

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/48

- Applicant** : Mr. TANG Chun Pang
- Site** : Lot 3323 S.B ss.1 in D.D. 129 , Ha Tsuen, Yuen Long
- Site Area** : 2,830 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : "Residential (Group A) 3" ("R(A)3")
- Application** : Proposed Temporary Public Vehicle Park for Private Car and Goods Vehicle not exceeding 24 tonnes and Open Storage of Export Vehicle and Vehicle Parts for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park for private car and goods vehicle not exceeding 24 tonnes and open storage of export vehicle and vehicle parts for a period of 3 years (**Plan A-1a**). The Site falls within the "R(A)3" zone on the Draft Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/1. According to the Notes of the OZP for the "R(A)3" zone, "Public Vehicle Park (excluding container vehicle)" is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). On the other hand, open storage use is neither a Column 1 nor Column 2 use in the "R(A)3" zone. 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.
- 1.2 The Site is involved in 5 previous applications (Application Nos. A/YL-HT/541, 591, 726, 870 and 985) for temporary vehicle parking and warehouse uses. The last application No. A/YL-HT/985 for temporary warehouse was approved by the Rural and New Town Planning Committee (the Committee) of the Town

Planning Board (the Board) with conditions for a period of 3 years on 4.12.2015, and was subsequently revoked on 4.1.2018 due to non-compliance with approval conditions. The Site is being used for parking of vehicle without valid planning permission.

- 1.3 The Site is accessible from Ping Ha Road via a local track (**Drawing A-1**). As shown on the layout plan at **Drawing A-2**, the ingress/egress point is at the southern end of the Site. A total of 3 temporary structures with a total of floor area of 434m² are proposed. They include a single-storey (4.5m high) warehouse (228m²) locating at the northern part of the Site, a two-storey (5m high) site office (186m²) and a single-storey (3m high) site office (20m²) near the ingress/egress point at the southern part of the Site. A total of 26 private car parking spaces and 8 medium vehicle parking spaces are also proposed (**Drawing A-2**). According to the applicant, the operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. The landscape proposal and as-built drainage plan are at **Drawings A-3** and **A-4** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 2.1.2018 (Appendix I)
 - (b) Supplementary Planning Statement with a location plan, vehicular access plan, proposed layout plan, tree preservation and landscape proposal and drainage proposal (Appendix Ia)
 - (c) Further Information (F.I.) dated 19.1.2018 for traffic flow estimation (Appendix Ib)

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**. 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 applied use is compatible with the surrounding uses of the Site, and he has no plan for permanent development at the Site. The temporary nature of the applied use would not frustrate the long-term planning of the Site.
- (c) The proposed development would not generate adverse environment problems. A number of preventive and mitigation measures are proposed by the applicant to avoid degradation of surrounding environment. The land in close proximity to the Site is almost occupied by approved open storage and port back-up uses, so the current application is compatible with the surrounding landscape.

- (d) The Site is subject to 5 previous planning approvals, and the previous planning permission (No. A/YL-HT/870) is for largely the same applied use.

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 Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not a subject of any active planning enforcement case. Notwithstanding, as the previous planning permission (A/YL-HT/985) on this Site was revoked on 4.1.2018, investigation is underway to ascertain whether current use of the Site constitutes an unauthorized development. If confirmed, the Planning Authority will instigate enforcement action under the Town Planning Ordinance.

5. Town Planning Board Guidelines

On 17.10.2008, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). The Site falls 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 5 previous applications Nos. A/YL-HT/541, 591, 726, 870 and 985 for temporary vehicle parking and warehouse uses. Details of these applications are summarized at **Appendix III** and their location is shown on **Plan A-1b**.
- 6.2 Application No. A/YL-HT/541 for temporary public vehicle park for container vehicles and private cars for a period of 3 years was approved by the Committee for a period of 3 years on 23.5.2008. The permission was however revoked on 23.7.2009 due to non-compliance with approval conditions on the submission of drainage proposals, the provision of drainage facilities, the submission and implementation of run-in proposal, provision of paving and fencing.
- 6.3 Application No. A/YL-HT/591 for temporary public vehicle park for container and vehicles private cars for a period of 3 years was approved with conditions by the Committee on 23.1.2008. The permission was however revoked on 8.10.2010 due to non-compliance with the approval condition on no night-time operation.

- 6.4 Applications No. A/YL-HT/726 and A/YL-HT/870 for temporary public vehicle park for private cars and goods vehicles under 24 tonnes (excluding container vehicles) and warehouse for a period of 3 years were approved with conditions by the Committee on 15.4.2011 and 3.1.2014 respectively. The applicant of both applications had complied with all the approval conditions.
- 6.5 Application No. A/YL-HT/985 for temporary warehouse for storage was approved by the Committee for a period of 3 years on 4.12.2015. However, it was subsequently revoked on 4.1.2018 due to non-compliance with the time-limit approval conditions on the submissions and implementations of FSIs.
- 6.6 Comparing with the last application No. A/YL-HT/985, the current application is submitted by a different applicant for different use at the same Site.

