

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/360

- Applicant** : Mr. TANG Chun Pang (鄧鎮鵬) represented by Miss HUI Hang Yu (許幸如)
- Site** : Lot 766 (Part) in D.D. 125, Ha Tsuen, Yuen Long
- Site Area** : 900m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Open Space” (“O”)
- Application** : Temporary Open Storage of Construction Materials and Logistics Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction materials and logistics centre for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls within an area zoned “O” 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 zone 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 open storage yard without valid planning permission (**Plan A-4**).
- 1.2 The Site is accessible from Ping Ha Road via a local track (**Drawing A-1, Plans A-2 and A-3**) with the ingress/egress point at the northern side of the Site (**Plan A-2**). As shown on the layout plan at **Drawing A-1**, the whole Site will be used for open storage purpose and a private car parking space and a loading and unloading space for heavy goods vehicle are provided at its northern portion. No temporary structure is proposed. The applied use would involve storage, packaging and forwarding of construction materials. According to the applicant, the operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays.

- 1.3 The Site is involved in 7 previous planning applications (details at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the Application Form (received on 26.1.2022) with annex and drawings (**Appendix I**).
- 1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 18.3.2022 for consideration of the application has been rescheduled, and the Board agreed to defer consideration of this application. The application is now scheduled for consideration by the Rural and New Town Planning Committee (the Committee) at this meeting.

2. Justifications from the Applicant

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

- (a) Two similar applications for temporary open storage of construction materials and logistics centre within the subject “O” zone (No. A/YL-HT/861 and A/HSK/66) were approved by the Board. The drainage, landscaping and fencing requirements under the relevant approval conditions had been fulfilled. The implemented facilities would be maintained. The applicant pledges to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”) issued by the Environmental Protection Department for site management.
- (b) There is no residential dwelling near the Site. The applied use is compatible with the surrounding area as most of the subject “O” zone is occupied by warehouses, open storage yards and logistics centres.
- (c) The Site has been hard-paved for effective drainage and involves no tree felling. The environmental impact from the applied use would be insignificant. No storage of polluting, combustible and harmful goods and no workshop activities including cutting, cleansing, melting, dismantling and repairing would be allowed on the Site.
- (d) Insignificant traffic impact is anticipated taking into account the nature of the applied use which would involve low traffic volume and that no vehicle would be reverted back to public road with the manoeuvring circle provided within the Site.
- (e) The applied use is temporary in nature and the Site could be reinstated easily.

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 notice to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

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 HSK/HT NDA under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is currently not subject to any active planning enforcement action.

6. Previous Applications

- 6.1 The Site is involved in 7 previous applications (No. A/YL-HT/536, 583, 620, 649, 672 and 861 and No. A/HSK/66) for various open storage and/or logistics centre uses. 5 applications were approved by the Committee between 2008 and 2018 on the similar considerations that approval of the applications would not jeopardize the long-term development of the site; the applied uses were not incompatible with the surrounding areas; the applied uses were generally in line with the then TPB PG-No.13; and there were no major adverse comments from concerned government departments. However, 2 planning permissions (under Applications No. A/YL-HT/536 and 583) were revoked in 2008 and 2009 due to non-compliance with time-limited approval conditions. Another 2 applications (No. A/YL-HT/620 and 649) were subsequently rejected by the Board in 2009 on the grounds of repeated non-compliance with the approval conditions and that no information was provided to demonstrate no adverse landscape, nature conservation and environmental impacts on the surrounding areas without mitigation. 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/HSK/66 for temporary open storage of construction materials and logistics centre was approved by the Committee on 18.5.2018 for a period of 3 years. All the time-limited approval conditions had been complied with. However, the planning permission lapsed on 18.5.2021. Compared with the last approved application, the current application is submitted by the same applicant for the same use at the same site with the same development parameters.

7. Similar Applications

There are 9 similar applications (No. A/HSK/4, 71, 121, 132, 146, 223, 239, 311 and 315) for various temporary open storage/port back-up uses within the same “O” zone on the OZP. All applications were approved with conditions by the Committee based on similar considerations as mentioned in paragraph 6.1 above. 3 permissions of these applications were subsequently revoked due to non-compliance with time-limited approval conditions. Details of these applications are summarized at **Appendix III** 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) accessible from Ping Ha Road via local track;
- (b) being used for an open storage yard without valid planning permission; and

- (c) partly within the boundary of the Tung Tau Tsuen Archaeological Site.

