

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/365

- Applicant** : Mr TANG Yui Kun represented by Metro Planning & Development Company Limited
- Site** : Lots 43 (Part), 192 S.A ss.1 (Part), 192 S.A RP (Part), 192 S.B ss.1 (Part) and 192 S.B RP (Part) in D.D.128 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long
- Site Area** : about 2,620m² (including GL of about 1.6m²)
- Land Status** : 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
- Zonings** : (i) “Open Space” (“O”) (74%); and
(ii) “Government, Institution or Community” (“G/IC”) (26%)
[Restricted to a maximum building height (BH) of 8 storeys]
- Application** : Renewal of Planning Approval for Temporary Open Storage of Metal Ware for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary open storage of metal ware for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls within an area zoned “O” (74%) and “G/IC”(26%) 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 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. The Site is currently used for the applied use with valid planning permission (**Plan A-4**).
- 1.2 The Site is accessible from Kai Pai Ling Road via a local track and the ingress/egress point is located at the southern boundary of the Site (**Drawing A-1 and Plans A-2 and A-3**). According to the layout plan (**Drawing A-2**), two parking spaces for private cars (5m x 2.5m each) and 1 loading/unloading space for medium goods vehicle (11m x 3.5m) are proposed at the southern and middle parts of the Site respectively. No structure is proposed at the Site. Area for circulation purpose is

provided at the middle and southern parts of the Site while the remaining areas at the northern part will be used for open storage of metal ware. The operation hours are from 7:00 a.m. to 7:00 p.m. Monday to Saturday and there will be no operation on Sundays and public holidays. The proposed landscape and tree preservation plan and the as-built drainage plan submitted by the applicant are at **Drawings A-3 to A-4** respectively.

- 1.3 The Site is involved in 7 previous applications (No. A/YL-HT/197, 339, 486, 667, 846, 1020 and No. A/HSK/151) for various open storage uses. The last application No. A/HSK/151 for temporary open storage of metal ware was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 31.5.2019 for a period of 3 years with validity up to 31.5.2022.
- 1.4 In support of the application, the applicant has submitted the Application Form (received on 1.3.2022) with annex and drawings (**Appendix I**).

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 Site is a subject of 6 previous approvals since 2004. The current application is seeking renewal of the planning permission of the previously approved application No. A/HSK/151. All approval conditions of the permission have been complied with.
- (b) The applied use is temporary in nature and will not jeopardize the long-term planning intention of the zoned uses.
- (c) The Site falls within the Hung Shui Kiu and Ha Tsuen New Development Area (HSK/HT NDA). According to Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F), sympathetic consideration should be given to existing port back-up uses until the land is required for the NDA development.
- (d) The applied use is compatible with the surrounding environment. The noise and drainage impacts would both be insignificant with no operation at the sensitive hours and with provision of surface U-channel.

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. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPG PG-No. 31A are not applicable to the GL portion.

4. Town Planning Board Guidelines

- 4.1 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**.

- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to the application. The relevant assessment criteria are at **Appendix III**.

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/197, 339, 486, 667, 846, 1020 and No. A/HSK/151) for various temporary open storage uses. Among these applications, 6 were approved with conditions by the Committee/Board between 2004 and 2019 on the considerations that approval of the applications on temporary basis would not jeopardise the long-term planning intention of the area; the applied use was not incompatible with the surrounding areas; and there were no major adverse comments from concerned government departments. Application No. A/YL-HT/197 for temporary open storage of used air conditioners with ancillary workshop was rejected by the Committee on 18.5.2001 as there was insufficient information to demonstrate that the development would not have adverse drainage and environmental impacts on the surrounding areas. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1b**.
- 6.2 The last application No. A/HSK/151, which was submitted by the same applicant for the same applied use at the same site, was approved with conditions by the Committee on 31.5.2019 for a period of 3 years with validity to 31.5.2022. All the approval conditions have been complied with. The layout and development parameters of the current application are the same with the last planning approval. The current application is a renewal application.

