

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/362

- Applicant** : Mr. TANG Chun Pang (鄧鎮鵬) represented by Miss HUI Hang Yu (許幸如)
- Site** : Lot 3323 S.B ss.1 in D.D. 129 , Ha Tsuen, Yuen Long
- Site Area** : 2,830m²(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** : “Residential (Group A) 3” (“R(A)3”);
[Restricted to maximum plot ratio of 5.5 and maximum BH of 140mPD]
- Application** : 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 for 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 at the application site (the Site) (**Plan A-1a**). The Site falls within an area zoned “R(A)3” 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 the applied use without valid planning permission (**Plan A-4**).
- 1.2 The Site is accessible from Ping Ha Road via a local track and the ingress/egress point is located at the southern part of the Site (**Plans A-2 and A-3**). As shown on the layout plan at **Drawing A-1**, three temporary structures with a total floor area of not exceeding 434m² are proposed, including 1 single-storey structure for storage (4.5m high) at northwest corner and 2 one- or two-storey structures for site office (3m or 6.5m high) respectively at the southern portion of the Site. The northeast corner of the Site is proposed for open storage use of export vehicles and vehicle parts. The Site will provide 8 parking spaces for medium goods vehicles and 26 for

private cars. A manoeuvring circle is provided at the northern part of the Site. The operation hours of the development are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays, and no operation would be carried out on Sundays and public holidays. The drainage and the fire service installations (FSIs) proposal plans are shown at **Drawings A-2 and A-3** respectively.

- 1.3 The Site is involved in 6 previous planning applications (details at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 9.2.2022 with annex and drawings **(Appendix I)**
 - (b) Further Information (FI) received on 18.3.2022 **(Appendix Ia)**
[exempted from publication and recounting requirements]
- 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) The applied use is temporary in nature and will not jeopardize the long-term planning intention of the zoned use.
- (b) The previous application for the same use within the subject “R(A)3” zone (No. A/HSK/48) was approved by the Board. The requirements under approval conditions in the aspects of drainage, landscaping and FSIs were complied with. The implemented facilities would be maintained.
- (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.
- (d) The traffic impact would be insignificant as the vehicle park is intended to serve the villagers nearby and have restrictive operation hours.

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 the Ha Tsuen Rural Committee by registered mail. 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 Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is currently not a subject of any active planning enforcement case.

6. Previous Applications

6.1 The Site is involved in 6 previous applications (No. A/YL-HT/541, 591, 726, 870 and 985 and A/HSK/48) for temporary public vehicle parking and/or storage uses. All these applications were approved with conditions by the Committee between 2008 and 2018 on the considerations that no major adverse comments from concerned government departments and relevant approval conditions were recommended to address the technical requirements of concerned government departments; the applied use was not incompatible with the surrounding areas; and approval of the applications was in line with the Committee's previous decisions. Among these 6 approvals, 3 of them (No. A/YL-HT/541, 591 and 985) were subsequently revoked due to non-compliance with the time-limited approval conditions. Details of these applications are summarized at **Appendix III** and their location is shown on **Plan A-1b**.

6.2 The last approved application No. A/HSK/48 was approved with conditions by the Committee on 2.3.2018 for a period of 3 years but the planning permission lapsed on 2.3.2021. All time-limited approval conditions had been complied with. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with the same layout and almost the same development parameters) except an increase in building height.

7. Similar Applications

There are 8 similar applications (No. A/HSK/16, 35, 47, 179, 207, 232, 240 and 264) for various temporary vehicle park and open storage uses within the same "R(A)3" zone on the OZP in the past 5 years. All of these applications were approved by the Committee from 2017 to 2020 on similar considerations as mentioned in paragraph 6.1 above. 1 permission of these applications (No. A/HSK/179) was 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 (Plan A-1a to A-4)

8.1 The Site is:

- (a) accessible from Ping Ha Road via a local track; and
- (b) currently used for the applied use without valid planning permission.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are agricultural and unused land;
- (b) to its east is Tin Ying Road;
- (c) to its south are agricultural land and a laboratory; and
- (d) to its immediate west are 2 residential dwellings (the closest one is about 8.5m away) and a piece of agricultural land. To the further west is a logistics centre, an open storage yard of trucks (both under valid planning permissions) and a piece of vacant land.

9. Planning Intention

The planning intention of the “R(A)3” zone is 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.

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 Comments 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 is about 8.5m away) (**Plan A-2**) and the applied use involves the use of heavy vehicles. Environmental nuisance is expected; and
- (b) there was no substantiated environmental complaint pertaining to the Site received in the past 3 years.

11. Public Comment

On 18.2.2022, 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 III**) objecting to the application on the grounds that the applied use will increase the traffic flow, resulting in traffic congestion, environmental nuisance and fire hazard, and adversely affecting the safety and living quality of the villagers.

12. Planning Considerations and Assessments

- 12.1 The application is for 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 at the Site zoned “R(A)3” zone on the OZP. The planning intention of the “R(A)3” zone is primarily for high-density residential development. Whilst the applied use is not in line with the planning intention of the “R(A)3” zone, the temporary public vehicle park can meet the parking demand in the vicinity of the Site. In this regard, the Commissioner for Transport supports the application on this aspect. Moreover, the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) has no objection to the 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.
- 12.2 The applied use is not incompatible with the surrounding areas which are occupied by logistics centre and storage uses and agricultural land (**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 6 previous planning approvals for similar/same vehicle parking and storage 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 application (No. A/HSK/48) 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 8.5m away) (**Plan A-2**), and the applied use involves the use of heavy vehicles and thus environmental nuisance is expected. However, there was no 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 6 previous planning approvals for similar/same vehicle parking and/or storage uses at the Site (**Plan A-1b**), there are 8 similar approvals for temporary vehicle park and open storage uses within the same “R(A)3” zone on the OZP (**Plan A-1a**). Approval of the subject application is generally in line with the Committee’s previous decisions.
- 12.6 One public comment objecting the application was received during 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 assessment made in paragraph 12 above, and having taken into account the public comment mentioned in paragraph 11 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 **1.6.2025**. 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) the submission of a revised drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **1.12.2022**;
- (d) in relation to (c) above, the implementation of the revised drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **1.3.2023**;
- (e) in relation to (d) above, the implemented drainage facilities on the Site should be maintained at all times during the planning approval period;
- (f) 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**;
- (g) 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**;
- (h) in relation to (g) 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**;
- (i) if any of the above planning condition (a), (b) 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
- (j) if any of the above planning condition (c), (d), (f), (g) or (h) 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 "R(A)3" zone, which is primarily for high-density residential development. There is no strong justification to deviate 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 9.2.2022
Appendix Ia	FI received on 18.3.2022
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	'Good Practice for Open Storage Sites' by the Fire Services Department
Appendix VII	Public Comment
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