

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/264

- Applicant** : Mr. Tang Ka Wai represented by Mr. Kwok Chi Man
- Site** : Lots 798 S.A RP (Part), 799 (Part), 800 (Part), 801 (Part), 802 (Part) and 804 RP (Part) in D.D. 125 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long
- Site Area** : 1,865 m² (about) (including GL of about 141 m² (about 7.6%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Residential (Group A) 3” (“R(A)3”)(97.6%); and
[restricted to maximum plot ratio of 5.5 and maximum building height of 140mPD]

Area shown as ‘Road’ (about 2.4%)
- Application** : Temporary Open Storage of Scrap Metal and Logistics Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of scrap metal and logistics centre for a period of 3 years (**Plan A-1a**). The Site falls mainly within an area zoned “R(A)3” (97.6%) with a minor portion shown as ‘Road’ (2.4%) 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 used for the applied use with valid planning permission (**Plan A-4**).
- 1.2 The Site is related to 9 previous applications for various temporary open storage and logistics centre uses (**Plan A-1b**). The last application No. A/HSK/47 for the same applied use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 9.2.2018 with validity till 9.2.2021. All time-limited approval conditions have been complied with. The current application is submitted by the same applicant at the same site for the same applied use but with the addition of a structure for office use.

1.3 The Site is directly abutting and accessible from Ping Ha Road with ingress/egress point at the south-western boundary of the Site (**Drawing A-1 and Plans A-2 to A-3**). As shown on the layout plan at **Drawing A-2**, there are 4 temporary structures with a total floor area of 265m² including a two-storey (6m high) site office with a total floor area of 120m², a single-storey (2.5m high) toilet with a floor area of 5m², a single-storey (6m high) metal sun-shade with a floor area of 80m² for car-parking use and a single-storey (3m high) structure for office use. 2 parking spaces for private cars and 2 parking spaces for medium goods vehicles are provided. No cutting, dismantling, cleansing, repairing or any other workshop activity would be allowed on the Site. According to the applicant, the operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays. No operation will be held 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	Last Approved Application (A/HSK/47) (a)	Current Application (A/HSK/264) (b)	Difference (b) - (a)
Applied Use	Temporary open storage of scrap metal and logistics centre (3 years)		Same
Site Area	1,865m ²		Same
No. of Structures	3	4	+1 (+33%) (office use)
Total Floor Area	245m ²	265m ²	+20m ² (+8%)
Height of Structures	1-2 storey (2.5 to 6m high)		Same
No. of Parking Spaces	<ul style="list-style-type: none"> • 2 for private car • 2 for heavy goods vehicle 	<ul style="list-style-type: none"> • 2 for private car • 2 for medium goods vehicle 	<ul style="list-style-type: none"> • -2 for heavy goods vehicle • +2 for medium goods vehicle
Operation Hours	8:00 a.m. to 8:00 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays		Same

1.5 In support of the application, the applicant has submitted an Application Form with planning statement and drawings which were received on 14.10.2020 (**Appendix I**).

2. Justifications from the Applicant

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

- (a) While the proposed use is not in line with the planning intention of “R(A)3” zone and ‘Road’ area, nine previous applications for temporary open storage yards and port back-up uses at the Site were approved by the Board and operated since 1999. Temporary use for 3 years would not jeopardize the long-term planning intention of the current zoning.
- (b) Open storage yards and port back-up uses in close proximity were granted with planning permissions on temporary basis. Similar preferential treatment should be given to the present application.

- (c) The last application No. A/HSK/47 approved by the Board in 2018 will expire on 9.2.2021 and the current application is quite similar to the last application in respect of site area, applied use and layout. The present application could be treated as an extension to the last application.
- (d) All time-limited approval conditions for the last application have been complied with.
- (e) There were no objections from concerned Government departments and the locals to the past developments, and the applied use is considered not incompatible with the surrounding environment.
- (f) There are insignificant environmental, noise and drainage impacts since the applied use will operate within restricted hours, the Site is fenced off and facilities like drainage channel have been provided. The proposed use would not generate significant traffic impacts.

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. 31A) by posting site notice and sending notices to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The requirements under TPB PG-No. 31A are not applicable to the Government land portion.

4. Town Planning Board Guidelines

On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site falls within Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site is related to 9 previous applications (No. A/YL-HT/118, 158, 248, 400, 573, 752, 885 and 933 and A/HSK/47) for various temporary open storage yard, logistics centre and container trailer and tractor park uses. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 All previous applications were approved with conditions by the Committee each for a period of 3 years between 1999 and 2018 on the considerations that the applied uses were not incompatible with the surrounding areas, generally in line with the then Town Planning Board Guidelines TPB PG-No. 13 and no major adverse comments from concerned Government departments. However, the planning permissions under applications No. A/YL-HT/118, 158, 752 and 885 were subsequently revoked due to non-compliance with the time-specific approval conditions.

6.3 The last application No. A/HSK/47 for the same applied use was approved with conditions by the Committee for a period of 3 years on 9.2.2018 and valid till 9.2.2021. All time-limited approval conditions have been complied with. Compared with the last application, the current application is submitted by the same applicant at the same site for the same applied use but with the addition of a structure for office use.

