

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

APPLICATION NO. A/HSK/72

- Applicant** : Mr. LAM Kam Chung
- Site** : Lots 582 RP and 583 in D.D. 124 and Adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : 1,600 m² (about) (including about 1,150 m² of Government land (GL))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : Commercial (3)' ("C(3)") (59.7%) and an area shown as 'Road' (40.3%)
- Application** : Temporary Open-Air Vehicle Repair Yard with Ancillary Workshop and Vehicle Parking 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-air vehicle repair yard with ancillary workshop and vehicle parking for a period of 3 years. The Site falls within "C(3)" zone (59.7%) and an area shown as 'Road' (40.3%). 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 related to 3 previous applications (Application Nos. A/YL-HT/316, 492 and 631) for the various open storage uses submitted by different applicants covering the southern portion of the Site. The Site is currently used for the applied use without valid planning permission.
- 1.3 According to the layout plan at **Drawing A-1**, the Site is accessible from Shek Po Road via a local track through an ingress/egress point at the western boundary of the Site. 12 temporary structures (one to two-storey) are proposed for vehicle repair workshop, storage, office and electricity meter uses with a total floor area of 424m². They include a 6m high open shed (80m²) for vehicle repairing and vehicle parking uses; a 6m high open shed (68m²) for storage of vehicle parts and

tools; a 6m high open shed (93m²) for storage and site office; two 6m high open shed (39m² each) for storage and site office; three 2.5m high single storey container (15m² each) for storage; one 2.5m high two-storey container (15m² each) for storage; and three 3m high open shed (10m² each) for storage and electricity meter. 15 private car parking spaces, 2 medium goods vehicle (16 tonnes) parking spaces and 2 loading/unloading spaces are also proposed. The operation hours of the Site are from 8:30 a.m. to 8:30 p.m. from Mondays to Saturdays. No operation will be held on Sundays and public holidays. The proposed drainage plan and proposed tree preservation and landscape plan are at **Drawings A-2 and A-3** respectively.

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

- (a) Application Form received on 25.4.2018 with layout (**Appendix I**) plan, proposed drainage plan and proposed tree preservation and landscape plan
- (b) Letter from the applicant dated 11.5.2018 in response to (**Appendix Ia**) Transport Department's comment

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The Site is at the same location with the previous application No. A/YL-HT/631, and now the portion of Government Land is proposed to be enlarged. All the time-specific approval conditions have been complied with.
- (b) The environment of the Site is well-maintained. No complaint is received until now.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" and 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 TPO (TPB PG-No. 31) by posting Site notice and sending notice to the Ha Tsuen Rural Committee by registered mail and posting the application notice outside the Site. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

4.1 The southern part of the Site is subject to on-going enforcement action (No. E/YL-HSK/16) against an unauthorized development (UD) involving storage use and workshop use. An Enforcement Notice (EN) was issued to the concerned parties on 17.4.2018 requiring the discontinuation of the UD. If the requirement of the EN is not complied with upon expiry of the compliance period of the notice, the concerned parties will be subject to further enforcement action.

- 4.2 It is noted that the remaining part of the Site is being used as applied use. Subject to the collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken in due course.

5. Previous Applications

- 5.1 The Site is related to 3 previous applications Nos. A/YL-HT/316, 492 and 631. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-HT/316 for temporary open storage of construction materials, construction equipment and workshop for a period of 3 years was approved by the Committee with conditions on 15.8.2003. Application No. A/YL-HT/492 for temporary open storage of wastes (metal and plastic) was approved with conditions by the Committee for a period of 3 years on 22.6.2007.
- 5.3 The last Application No. A/YL-HT/631 for temporary open storage of scrap metals and plastic with ancillary open-air packaging workshop for a period of 3 years was approved by the Committee with conditions on 7.8.2009. All of the approval conditions have been complied with including the submission of a condition record of the existing drainage facilities, the submission and implementation of tree preservation & landscape proposals and run-in/out proposal. The planning permission lapsed on 7.8.2012.
- 5.4 Compared with the last approved application No. A/YL-HT/631, the current application is submitted by a different applicant for different use with different development parameter on a larger site (+700 m²).

6. Similar Application

There is no similar application within the same "C(3)" zone.

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

7.1 The Site is:

- (a) currently being used for the applied use without valid planning permission; and
- (b) accessible from Shek Po Road via a local track through an ingress/egress point at the western boundary of the Site.

7.2 The surrounding areas have the following characteristics:

- (a) predominately open storage yards, logistics centre, vehicle repair workshops, parking of vehicles and cultivated agricultural land;
- (b) a residential area is found in the vicinity of the Site with the nearest one located about 86m to its northwest;

- (c) there is an open storage yard with parking of coaches to its southeast under valid planning application No. A/YL-HT/1011; and
- (d) other open storage yards, logistics centre, vehicle repair workshops and parking of vehicles in the vicinity are suspected unauthorized developments (UDs) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The “C(3)” zone is intended for commercial developments, which may include uses such as office, shop, services, place of entertainment, eating place and hotel, functioning as territorial business/financial centre and regional or district commercial/shopping centre. These areas are usually major employment nodes.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) has the following comments:

- (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 the prior approval of the Government.
- (b) No permission is given for occupation of Government Land (GL) (about 1,150m² subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (c) The Site is accessible to Shek Po Road through GL. Her office provides no maintenance work for 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 planning application be approved, the lots owners will need to apply to her office to permit the structures to be erected or regularize any irregularities on Site. Furthermore, the applicant has to apply for a formal approval prior to the actual occupation of the GL portion. Such application(s) will be considered by the Lands Department acting in the capacity of the landlord 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 Lands Department.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/NT, Transport Department (AC/NT, TD):

- (a) He has no objection in principle to the application from traffic engineering viewpoint.
- (b) Sufficient manoeuvring spaces shall be provided within the subject Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.

