha Tsuen, Yuen Long
- Site Area** : 2,000m² (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** : “Open Space” (“O”) (about 84%); and
Area shown as ‘Road’ (about 16%)
- Application** : Temporary Open Storage of Containers 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 for a period of 3 years (**Plan A-1a**). The Site straddles over “O” zone (84%) and an area shown as ‘Road’ (16%) on the approved HSK and HT OZP. 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. In any area shown as ‘Road’ on the approved HSK and HT OZP, all uses or developments require planning permission from the Board. The Site is currently being used for open storage of containers under a valid planning permission, No. A/YL-HT/1033.
- 1.2 The Site is related to 8 previous applications (No. A/YL-HT/23, 124, 209, 347, 499, 686, 857 and 1033) for open storage of containers. The last application No. A/YL-HT/1033 for the renewal of planning approval for temporary open storage of containers was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board with conditions for 3 years on 15.7.2016. The applicant has complied with all the approval conditions. The planning permission is valid until 19.7.2019.

1.3 The Site is accessible from Tin Ha Road through the adjacent open storage site via a local track and the ingress/egress point is located at the south-eastern part of the Site (**Drawing A-1 and Plan A-2**). The applicant indicates that the Site is an extension of the adjacent open storage site for containers use to the east (**Drawing A-1**), which is an “Existing Use” (EU) before the gazettal of the Ha Tsuen Interim Development Permission Area (IDPA) Plan No. IDPA/YL-HT/1 on 17.8.1990. According to the layout plan at **Drawing A-2**, the majority of the Site is for open storage of containers except the southern part, which is reserved for manoeuvring space. No cleaning, repairing, oil spraying and other workshop activity will be carried out at the Site. The operation hours are from 8:00 a.m. to 8:00 p.m. from Monday to Saturday and there will be no operation on Sundays and public holidays.

1.4 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	Previously Approved Application (A/YL-HT/1033) (a)	Current Application (A/HSK/147) (b)	Difference (b) – (a)
Site Area	about 2,000m ²		No change
Applied Use	Renewal of Planning Approval for Temporary Open Storage of Containers for a Period of 3 Years	Temporary Open Storage of Containers for a Period of 3 Years	No change
No. of Structures	No structure		No change
Parking Spaces	2 for container vehicles	N/A	-2
Operation Hours	<ul style="list-style-type: none"> • 8:00 a.m. to 6:00 p.m. Mondays to Saturdays • no operation on Sundays and public holidays 	<ul style="list-style-type: none"> • 8:00 a.m. to 8:00 p.m. Mondays to Saturdays • no operation on Sundays and public holidays 	2 hours extension on every working day

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

- (a) Application Form received on 3.4.2019 with (**Appendix I**) supplementary statement, proposed location and vehicular access plan and proposed layout plan
- (b) Further Information (FI) received on 18.4.2019 on the estimate trip generation and attraction (**Appendix Ia**)
[accepted and exempted from publication and recounting requirements]
- (c) FI received on 10.5.2019 on the proposed stacking height of containers within the Site (**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 supplementary statement at **Appendix I**. They can be summarized as follows:

- (a) The Site is located in a Category 1 area under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) which is considered suitable for open storage and port back-up uses. It is the subject of 8 previously approved applications since 1996. The applicant has complied with all approval conditions attached to the previous applications. There are no changes in site boundary, layout and design and applied use from the last approved application.
- (b) The development, on a temporary basis, does not contravene and will not jeopardize the long-term planning of the area. The development is compatible with its adjoining uses which are of similar nature.
- (c) The applicant would follow the environmental measures recommended in the relevant Code of Practice (August 2005) issued by the Environmental Protection Department and the proposed open storage will minimize the adverse environmental impact to the surrounding area.
- (d) Vehicular access of 8m wide is currently connecting the Site have been paved and owners' consent for using the access obtained. With adequate manoeuvring space within the Site, no queuing or waiting on public road is envisaged.
- (e) Drainage facilities and landscaping have been provided under the previous approvals and there are no adverse land use, traffic, environmental and drainage impacts on the surrounding areas. The existing facilities are well maintained by the operator.

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 notices and sending notice to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The use is not subject to any active planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Committee.

5. Town Planning Board Guidelines

On 17.10.2008, the Board promulgated the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). The site falls 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 related to 8 previous applications No. A/YL-HT/23, 124, 209, 347, 499, 686, 857 and 1033 for temporary open storage of containers. All applications were approved with conditions by the Committee. However, application No. A/YL-HT/124 was subsequently revoked due to non-compliance with approval conditions.
- 6.2 The last application No. A/YL-HT/1033 for renewal of the same use was approved by the Committee on 15.7.2016 for a period of 3 years and valid until 19.7.2019. All the approval conditions had been complied with. Compared with the last approved application, the current application is submitted by the same applicant on the same site with the same layout, except with the deletion of 2 parking spaces for container vehicles and extension of operation hours till 8:00 p.m. on Mondays to Saturdays. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.

7. Similar Applications

There are 3 similar applications No. A/YL-HT/610, 834 and 1065 for temporary open storage of containers, workshop and logistics yard within the same “O” zone on the approved HSK and HT OZP No. S/HSK/2 since the promulgation of TPB PG-No. 13E on 17.10.2008. All of these applications were approved by the Committee taking into consideration that the applied uses were not incompatible with the surrounding uses. Particulars 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-1a to Plan A-4a to 4b)

- 8.1 The site is:
- (a) currently being used for the applied use with a valid planning permission No. A/YL-HT/1033; and
 - (b) accessible from Tin Ha Road via a local track.
- 8.2 The surrounding areas have the following characteristics:
- (a) to its immediate north and east is a large open storage of containers which is an EU tolerated under the Town Planning Ordinance (the Ordinance) and to its further northeast are two domestic structures (nearest one being 53m away), while to its further north and northwest are several vehicle repair workshops and two car services centres and some domestic houses;
 - (b) to its south are some open storage of construction and recycled materials; and
 - (c) to its immediate west is an open storage of mobile toilet and parking of vehicles and several open storages of construction and recycling materials, while across Tin Ha Road are a vehicle repair workshop and a number of warehouses.

