

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

**APPLICATION NO. A/HSK/151**

- Applicant** : Mr Tang Yui Kan represented by Metro Planning and Development Company Limited
- Site** : Lots 43 (Part), 192 S.A ss.1 (Part), 192 S.A RP (Part), 192 S.B ss.1 (Part) and 192 S.B RP (Part) in D.D.128 and Adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : 2,620m<sup>2</sup> (about) (including 1.6 m<sup>2</sup> of Government Land (GL))
- 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 74%); and  
“Government, Institution or Community” (“G/IC”) (about 26 %) [Restricted to maximum BH of 8 storeys].
- Application** : Temporary Open Storage of Metal Ware 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 metal ware for a period of 3 years (**Plan A-1**). The Site straddles over “O” (74%) and “G/IC” (26%) zones 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. The Site is currently being used for the applied use without a valid planning permission.
- 1.2 The Site is related to 6 previous applications (No. A/YL-HT/197, 339, 486, 667, 846 and 1020) for open storage of metal ware uses. The last application No. A/YL-HT/1020 for the renewal of planning approval for temporary open storage of metal ware was approved with conditions by the Rural and New Town Planning

Committee (the Committee) of the Board with conditions for 3 years on 13.5.2016. All the time specific approval conditions had been complied with. However, the planning permission lapsed on 24.5.2019. The current application is submitted by the same applicant for the same applied use at the same site.

- 1.3 The Site is accessible from Kai Pai Ling Road Road via a local track and the ingress/egress point is located at the southern of the Site (**Drawings A-1 and A-2 and Plans A-2 and A-3**). According to the layout plan (**Drawing A-2**), two parking spaces for private cars (5m x 2.5m each) and 1 loading/unloading space for medium good vehicle (11m x 3.5m) are proposed at the southern and middle parts of the Site respectively. An area for manoeuvring purpose is proposed at the middle part of the Site while the remaining areas are for open storage of metal ware. According to the applicant, no cutting, cleaning, melting, dismantling and workshop activity will be carried out at the Site. The operation hours are from 7:00 a.m. to 7:00 p.m. Monday to Saturday and there will be no operation on Sundays and public holidays. The proposed landscape and tree preservation plan and the as-built drainage plan submitted by the applicant are at **Drawings A-3 to A-4**.
- 1.4 The major development parameters of the current application and the last approved application are the same and are given in the following table:

<b>Major Development Parameters</b>	<b>Previously Approved Application (A/YL-HT/1020)</b>	<b>Current Application (A/HSK/151)</b>
<b>Site Area</b>	about 2,620m <sup>2</sup> (including 1.6m m <sup>2</sup> GL)	
<b>Applied Use</b>	Renewal of planning approval for Temporary Open Storage of Metal Ware for a Period of 3 Years	Temporary Open Storage of Metal Ware for a Period of 3 Years
<b>No. of Loading/Unloading Space</b>	1 for medium goods vehicle (11m x 3.5m)	
<b>No. of Parking Space</b>	2 for private cars (5m x 2.5m each)	
<b>Operation Hours</b>	7:00 a.m. to 7:00 p.m. Monday to Saturday, no operation on Sundays and public holidays	

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 17.4.2019 **(Appendix I)**
  - (b) Supplementary Planning statement with proposed vehicular access plan, layout plan, landscape and 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 at **Appendix Ia** and are summarized as follows:

- (a) The application is subject to previous planning permission No. A/YL-HT/1020 for the same applied use for a period of 3 years and the applicant managed to comply with all the planning conditions imposed by Board. There has been no significant change in the planning circumstances of the Site since the last planning permission in 2016.
- (b) The Site falls within the “Category 1 areas” of the Town Planning Board 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.
- (c) The proposed use is compatible with the surrounding land uses which are mostly open storage and port back-up uses such as logistics centre, warehouse and container depots. The Board has also approved numerous similar applications in the vicinity and approval of the application will not set an undesirable precedent for similar applications.
- (d) There is a shortage of land for open storage use and container depots and the temporary approval of the applied development would not jeopardize the long term planning intention of the Site, which could not be realized within the coming 3 years.
- (e) The applicant commits to provide a number of mitigation measures, including restriction of the operation hours to 7:00 a.m. to 7:00 p.m. with no operation on Sundays and public holidays and no cutting, cleaning, melting, dismantling and workshop activity would be carried out on the Site.
- (f) The proposed use will not cause adverse traffic impact on the local road network. Adequate parking facilities and manoeuvring space will be provided within the Site. Adequate drainage facilities will be provided to ensure no adverse drainage impact on the surrounding areas. The drainage facilities will be 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 notice and sending notice to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

