

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

**APPLICATION NO. A/HSK/95**

- Applicant** : Mr. WU Hing-yau represented by Metro Planning and Development Company Limited
- Site** : Lots 60 (Part), 65 (Part), 66, 67 (Part), 69 (Part), 70 (Part), 71 (Part) and 72 RP (Part) in D.D. 128 and Adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : 1,600 m<sup>2</sup> (about) including 230 m<sup>2</sup> (about) of Government Land
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen (HSK&HT) Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : "Village Type Development(1)" ("V(1)") (29.5%)  
[restricted to a maximum building height of 3 storeys (8.23m)]; and  
  
an area shown as 'Road' (70.5%)
- Application** : Temporary Vehicle Park for Medium/Heavy Goods Vehicle with Vehicle Parts Assembly 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 vehicle park for medium/heavy goods vehicle with vehicle parts assembly for a period of 3 years (**Plan A-1a**). The Site straddles over "V(1)" (29.5%) and an area shown as 'Road' (70.5%) on the Draft 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. Moreover, in any area shown as 'Road' on the OZP, all uses or developments require planning permission from the Board. The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site has involved 12 previous applications mainly for container trailer park by different applicants and vehicle park by the same applicant. The last application No. A/YL-HT/1060 for temporary vehicle park for private cars, light and heavy goods

vehicles, and container trailers and tractors with ancillary vehicle parts assembly was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 23.12.2016 and was subsequently revoked on 27.6.2017 due to non-compliance with approval conditions. The current application is submitted by the same applicant with smaller site area (-1,937 m<sup>2</sup>) and different layout.

- 1.3 The Site is directly abutting Fung Kong Tsuen Road with the ingress/egress at its southern boundary (**Plan A-2**). As shown on the layout plan at **Drawing A-1**, there are a total of 4 structures with a total floor area of 562m<sup>2</sup>, including a shed (6m high) with a floor area of 482m<sup>2</sup> containing a 2-storey (5.5m high) converted container for office and storage use, an elevated platform with converted container (5.5m high) with for storage use, and an area for vehicle parts assembly and storage of parts for vehicle assembly uses; and 3 structures (3m high) for storage use with a total area of 80 m<sup>2</sup>. 2 parking spaces for medium/heavy goods vehicles are also proposed. The proposed tree preservation and landscape plan and the as-built drainage proposal are at **Drawings A-2** and **A-3** respectively. According to the applicant, the operation hours of the Site are from 7:00 a.m. to 7:00 p.m. from Mondays to Saturdays and no operation would be carried out on Sundays and public holidays.
- 1.4 A comparison of the major development parameters of the last approved application and the current application is given in the following table:

<b>Major Development Parameters</b>	<b>Last Application (A/YL-HT/1060) (b)</b>	<b>Current Application (A/HSK/95) (a)</b>	<b>Difference (b) – (a)</b>
Site Area	About 3,537 m <sup>2</sup>	About 1,600 m <sup>2</sup>	-1,937 m <sup>2</sup>
Applied Use	Temporary vehicle park for private cars, light and heavy goods vehicles and container trailers and tractors with ancillary vehicle parts assembly	Temporary vehicle park for medium/heavy goods vehicle with vehicle parts assembly	-parking for private cars, light goods vehicles and container trailers and tractors
No. of Structures	8	4	-4
Total Floor Area	About 607 m <sup>2</sup>	About 562 m <sup>2</sup>	-45 m <sup>2</sup>
No. of Parking Spaces	6 for private car and light goods vehicle 8 for heavy goods vehicle 10 for container trailer/tractor	2 for medium/heavy goods vehicles	-parking spaces for private cars, light goods vehicles and container trailers and tractors -6 parking spaces for heavy goods vehicles

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

- (a) Application Form received on 27.7.2018 (Appendix I)
- (b) Supplementary Planning Statement with proposed layout plan, proposed tree preservation and landscape plan and as-built drainage plan (Appendix Ia)

## 2. **Justifications from the Applicant**

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

- (a) The Site is related to a planning permission Application No. A/YL-HT/1060. The applicant is applying to a new planning permission for the same use due to reduction of the site area.
- (b) The Site is located in “Category 1” area 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).
- (c) The vicinity of the Site is almost wholly occupied for open storage and port back-up uses which make the proposed development compatible with the surrounding landscape. The Site is adjoining some logistics centres along Fung Kong Tseun Road. Most of them were either approved by the Board on transient basis or regarded as existing use.
- (d) Preliminary technical assessments demonstrate that the development would not generate adverse impacts on the surroundings. The application should therefore be given favourable consideration.
- (e) Drainage facilities have been provided under the previous planning approvals. The applicant will maintain the implemented drainage facilities at its own expenses.

