

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

**APPLICATION NO. A/HSK/181**

- Applicant** : Mr. LEUNG Hing Yip represented by Mr KWOK Chi Man
- Site** : Lots 1926 (Part), 1927 RP (Part), 1928 (Part), 1931 RP (Part), 1932 (Part), 1936 S.B RP (Part), 1937 RP (Part) and 1941 S.B RP (Part) in D.D. 125, Ha Tsuen, Yuen Long
- Site Area** : 2,745m<sup>2</sup> (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”) (86%);  
“Residential (Group A) 4” (“R(A)4”) (13.7%); and  
*[Restricted to maximum plot ratio of 5 and maximum building height of 100mPD]*  
an area shown as ‘Road’ (about 0.3%)
- Application** : Temporary Open Storage of Construction Materials, Container Vehicles and Container Trailers 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 construction materials, container vehicles and container trailers for a period of 3 years (**Plan A-1**). The Site straddles over “O” (86%), “R(A)4” (13.7%) and an area shown as ‘Road’ (0.3%) 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 OZP, all uses or developments require planning permission from the Board. The Site is currently being used for the applied use without valid planning permission.
- 1.2 The site is involved in a previous application No. A/YL-HT/1026 for open storage of construction materials, container vehicles and container trailers (**Plan A-1**)

which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 10.6.2016 for a period of 3 years and has expired on 11.6.2019. All the time-specific approval conditions have been complied with. The current application is submitted by the same applicant for the same use with similar layout at a slightly smaller site.

- 1.3 The Site is accessible from Ping Ha Road via a local track and the adjoin open storage site and the ingress/egress point is at the north eastern corner of the Site (**Drawing A-1 and Plan A-2**). As shown on the layout plan at **Drawing A-2**, 2 parking spaces for private cars and 2 parking spaces for medium/heavy goods vehicle are also proposed. The north western portion of the Site is for open storage of construction materials use, while the eastern portion of the Site is for storage of container vehicles and container trailers uses. According to the applicant, 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. No repairing, spraying, and cleansing will be held on the Site. The proposed vehicular access plan, layout plan, landscape and tree preservation plan and drainage plan are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters of the previously approved scheme and the current application area summarized as follows:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-HT/1026 (a)</b>	<b>Current Application No. A/HSK/181 (b)</b>	<b>Difference (b) - (a)</b>
<b>Applied Use</b>	Temporary Open Storage of Construction Materials, Container Vehicles and Container Trailers (3 Years)		same
<b>Site Area</b>	2,930m <sup>2</sup>	2,745m <sup>2</sup>	-185m <sup>2</sup> (-6.1%)
<b>No. of Parking Spaces</b>	- 2 (Private Cars)	- 2 (Private Cars) - 2 (Medium/Heavy Goods Vehicles)	+2 (Medium/Heavy Goods Vehicles)
<b>No. of Loading/Unloading Space</b>	- 2 ((goods vehicle (below 24 tonnes))	-	-2
<b>Operation Hours</b>	8am to 8pm, Mondays to Saturdays, with no operation on Sundays and public holidays		same

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form and supplementary planning statement with proposed vehicular access plan, layout plan, landscape and tree preservation plan and drainage plan received on 2.8.2019 **(Appendix I)**

- (b) Further Information (FI) dated 14.8.2019 from the applicant providing clarification on the access arrangement via an adjoining site **(Appendix Ia)**  
*[Accepted and exempted from publication and recounting requirements]*
- (c) FI dated 6.9.2019 from the applicant providing trip generation rate of the proposed development **(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 Planning Statement at **Appendix I**. They can be summarized as follows:

- (a) The Site is located in “Category 1 areas” and the application is in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E).
- (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. Therefore the current application should be favourably considered.
- (c) It is the subject of a previously approved application No. A/YL-HT/1026. The applicant has complied with all approval conditions attached to the previous application. There are no changes in site boundary, layout and design and applied use from the last approved application.
- (d) The development would have minimal traffic, environmental and drainage impacts on the surrounding areas. A number of environmental mitigation measures including limited operation hours and no repairing, spraying and cleansing will be held on the Site.

## **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 relevant rural committee by registered mail. 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 (TPB PG-No. 13E). The Site falls within Category 1 areas under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

## 5. **Background**

The storage use on the Site would be subject to planning enforcement action.

## 6. **Previous Application**

The Site is the subject of a previous application No. A/YL-HT/1026 for open storage of construction materials, container vehicles and container trailers which were approved with conditions by the Committee on 10.6.2016. All the time-specific approval conditions have been complied with. However, the planning permission was lapsed on 11.6.2019. Compared with this last approved application, the current application is submitted by the same applicant for the same use at a slightly smaller site with same layout. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

## 7. **Similar Applications**

There are 5 similar applications (No. A/YL-HT/589, 648, 700, 872 and 910) for various temporary open storage uses within the same “O” and “R(A)4” zones on the approved between 2009 and 2014. HSK and HT OZP since the promulgation of the TPB PG-No.13E on 17.10.2008. 4 of these similar applications were approved with conditions by the Committee. Amongst these, 1 was subsequently revoked due to non-compliance with approval conditions. The remaining application No. A/YL-HT/648 was rejected by the Committee on 23.10.2009 for the reason of, amongst other, undesirable precedent of approving application with repeated revocations. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

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

8.2 The surrounding areas have the following characteristics:

- (a) to its north are a trailer repair workshop, storage of tank, an open storage of construction machinery, while to its further north are a yard for parking of vehicles and container trailers, an open storage yard for vehicles, a vehicle repair workshop and an open storage yard for construction materials;
- (b) to its east and south are several open storage yards for construction materials and machinery. To its further east are some open storage yard for recycling materials; and
- (c) to its west across Ping Ha Road are two amenity areas and a cluster of residential dwellings.