#### 4. **Background**

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

#### 5. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) promulgated on 17.10.2008 is relevant. The Site falls within Category 1 areas under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

#### 6. **Previous Applications**

6.1 The Site is the subject of 6 previous applications (No. A/YL-HT/197, 339, 486, 667, 846, and 1020) for various temporary open storage uses. Out of the 6 applications, 5 of them were approved with conditions by the Committee/Board between 2004 and 2016. Planning permissions No. A/YL-HT/197 for temporary open storage of used air conditioners with ancillary workshop was rejected by the Committee on 18.5.2001 as there was insufficient information to demonstrate that the development would not have adverse traffic and drainage impacts on the surrounding areas. Details of these previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.

6.2 The last approved application No. A/YL-HT/1020 for renewal of planning approval for temporary open storage of metal ware was approved with conditions by the Committee for three years on 13.5.2016. All the approval conditions had been complied with. However, the planning permission lapsed on 24.5.2019. Comparing with the last application No. A/YL-HT/1020, the current application is submitted by the same applicant for the same use with the same development parameters at the same site.

#### 7. **Similar Applications**

There are 16 similar applications (No. A/YL-HT/627, 668, 670, 671, 673, 754, 788, 842, 851, 944, 952, 1021, 1023 and 1070 and A/HSK/52 and 77) for various temporary open storage uses within the same "G/IC" and "O" zones on the HSK and HT OZP No. S/HSK/2 since the promulgation of TPB PG-No. 13E on 17.10.2008. All of them were approved with conditions by the Committee between 2009 and 2018. However, two of them (No. A/YL-HT/627 and 671) were subsequently revoked due to non-compliance with approval conditions. Particulars of these applications and the decisions of the Committee are summarized at **Appendix IV**. The locations of these application sites are shown on **Plan A-1a**.

## **8. The Site and Its Surrounding Areas (Plan A-1 to Plan A-4b)**

### 8.1 The Site is:

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

### 8.2 The surrounding areas have the following characteristics:

- (a) to its north is a warehouse under a valid planning permission No. A/YL-HT/1067, and to its further north across the nullah is an open storage yard of container under a valid planning permission No. A/YL-HT/1031;
- (b) to its east are a nullah, open storage yards for containers, and a logistics centre under a valid planning permission No. A/HSK/59;
- (c) to its south are a temporary structure for residential use (about 6m away), an open storage yard for construction materials, and an open storage yard with temporary structures for construction materials under a valid planning permission No. A/HSK/52; and
- (d) to its west are temporary structures used for storage and warehouse uses and a piece of woodland with scattered graves;

## **9. Planning Intention**

9.1 The Site straddles over “O” and “G/IC” zones on the approved HSK and HT OZP No. S/HSK/2. 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 residential as well as the general public.

9.2 The planning intention of “G/IC” zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

## **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, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule 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) No permission is given for occupation of Government Land (GL) (about 1.6m<sup>2</sup> subject to verification) included in the Site. Attention should be drawn to the fact that the act of occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible from Kai Pai Ling Road through GL and private lots. 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 the application be approved, the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularity on site, if any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(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.

**Traffic**

10.1.2 Comments of the Assistant Commissioner for Transport/NT, Transport Department (AC for T/NTW, 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 vehicles are allowed to queue back to public roads or reverse

onto/from public roads.

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

**Drainage**

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

- (a) He has no objection in principle to the proposed application from a drainage point of view.
- (b) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application A/YL-HT/1020 will be maintained for the subject development.
- (c) Should the application be approved, he would suggest imposing a planning condition 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**

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one about 6m to its south) (**Plan A-2**) and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (c) Should the application be approved, the applicant is reminded to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize any potential environmental nuisance.