## 3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by posting Site notice and sending notice to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Background**

The Site is not subject to planning enforcement action. Should a material change of use be identified on site, which constitutes an unauthorised development under the Town Planning Ordinance, enforcement action would be instigated subject to sufficient evidence collected.

## 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 Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

## 6. **Previous Applications**

6.1 The Site is related to 12 previous application Nos. A/YL-HT/33, 40, 61, 140, 196, 292, 432, 593, 651, 699, 865 and 1060 for temporary container trailer park with trailer inspection services and temporary vehicle park for private cars, light and heavy goods vehicles and container trailers and tractors with ancillary workshop. All of these applicants except two (Nos. A/YL-HT/33 and 40) were approved by the Committee between 1999 and 2016. Amongst the approved applications, Application No. A/YL-HT/593 and 1060 were subsequently revoked due to non-compliance with approval conditions. Application Nos. A/YL-HT/33 and 40 for temporary container trailer/tractor park were rejected by the Committee and the Board upon review on 3.10.1997 and 26.6.1998 respectively for the reasons that there was insufficient information to demonstrate the proposed development would not have adverse traffic, environmental and drainage impact on the surrounding areas. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.

6.2 The last application No. A/YL-HT/1060 for temporary vehicle park for private cars, light and heavy goods vehicles and container trailers and tractors with ancillary vehicle parts assembly for a period of 3 years was approved with conditions by the Committee on 23.12.2016 and was subsequently revoked on 27.6.2017 due to non-compliance with approval conditions, including submission and implementation of the tree preservation and landscape proposal and the implementation of FSIs proposal.

6.3 Compared with the last application (No. A/YL-HT/1060), the current application is submitted by the same applicant for similar use on a smaller Site (-1,937 m<sup>2</sup>) with different layout and a reduction of 45 m<sup>2</sup> of total floor area.

## 7. **Similar Application**

There is no similar application within the same “V(1)” zone on the OZP.

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

8.1 The Site is:

- (a) currently being used for the applied uses without valid planning approval; and
- (b) accessible from Fung Kong Tsuen Road.

8.2 The surrounding areas have the following characteristics:

- (a) predominately occupied by parking of vehicles, open storage/storage yards, logistics centres uses and a cluster of residential structures;
- (b) a cluster of residential structures are found in the vicinity of the Site with the nearest one located 45m away to its southwest;
- (c) there are open storage/storage yards, logistics centre and parking of vehicles in the vicinity of the Site under valid planning application Nos. A/YL-HT/1061 and A/HSK/12 and 77 (**Plan A-2**); and
- (d) other open storage yards and parking of vehicles in the vicinity are suspected unauthorized developments (UDs) subject to enforcement action taken by the Planning Authority.

## **9. Planning Intention**

The “V(1)” zone is intended to provide land considered suitable for reprovisioning of village house affected by Government projects.

## **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 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 230m<sup>2</sup> 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 from Kai Pak Ling Road through GL. His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) There is no Small House (SH) application under processing or approved within the Site.
- (f) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any

irregularities on site. 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. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. 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 applications 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 objection 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.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed access arrangement of the Site from Fung Kong Tsuen Road should be commented by TD.
- (b) His office does not and will not maintain any access connecting the Site and Fung Kong Tsuen Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

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

- (a) He does not support the application as there are sensitive uses in the vicinity of the Site (the closest residential structure being about 45m away) and along the access roads and environmental nuisance is expected.
- (b) No substantiated environmental complaint against the Site has been received over the past 3 years.
- (c) The applicant is advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' ('COP').

### **Urban Design**

10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD):

- (a) The application seeks planning permission involving temporary vehicle park and vehicle parts assembly with 4 structures of building height ranging from 3m to 6m. The Site is surrounded by open storage uses to its east and west with a large temporary structure to its north. There is vegetation to the immediate south of the Site and a cluster of village houses to its further south. The proposed development is not incompatible in the context.
- (b) Given that the proposed development is low-rise in nature, it is anticipated that significant visual impact is unlikely from urban design and visual perspectives.

### **Drainage**

10.1.6 Comments of the Chief Engineer/Mainland North, DSD (CE/MN, DSD) are as follows:

- (a) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application No. A/YL-HT/1060 will be maintained for the subject development. He has no objection in principle to the development from a drainage point of view.
- (b) Should the application be approved, he suggests that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit a condition record of the existing drainage facilities to the satisfaction of his Division.