## **9. Planning Intention**

- 9.1 The Site straddles over “O” and “R(A)4” zones 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.
- 9.2 The planning intention of the “R(A)4” 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.

## **10. Comments from Relevant Government Departments**

- 10.1 The following Government departments have been consulted and their views on the application received 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 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) The Site is accessible from Ping Ha Road through Government Land (GL) and 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(s) without Short Term Waiver (STW) will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on Site, if any. 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.

## **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 comments on 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 road or reverse onto/from the public road.
- (c) The local track leading to the Site is not under TD's purview. The applicant is advised to obtain consent of the owner/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 flowing from the Site and Ping Ha Road.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Ping Ha Road.

## **Environment**

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

- (a) He does not support the application because there are sensitive uses on the vicinity of the Site (the nearest residential dwelling being about 48m away at the opposite side of Ping Ha Road) (**Plan A-2**) and environmental nuisance is expected.
- (b) No environmental complaint pertaining to the Site has been received in the past 3 years.
- (c) Should the application be approved, the applicant is reminded to follow the latest "Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize any potential environmental nuisance.

## **Drainage**

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

- (a) He has no objection in principle to the development from a drainage point of view.
- (b) Should the application be approved, he suggests imposing approval conditions requiring the applicant to submit a revised drainage

proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

- (c) His detailed comments on the submitted drainage proposal are at **Appendix VII.**

### **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 Buildings 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 application 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 him 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 the open storage, the following additional approval condition shall be added:

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 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.

### **Long-Term Development**

10.1.8 Comments of the Project Manager (West), Civil Engineering and Development Department (PM/W, 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) The Site falls within the boundary of HSK NDA. According to the Planning and Engineering Study (P&E Study) for the HSK NDA and the latest plan, 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 in the latest programme of HSK NDA. While 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 Leisure and Cultural Services (DLCS):

- (a) The Site is zoned “O”, “R(A)4” and an area shown as ‘Road’ 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 for three years, he has no objection to the application.

**District Officer’s Comment**

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

- (a) He has no comment on the application from departmental point of view.
- (b) 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) Commissioner of Police (C of P);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (c) Director of Agriculture, Fisheries and Conservation (DAFC).

**11. Public Comments Received During Statutory Publication Period**

On 9.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 30.8.2019, one public comment was received from a private individual. The commenter objects to the application on the ground that approval of the subject temporary use would hinder the development of new town (**Appendix VI**).

**12. Planning Considerations and Assessment**

12.1 The Site mainly straddles over “O” and “R(A)4” zones on the approved HSK and HT OZP. The planning intentions of “O” and “R(A)4” zones are 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, and primarily for



high-density residential development respectively. Whilst the development is not in line with the planning intentions, the implementation programme for this part of NDA is still being formulated, and PM/W 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 and workshops (**Plan A-2**).

12.3 According to the TPB PG-No. 13E, 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 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 the technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.

12.5 There is no 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 48m away at the opposite side of the Ping Ha Road), and environmental nuisance is expected (**Plan A-2**). However, there is no substantiated environmental complaint pertaining to the Site received 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 have been recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and the 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 had approved a previous planning application for the same open storage at the Site and 4 similar applications for various open storage uses in the same "O" and "R(A)4" zones on the approved HSK and HT OZP 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 one public comment received with concern stated in paragraph 11 above. The planning considerations and assessment in the above paragraphs are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessment made in paragraph 12 above and having taking consideration the public comment mentioned on paragraph 11, the Planning Department considers that the temporary open storage of construction materials, container vehicles and container trailers 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 20.9.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) no operation from 8:00 p.m. to 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 repairing, spraying or cleansing activities, as proposed by the applicant, is allowed at any time on the site during the planning approval period;
- (d) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (e) all existing trees and landscape plants on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a revised drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.3.2020;
- (g) in relation to (f) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.6.2020;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 1.11.2019;
- (j) 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 20.3.2020;
- (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 the Director of Fire Services or of the Town Planning Board by **20.6.2020**;

- (l) if any of the above planning conditions (a), (b), (c), (d), (e) 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 (f), (g), (i), (j) or (k) 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 VII**.

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

- (a) the development is not in line with the planning intentions of the "O" and "R(A)4" zones, which are 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, and for high-density residential development respectively. There is no strong justification given in the submission to deviate from the planning intentions, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied development would not have adverse environmental impact on the surrounding areas.

### **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 and supplementary planning statement with proposed vehicular access plan, layout plan, landscape and tree preservation plan and drainage plan received on 2.8.2019
- Appendix Ia** FI dated 14.8.2019 from the applicant clarifying the access arrangement via an adjoining site
- Appendix Ib** FI dated 6.9.2019 from the applicant providing trip generation rate of the proposed development

<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 Application covering the Application Site
<b>Appendix IV</b>	Similar Applications within the same “O” and “R(A)4” Zones 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
<b>Appendix V</b>	‘Good Practice for Open Storage Sites’ by the Fire Services Department
<b>Appendix VI</b>	Public Comment
<b>Appendix VII</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 Landscape and Tree Preservation Plan
<b>Drawing A-4</b>	Proposed Drainage Plan
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2019**