### **Building Matters**

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

Noting that there is no proposed building works on the Site, he has no comment under the Building Ordinance

### **Fire Safety**

#### 10.1.7 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 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 are to be installed should be clearly marked on the layout plans and the applicant should adhere to “Good Practice Guidelines for Open Storage” at **Appendix V**.
- (d) Having considered the nature of the open storage, the following additional 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.
- (e) The applicant is advised to submit a valid fire certificate (FS 251) 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**

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

- (a) The Site is zoned “G/IC” and “O” on the approved HSK and HT OZP No. S/HSK/2. 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.

- (b) Since the application period is only three years, he has no in-principle objection to the application.

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

- (a) He has no objection to the application for temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) However, 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, viz. Advance Works and Stage 1 to Stage 4. The lot(s) concerned falls within a site under Stage 4 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.
- (c) It is noted that the access to the Site is passing through the existing Fung Kong Tsuen Road, Kai Pak Ling Road and a local track. Under HSK NDA Stage 1 Works, part of Fung Kong Tsuen Road along this access would be widened with the remaining section of the access unaffected. As programme of Stage 1 Works is still being formulated, the access arrangement to the Site may have to be re-considered during its operation.

**District Officer's Comments**

10.1.10 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

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

- (a) Secretary for Education (S for E);
- (b) Commissioner of Police (C of P);
- (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 26.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 17.5.2019, no public comment was received.

## 12. Planning Considerations and Assessment

12.1 The Site straddles over “O” and “G/IC” zones on the approved HSK and HT OZP No. S/HSK/2. The planning intentions of these zones are primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of the resident as well as the general public, and for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wide district, region or the territory respectively. Whilst the applied use is not in line with the planning intentions of the “O” and “G/IC” zones, the implementation programme for this part of NDA is still being formulated, and PM/NTW of CEDD and DLCS have no objection to the applied use for 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 implementation of government projects.

12.2 The applied uses are not incompatible with the surrounding areas which are predominately occupied for open storage yards, logistics centres and warehouses.

12.3 The Site falls within Category 1 areas under the revised 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 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 6m away) and environmental nuisance is expected (**Plan A-2**). However, there has not been any environmental complaint pertaining to 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 and any unauthorized development 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/Board has approved 5 previous applications on the Site and 16 similar applications within the subject "O" and "G/IC" zones for similar temporary open storage uses since 2004 (**Plans A-1a and A-1b**). 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 metal ware 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 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 7:00 p.m. to 7:00 a.m., 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, cleaning, melting, dismantling and workshop activity, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the public roads at any time during the planning approval period;
- (e) the existing trees and landscape plants on the Site shall be maintained at all times during the approval period;
- (f) the existing fencing on the Site shall be maintained at all times during the approval period;

- (g) the submission of the condition record of the existing drainage facilities on the 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 **31.8.2019**;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the approval period;
- (i) the provision of the fire extinguisher(s) and the submission of a valid fire certificate (FS 251) 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 **12.7.2019**;
- (j) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **30.11.2019**;
- (k) in relation to (j) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **29.2.2020**;
- (l) if any of the above planning conditions (a), (b), (c), (d) (e), (f) 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; and
- (m) if any of the above planning conditions (g), (i), (j) or (k) 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 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 "Government, Institution or Community" and "Open Space" zones, which are intended primarily for the provision of Government, institution or community facilities and for the provision of outdoor open-air public space for active and/or passive recreational uses respectively. There is no strong planning justification given in the submission for a departure from the planning intentions, 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**

<b>Appendix I</b>	Application Form received on 17.4.2019
<b>Appendix Ia</b>	Supplementary Planning Statement with proposed vehicular access plan, layout plan, landscape and tree preservation plan and as-built drainage plan
<b>Appendix II</b>	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
<b>Appendix III</b>	Previous Applications covering the Application Site
<b>Appendix IV</b>	Similar Applications within the Same “O” and “G/IC” Zones on the approved HSK and HT OZP No. S/HSK/2 since the Promulgation of TPB PG-No. 13E on 17.10.2008
<b>Appendix V</b>	“Good Practice Guidelines for Open Storage” issued by the Director of Fire Services
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Tree Preservation and Landscape Plan
<b>Drawing A-4</b>	As-built Drainage Plan
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Location Plan with Previous Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2019**