7. Similar Applications

There are 5 similar applications (Nos. A/YL-HT/587, 650, 697, 762 and 830) involving temporary vehicle park and open storage uses within the same “R(A)3” zone on the OZP since the promulgation of the TPB PG-No. 13E on 17.10.2008. All of these applications were approved by the Committee. 3 of these applications (Nos. A/YL-HT/587, 650 and 697) were subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) being used for parking of vehicles without 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 immediate north are an unused land and an open storage yard of pipes and waste paper, which is a suspected unauthorized development (UD).
- (b) to its east is Tin Ying Road;
- (c) to its south are a vacant land and a yard for laboratory use under the planning permission of Application No. A/YL-HT/1018 ; and
- (d) to its immediate west are 2 residential dwellings (the closest one is 9m away), a yard placing beehives and a cultivated agricultural land. To the further west is a logistics centre and warehouse under the planning permission of Application No. A/YL-HT/962.

9. Planning Intention

The “R(A)3” zone is intended primarily for high-density residential development. 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. It is subject to a maximum plot ratio (PR) of 5.5 and a maximum building height (BH) ranging from 120mPD to 160mPD.

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 private land (PL) of Lot No. 3323 S.B ss.1 in D.D. 129 is covered by Short Term Waiver (STW) No. 3921 to permit structures for the purpose of “Temporary Public Vehicle Park for Private Car and Goods Vehicle not exceeding 24 tonnes and Warehouse”.
- (c) The Site is accessible to Ping Ha Road through Government Land only. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning application be approved, the STW holder will need to apply to her office for modification of the STW conditions if there is any irregularity on Site. Such application will be considered by Lands Department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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 Lands Department.

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 in principle to 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 the 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 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 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 9m to its west), and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant will be 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".

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 proposed development from a drainage point of view.
- (b) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application No. A/YL-HT/985 will be maintained for the subject development.
- (c) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and to submit condition record of the drainage facilities to the satisfaction of his Division.

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 and Buildings Department (BD) is not in a position to offer comments on their suitability for the use related to the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Building Ordinance (BO) and should not be designated for any proposed use under this application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with

Regulations 5 and 41D of the Building (Planning) Regulations respectively.

- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

Fire Safety

10.1.7 Comments of 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. Attached good practice guidelines for open storage should be adhered to (**Appendix V**).
- (d) 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 D of FS.”
- (e) To address this additional approval condition, 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 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 the 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 3 Works stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

Others

10.1.9 Comments of Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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) Commissioner of Police (C of P);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD); and
- (d) Director of Agriculture, Fisheries and Conservation (DAFC).

11. Public Comments Received During Statutory Publication Period

On 9.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 30.1.2018, no public comment was received.

12. Planning Considerations and Assessment

12.1 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.

12.2 The planning intention of the “R(A)3” zone is intended primarily for high-density residential development. Whilst the development is not in line with the planning intention of the “R(A)3” zone, the implementation programme for this part of NDA is still being formulated, and PM/NTW of CEDD has 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.

12.3 The Site is located in an area which is predominantly occupied by warehouse, logistics centre and laboratory uses. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).

12.4 The application 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 on the application from concerned Government departments, except DEP. DEP does not support the application there are sensitive uses in vicinity (with the nearest residential dwelling is 9m to the west of the Site (**Plan A-2**)), and environmental nuisance is expected. However, there has been no substantial environmental complaint concerning the Site received in the past 3 years. To address the concerns on environmental aspect and the technical requirements of other concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the

planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact, and to keep the Site clean and tidy at all times.

- 12.6 The Committee has approved 5 previous applications for vehicle park and warehouse uses at the Site and 5 similar applications vehicle park and open storage uses in the same “R(A)3” zone.
- 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 proposed temporary public vehicle park for private car and goods vehicle not exceeding 24 tonnes and open storage of export vehicle and vehicle parts 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 **2.3.2021**. 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 vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (d) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the existing trees and landscape planting on the Site shall be maintained at all time during the planning approval period;
- (g) 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 TPB by **2.6.2018**;

- (h) 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 **13.4.2018**;
- (i) 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 **2.9.2018**;
- (j) in relation to (h) 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 **2.12.2018**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) 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;
- (l) if any of the above planning conditions (g), (h), (i) & (j) 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; and
- (m) upon expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

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 "R(A)3" zone, which is intended primarily for high-density residential development. 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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 2.1.2018
Appendix Ia	Supplementary Planning Statement with a location plan, vehicular access plan, proposed layout plan, tree preservation and landscape proposal and drainage proposal
Appendix Ib	Further Information submitted on 19.1.2018 for traffic flow estimation
Appendix II	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
Appendix III	Previous applications covering the Application Site
Appendix IV	Similar applications within the subject "R(A)3" zone on the Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No. S/HSK/1
Appendix V	Good Practice Guidelines for Open Storage issued by the Director of Fire Services
Appendix VI	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	Proposed Drainage 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
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**