### **Building Matters**

10.1.7 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 existing structures at the Site and BD is not in a position to offer comments on their suitability for the applied use.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any approved use under the 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 planning

approval should not be construed as 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 leased land of the Site, prior approval and consent of the BD should be obtained, otherwise, they are UBW. An Authorized Person should be appointed as the co-ordinator 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 access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (f) If the Site does not abut on a specified street of not less than 4.5m, its permitted development intensity shall be determined under B(P)R 19(3) at the building plan submission stage.

### **Fire Safety**

#### 10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to fire services installations (FSI) 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 and the location of where the proposed FSIs 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 Building Ordinance (Cap 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Long-Term Development**

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

The Site falls within the boundary of Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant Site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The Site falls within a site under Stage 1 Work stage, being an



area designated for “Rural Residential – Zone 4” on the Revised Recommended Outline Development Plan (RODP) of HSK NDA intended for the construction of village resite houses. The current target is to have the first population intake by 2025 for village resite arrangement in HSK NDA. While he has no objection to the temporary uses at the Site, he does not support the approval of 3 years. Nevertheless, he does not envisage adverse impacts to the HSK NDA project if the application is approved for a temporary period until late 2020. Hence he does not have objection to an approval for 12 months from the expiry of approved period in the last application (No. A/YL-HT/1060 was approved with conditions by the Committee for a period of 3 years until 23.12.2019).

### **District Officer’s Comments**

10.1.10 Comments 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.

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

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

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

On 3.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 24.8.2018, 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 Site straddles over “V(1)” zone and an area shown as ‘Road’. The “V(1)” zone is intended to provide land considered suitable for reprovisioning of village house affected by Government projects. Whilst the development is not in line with the planning intention and the Site falls within an area partly zoned “V(1)” and an area

shown as 'Road', and PM/NTW of CEDD has no objection to the proposed use for a temporary basis on the Site. However, PM/NTW of CEDD does not support the approval for a period of 3 years. Nevertheless, he does not envisage adverse impacts to the HSK NDA project if the application is approved for a temporary period until late 2020. In this regard, approval of the application on a temporary basis of 2 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 areas surrounding the Site are predominantly occupied for open storage, warehouse and logistics centre uses. The applied use is not incompatible with the surrounding land uses.
- 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 because there are sensitive receivers in the vicinity (the nearest residential dwelling being about 45m away) and along the access road and environmental nuisance is expected. However, there is no environmental complaint 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 UD on Site would 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 10 previous applications for vehicle/container trailer and tractor parking and ancillary workshop uses on the Site since 1999 (**Plan A-1b**). Approval of the subject application is in line with the Committee's previous decisions.
- 12.7 There is no public comment received on the application during the statutory publication period.

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

- 13.1 Based on the assessment in paragraph 12 above, the Planning Department considers that the temporary vehicle park for medium/heavy goods vehicle with vehicle parts assembly could be tolerated for a period of 2 years instead 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 2 years until **21.9.2020** to

not jeopardize the long-term development of the Site. The following conditions of approval with shorter compliance periods and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. to 7:00 a.m., as proposed by the applicant, is allowed on the Site during the 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 public road or reverse onto/from the public road at all times during the planning approval period;
- (d) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (f) 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 Town Planning Board by **21.12.2018**;
- (g) the submission of a tree preservation and landscape proposal within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **21.12.2018**;
- (h) in relation to (g) above, the implementation of the 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 **21.3.2019**;
- (i) the submission of fire service installations proposals within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **21.12.2018**;
- (j) in relation to (i) above, the implementation of the fire service installations proposals 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 **21.3.2019**;
- (k) if the above planning conditions (a), (b), (c), (d) or (e) is not complied with at any time 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 (f), (g), (h), (i) or (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 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 are attached at **Appendix IV**.

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

- (a) The applied use is not in line with the planning intention of the "V(1)" zone, which is intended to provide land considered suitable for re-provisioning of village house affected by Government projects. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis
- (b) the applicant fails to demonstrate that the development would not generate 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**

<b>Appendix I</b>	Application Form received on 27.7.2018
<b>Appendix Ia</b>	Supplementary Planning Statement with proposed layout plan, proposed tree preservation and landscape plan and as-built drainage plan
<b>Appendix II</b>	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
<b>Appendix III</b>	Previous s.16 applications covering the Site
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Tree Preservation and Landscape Proposal
<b>Drawing A-3</b>	As-built Drainage Plan
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Applications Plan
<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 2018**