9. **Planning Intention**

The Site straddles over “O” zone and an area shown as ‘Road’ on the approved HSK and HT OZP. 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.

10. **Comments from Relevant Government Departments**

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible from Tin Ha Road through private lots. His office does not guarantee any right-of-way to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should the application be approved, the lot owner(s) of the lot without Short Term Waiver (STW) will need to apply to his office for permitting the structures to be erected or to regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Buildings(s) will be considered or allowed. Application(s) for any of the above will be considered by 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 LandsD.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering viewpoint.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to public road or reverse onto/from the 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.

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

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

Environment

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

- (a) DEP does not support the application because there are sensitive users in the vicinity of the Site (the closest residential dwelling to the northeast is about 53m away) and along Tin Ha Road (**Plan A-2**) and environmental nuisance is expected.
- (b) No substantial environmental complaint pertaining to the Site has been received in the past three years.
- (c) Should the planning application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' (COP).

Drainage

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

- (a) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application No. A/YL-HT/1033 will be maintained for the subject development. He has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, he would suggest imposing planning conditions requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.

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 structures, 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) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and the applicant should adhere to the 'Good Practice for Open Storage for Open Storage Sites' at **Appendix V**.
- (d) Having considered the nature of 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"
- (e) The applicant is advised to submit a valid fire certificate (FS251) to his Department for approval.
- (f) 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.

Long Term Development

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

- (a) He has no objection to the proposed temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of Hung Shui Kiu New Development Area (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, via. Advance Works and Stage 1 to Stage 4. The lots concerned fall within a site under Stages 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 will not be arranged before the first population intake of the HSK NDA expected in 2024.

10.1.8 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) Since the Site involves private lot only, he has no in-principle objection to the application.
- (b) The Site is zoned “O” and an area shown as ‘Road’ on the HSK & HT OZP. The portion zoned “O” is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.

District Officer’s Comment

10.1.9 Comments of the District Officer (Yuen Long) , Home Affairs Department (DO/YL, HAD):

His office 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) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 12.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 3.5.2019, no public comment was received.

12. Planning Considerations and Assessment

12.1 The Site straddles over “O” zone and an area shown as ‘Road’ on the approved HSK and HT OZP, with the planning intention of “O” zone for provision of outdoor open-air public space for active and/or passive recreation uses. Whilst the development is not in line with the planning intention, the implementation programme for this part of NDA is still being formulated, and PM/NTW of CEDD and DLCS have no objection to the proposed temporary use for a period of 3 years on 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 proposed open storage of containers is not incompatible with the surrounding land uses which are predominantly used for open storage yards, warehouses and workshops (**Plan A-2**).

12.3 The site falls within Category 1 areas under the TPB PG-No. 13E. 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 the concerned Government departments, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the nearest residential dwelling being about 53m away) and along Tin Ha Road, and environmental nuisance is expected (**Plan A-2**). However, there was no substantive environmental complaint pertaining to the Site in the past three years. To address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with these approval conditions, including operations on restricted hours/days, would result in revocation of the planning permission and any unauthorized development on Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will 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 8 previous applications for the same temporary open storage of containers at the Site (**Plan A-1b**) and 3 similar applications within the same "O" zone 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 Committee's previous decisions.

12.7 There is no public comment received during the statutory public inspection 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 containers 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 **31.5.2022**. 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., 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) no cleaning, repairing, oil spraying and workshop activities, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) the stacking height of containers stored within 5m of the periphery of the Site shall not exceed the height of the boundary fence, as proposed by the applicant, during the planning approval period;
- (e) the stacking height of containers stored on the Site shall not exceed 7 units, as proposed by the applicant, during the planning approval period;
- (f) no material is allowed to be stored/dumped within 1m of any tree on the Site at any time during the planning approval period;
- (g) the existing fencing on the Site should be maintained at all times during the planning approval period;
- (h) no vehicle is allowed to queue back to or reverse onto/from the public road at all times during the planning approval period;
- (i) all existing trees and landscape plants on the Site shall be maintained at all times during the planning approval period;
- (j) the submission of a condition record of the existing 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 **31.8.2019**;
- (k) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (l) the provision of fire extinguisher(s) and the submission of a valid fire certificate (FS251) within **6** weeks from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **12.7.2019**;
- (m) the submission of 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 **30.11.2019**;
- (n) in relation to (m) above, the implementation of 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 **29.2.2020**;

- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h), (i) or (k) 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
- (p) if any of the above planning conditions (j), (l), (m) or (n) 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 reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "O" zone which is intended primarily for provision of outdoor public space for recreation uses. There is no strong justification to deviate 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 for renewal of the planning 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 with supplementary statement, proposed location and vehicular access plan and proposed layout plan received on 3.4.2019
- Appendix Ia** FI received on 18.4.2019 on the estimate trip generation and attraction
- Appendix Ib** FI received on 10.5.2019 on the proposed stacking height of containers within the Site
- 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 site
- Appendix IV** Similar applications within the same "O" zone on the approved Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2 since the Promulgation of TPB PG-No. 13E on 17.10.2008

Appendix V	'Good Practice for Open Storage Sites' by the Fire Services Department
Appendix VI	Advisory Clauses
Drawing A-1	Location and Vehicular Access Plan
Drawing A-2	Layout 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
Plan A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
MAY 2019**