8.2 The surrounding areas have the following characteristics:

- (a) to its northwest are 2 logistics centres (one under valid planning permission), 4 open storage yards of construction materials and machinery (one under valid planning permission) and a warehouse;
- (b) to its immediate west is a vehicle repair workshop and to its southwest are 3 open storage yards of marbles, construction materials and machinery and vehicles. Further southwest are some residential dwellings;
- (c) to its east are some residential dwellings (the nearest dwelling being about 1m away) (**Plan A-2**) . Further east are a residential dwelling and a vacant warehouse; and
- (d) to its southeast is a vegetated knoll, much of it being designated “Tung Tau Tsuen Archaeological Site”, with some graves and urns.

9. **Planning Intention**

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

10. **Comments from Relevant Government Departments**

10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV** and **V** respectively.

10.2 The following government department does not support the application.

Environment

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

- (a) he does not support the application because there are sensitive users in vicinity of the site (the closest residential dwelling being about 1m away) (**Plan A-2**) and the applied use involves the use of heavy vehicles. Environmental nuisance is expected; and
- (b) 4 substantiated environmental complaints pertaining to the Site were received in the past 3 years (all received in 2019 in relation to air quality).

11. Public Comment Received During Statutory Publication Period

On 8.2.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received (**Appendix VII**) objecting to the application on the grounds that the applied use being close to residential dwellings would generate environmental nuisances and pose fire safety hazards to the villagers.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction materials and logistics centre for a period of 3 years at the Site zoned “O” on the OZP. The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Whilst the applied use is not in line with the planning intention of the “O” zone, the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) and the Director of Leisure and Cultural Services (DLCS) have no objection to the temporary use for a period of 3 years on the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government projects.
- 12.2 The applied use is not incompatible with the surrounding land uses which are predominantly used for open storage yards, vehicle repair workshop and logistics centres (**Plan A-2**).
- 12.3 The applied use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and 5 previous planning approvals for similar/same open storage and/or logistics centre uses were given. The current application is submitted by the same applicant for the same use at the same site with the same layout as compared with the last approved previous application (No. A/HSK/66) in 2018. All time-limited conditions attached to the last approved application had been complied with. In this regard, sympathetic consideration may be given to the application.
- 12.4 There is no adverse comment from the concerned government departments, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the nearest residential dwelling is about 1m away) (**Plan A-2**), and the applied use involves the use of heavy vehicles and thus environmental nuisance is expected. There were 4 substantiated environmental complaint pertaining to the Site received in the past 3 years. To address the concerns on the possible environmental nuisances or the technical requirements of the other concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorised 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 latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas.

- 12.5 In addition to 5 previous planning approvals for various open storage and/or logistics centre uses at the Site (**Plan A-1b**), there are 9 similar approvals for open storage uses within the same “O” zone on the OZP (**Plan A-1a**). 2 previous applications were rejected in 2009 as they involved repeated non-compliance with previous approval conditions and concerns with adverse environmental impacts without mitigation. Approval of the subject application is generally in line with the Committee’s previous decisions.
- 12.6 One public comment objecting to the application was received during the statutory publication period as summarised in paragraph 11. 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 comment mentioned on paragraph 11, the Planning Department considers that the temporary open storage of construction materials 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 **1.6.2025**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 8:00 p.m. to 8:00 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 cutting, cleansing, melting, dismantling, repairing and other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no ground excavation works, including that for landscape planting and drainage facilities, shall be carried out on-site without prior written consent from the Antiquities and Monuments Office 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 on the 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 **1.9.2022**;
- (g) the provision of fire extinguisher(s) within 6 weeks from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **13.7.2022**;

- (h) 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 **1.12.2022**;
- (i) 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 **1.3.2023**;
- (j) if any of the above planning condition (a), (b), (c), (d) or (e) 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
- (k) if any of the above planning condition (f), (g), (h) or (i) 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 V**.

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

- (a) the applied use is not in line with the planning intention of the "O" zone, which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. 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 use would not have adverse environmental impact on the surrounding areas.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form received on 26.1.2022
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB

Appendix III	PG-No. 13F)
Appendix IV	Previous and Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
	'Good Practice for Open Storage Sites' by the Fire Services Department
Appendix VII	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Drainage Plan
Drawing A-3	Proposed FSIs 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
JUNE 2022