7. Similar Applications

There are four similar applications (No. A/HSK/85, 86, 99 and 219) within the same “R(A)3” zone on the OZP for logistics centre use between 2018 and 2020 which were all approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.2 above. 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 (Plans A-1a to A-4)

8.1 The Site is:

- (a) currently used for the applied use under valid planning permission; and
- (b) directly abutting and accessible from Ping Ha Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate north are an open storage yard of trucks under a valid planning permission and a vehicle repair workshop, while to its further east and northeast is a logistics centre under valid planning permission;
- (b) to its immediate south are an open storage yard of trucks and a warehouse while to its further south is a residential dwelling (about 21m away) (**Plan A-2**). To its further south are a vehicle repair workshop and an open storage yard of recycling materials; and
- (c) to its immediate west is Ping Ha Road while to its further northwest, west and southwest across Ping Ha Road are a container vehicle park and an open storage yard of construction machinery/materials under valid planning permissions and a godown.

9. Planning Intention

The planning intention of the “R(A)3” zone is 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 Scheduled Agricultural Lot (OSAL) and GL. The OSAL is 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 private lots covered by Short Term Waivers (STWs) are listed below:

Lot No. in D.D.125	STW No.	Purposes
798 S.A RP	3112	Vehicle repair workshop (excluding paint-spraying)
799 (Portion)	2213	Vehicle repair workshop (excluding paint-spraying)
800	4581	Temporary logistic centre and warehouse (storage of paper)
804 RP	4003	Temporary open storage for metal materials

- (c) The GL in the Site is about 141m² and it is covered by a Short Term Tenancy (STT) No. 2818 for the purposes of open storage of scrap metal.
- (d) Should the application be approved, 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 regularize any irregularities on site, if any. The STW holders will need to apply to his office for modification of the STW conditions where appropriate. 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 Commissioner for Transport (C for T):

- (a) He has no adverse comments on the application from traffic engineering view point.
- (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.

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 Transport Department (TD).

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

Environment

10.1.4 Comments 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 residential dwelling being about 21m away) (**Plan A-2**) and environmental nuisance is expected.
- (b) There was no environmental complaint pertaining to the Site received in the past 3 years.
- (c) Should the 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/HSK/47 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, a condition should be stipulated in the approval requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (c) The applicant should be reminded of the detailed comments in **Appendix VII**.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site.
- (b) The applicant should be reminded of the detailed comments in **Appendix VII**.

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 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) Having considered the nature of the open storage, an additional approval condition requiring “the provision of fire extinguisher(s) within 6 weeks from the date of planning approval” should be stipulated. To address this approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval. The applicant should adhere to the ‘Good Practice Guidelines for Open Storage’ at **Appendix V**.
- (d) The applicant should be reminded of the detailed comments in **Appendix VII**.

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/HT NDA. To ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot(s) concerned falls within the sites under Remaining Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that the site formation and engineering infrastructure works for the Remaining Phase development will commence in 2030.

District Officer’s Comments

10.1.9 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) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comment Received During Statutory Publication Period

On 23.10.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received. The commenters raised concerns/objected to the application on reasons that the development will increase traffic flow and pose safety hazards to the villagers, and that the brownfield uses should be relocated to other appropriate area without delaying the implementation of the HSK/HT NDA (**Appendices VI-1 and 2**).

12. Planning Considerations and Assessment

12.1 The application is for temporary open storage of scrap metal and logistics centre for a period of 3 years at a site which falls mainly within the “R(A)3” zone (97.6%) with minor encroachment onto area shown as ‘Road’ (2.4%) on the OZP. The planning intention of the “R(A)3” zone is primarily for the provision of high-density residential developments. Whilst the development is not in line with the planning intention of the “R(A)3” zone, PM/W of CEDD has no objection to the 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 logistics centres, open storage yards and vehicle park uses. The applied use is generally not incompatible with the surrounding major land uses.

12.3 The Site falls within the HSK/HT NDA. For applications in NDAs, the following considerations under the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.

12.4 The applied use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and previous planning approvals have been given. The current application is for the same use with similar layout of the last approved application (No. A/HSK/47), the planning permission of which is still valid and that all conditions have been complied with. Compared with the last planning permission,

the current application is for the same applied use at the same site with similar layout but with the addition of a structure (20m²) for office use and concerned departments have no adverse comments on the application. As such, sympathetic consideration may be given to the application.

- 12.5 There is no adverse comment from 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 21m away), and environmental nuisance is expected (**Plan A-2**). However, there were no environmental complaints pertaining to the Site in the past three 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 the Site would 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' to minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.6 There are three previous planning approvals for temporary open storage of scrap metal with/without logistics centre uses and six previous planning approvals for various open storage and vehicle park uses at the Site (**Plan A-1b**). Also, four similar applications for logistics centre use within the same "R(A)3" zone were also approved by the Committee between 2018 and 2020 (**Plan A-1a**). Approval of the subject application is in line with the Committee's previous decisions.
- 12.7 There are two public comments received on the application during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in the above paragraphs are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary open storage of scrap metal and logistics centre could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **4.12.2023**. 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 cutting, dismantling, cleansing, repairing or any other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (e) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (f) the landscape planting on the Site shall be maintained at all time during the planning approval period;
- (g) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (h) the submission of a condition record of the existing drainage facilities on Site within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **4.3.2021**;
- (i) the provision of the fire extinguisher(s) 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 **15.1.2021**;
- (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 **4.6.2021**;
- (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 **4.9.2021**;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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 (h), (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:

the applied use is not in line with the planning intention of the "R(A)3" zone, which is primarily for high-density residential developments. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 14.10.2020 with planning statement and drawings
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Previous Applications Covering the Site
Appendix IV	Similar Applications Within the Same “R(A)3” Zone
Appendix V	Good Practice Guidelines for Open Storage issued by the Director of Fire Services
Appendices VI-1 &2	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed 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-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**