9.1.3 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) If the proposed run-in is agreed by TD, the applicant should provide the run-in/out at Shek Po Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) The Site encroaches onto the railway protection zone of the West Rail Line.
- (d) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (e) HyD shall not be responsible for the maintenance of any access connecting the Site and Ping Ha Road.

Railway

9.1.4 Comments of the Chief Engineer/Railway Development 2-2/Railway Development Office, Highways Department (CE/RD2-2/RDO, HyD):

As the Site falls within the route protection boundary of the West Rail, the applicant should consult MTRCL on full details of the proposal and comply with their requirements with respect to the future construction, operation, maintenance and safety of the West Rail. He has no comment on the proposal from railway development viewpoint provided that MTRCL's requirements will be followed.

Environment

9.1.5 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 86m to its northwest) (**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 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

9.1.6 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 no. A/YL-HT/631 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 submit condition record of the existing drainage facilities to his satisfaction.

Building Matters

9.1.7 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 structures existing 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 are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized under the BO and should not be designated for any approved use under the captioned application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BA 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 application Site under the BO.

- (d) Before any new building works (including containers/open shed as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA 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

9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire services installation (FSIs) being provided to the satisfaction of D of FS.
- (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.
- (d) 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

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

- (a) No objection to the 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 infrastructures 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.

District Officer's Comments

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

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

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

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

10. Public Comment Received During Statutory Publication Period

10.1 On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 25.5.2018, 1 public comment was received.

10.2 There is 1 public comment from an individual (**Appendix III**) who objects to the application mainly on grounds of jeopardizing the construction of new towns and delaying the process of finding solutions to accommodate such amenities.

11. Planning Considerations and Assessment

11.1 The Site falls within "C(3)" zone (59.7%) and an area shown as 'Road' (40.3%). The planning intention of the "C(3)" zone which is intended primarily for commercial developments, which may include uses such as office, shop, services, place of entertainment eating place and hotel, functioning as territorial business/financial centre and regional or district commercial/shopping centre. Whilst the development is not in line with the planning intension of the "C(3)" zone and the Site falls within area partly shown as 'Road', the implementation programme for this part of NDA is still being formulated and PM/NTW of CEDD has no objection to the proposed temporary 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.

- 11.2 The applied use is not incompatible with the surrounding uses which are predominantly occupied for vehicle repair centre, logistics centre and open storage uses.
- 11.3 There is no adverse comment on the application from concerned Government departments, except DEP. DEP does not support the application as there are sensitive uses in vicinity (with the nearest residential dwelling is about 86m to the northwest 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 12.2 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.
- 11.4 The Committee has approved 3 previous applications for open storage use covering different extent of the Site. Approval of the subject application is in line with the Committee’s previous decisions.
- 11.5 One public comment was received objecting to the application mainly on grounds as summarized in paragraph 10.2. The planning considerations and assessments in the above paragraphs are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary open-air vehicle repair yard with ancillary workshop and vehicle parking could be tolerated for a period of 3 years.
- 12.2 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 **15.6.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 8:30 p.m. and 8:30 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 vehicle is allowed to queue back to or reverse onto/from the public

road at any times during the planning approval period;

- (d) the existing drainage facilities on-Site shall be maintained at all times during the planning approval period;
- (e) the submission of a condition record of existing drainage facilities within **3** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **15.9.2018**;
- (f) the submission of run in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **15.12.2018**;
- (g) in relation to (f) above, the implementation of the run in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **15.3.2019**;
- (h) the submission of a tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **15.12.2018**;
- (i) in relation to (h) above, the implementation of the tree preservation and landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **15.3.2019**;
- (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 **15.12.2018**;
- (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 **15.3.2019**;
- (l) if any of the above planning conditions (a), (b), (c) or (d) 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;
- (m) if any of the above planning conditions (e) (f), (g), (h), (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; and
- (n) upon expiry of the planning permission, the reinstatement of the application 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 attached at **Appendix IV**.

12.3 Alternatively, should the Committee decide to reject the application, the

following reason for rejection is suggested for Members' reference:

- (a) the temporary open-air vehicle repair yard with ancillary workshop and vehicle parking is not in line with the planning intention of the 'C(3)' zone which is primarily for the commercial developments. There is no strong planning justification in the submission for a departure from the planning intention, 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.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 25.4.2018 with layout plan, proposed drainage plan and proposed tree preservation and landscape plan
Appendix Ia	Letter from the applicant dated 11.5.2018 in response to Transport Department's comment
Appendix II	Previous Applications covering the Application Site
Appendix III	Public Comment received during statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Drainage Plan
Drawing A-3	Proposed Tree Preservation and Landscape Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**