7. Similar Applications

There are 7 similar applications (No. A/HSK/52, 77, 150, 159, 176, 280 and 304) for various temporary open storage uses within/partly within the same “G/IC” and “O” zones in the last 5 years. All these similar applications were approved with conditions by the Committee based on similar considerations as mentioned in paragraph 6.1 above. 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 (Plans A-1a to A-4)

- 8.1 The Site is:
- (a) currently used for the applied use with valid planning permission; and
 - (b) accessible from Kai Pak Ling Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is a warehouse with valid planning permission;
- (b) to its immediate east is a nullah. Across the nullah are an open storage yard of containers with valid planning permission and two logistics centres;
- (c) to its immediate south are temporary structures for residential use (about 6m away) and an open storage yard of containers. To its southeast are two open storage yards of construction materials, one of which with valid planning permission. To its southwest are a warehouse and an open storage yard of construction materials; and
- (d) to its immediate west is a storage yard and workshop. Further west is a vegetated knoll with scattered graves.

9. Planning Intentions

- 9.1 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.
- 9.2 The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

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 V** and **VI** respectively.
- 10.2 The following government department has objection to the application.

Environment

10.2.1 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 nearest residential dwelling being about 6m away) (**Plan A-2**) and the applied use involves use of heavy vehicles. Environmental nuisance is expected.
- (b) There was no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant is 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’ (‘COP’).

11. Public Comment

On 8.3.2022, 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 objecting to the application on the grounds that the applied use will increase the traffic flow, cause traffic congestion and environmental nuisances and pose fire safety hazards to the villagers (**Appendix VIII**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary open storage of metal ware for a period of 3 years at the Site straddling over the “O”(about 74%) and “G/IC” (about 26%) zones on the OZP. The planning intention of the “G/IC” zone is primarily for the provision of government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory, whereas that 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 intentions of the “O” and “G/IC” zones, DLCS and PM/W of CEDD 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 occupied by open storage yards, warehouses and logistics centres (**Plan A-2**).
- 12.3 The current application is a renewal application of the last approved application (No. A/HSK/151) for a period of 3 years. There has been no major change in planning circumstances of the Site and the surrounding areas since the last approval. The approval of the application on a temporary basis would not jeopardise the implementation of the zoned use, and all the approval conditions under the last approved application have been complied with. Compared with the last approved application, the current application is for the same use at the same site for the same approval period and the development parameters and the layout remain unchanged. In view of the above, the renewal application is considered generally in line with the TPB PG-No. 34D.
- 12.4 The Site falls within the HSK/HT NDA. For applications in NDAs, the following considerations under the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the

approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.

- 12.5 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 same open storage uses were given. As mentioned in paragraph 12.3 above, the current application is a renewal of the last approved application. In this regard, sympathetic consideration may be given to the application.
- 12.6 There is no adverse comment from 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 6m 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 concern 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.
- 12.7 In addition to 6 previous planning approvals at the Site (**Plan A-1b**), there are 7 similar approvals within the same "O" and "G/IC" zones on the OZP (**Plan A-1a**). Approval of the subject application is generally in line with the Committee's previous decisions.
- 12.8 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 assessments made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the temporary open storage of metal ware could be tolerated for a further 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 and be renewed from 1.6.2022 to 31.5.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. to 7:00 a.m. is allowed on the Site, as proposed by the applicant, during the approval period;

- (b) no operation on Sundays and public holidays is allowed on the Site, as proposed by the applicant, during the planning approval period;
- (c) no cutting, cleaning, melting, dismantling and workshop activity is allowed on the Site, as proposed by the applicant, during the planning approval period;
- (d) the existing drainage facilities on the Site should be maintained at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **1.9.2022**;
- (f) the provision of fire extinguisher(s) within **6** weeks from the date of the commencement of the renewed 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 commencement of the renewed 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 commencement of the renewed 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), (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; and
- (j) if any of the above planning condition (e), (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.

[Conditions (a), (b), (c), (d), (e), (f), (g) and (h) are all the same as the previous Application No. A/HSK/151; while conditions on prevention of vehicle queuing back to the public road and maintenance of trees, landscape plants and fencing have been removed as per the latest requirements.]

Advisory clauses

The recommended advisory clauses are attached at **Appendix VI**.

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 intentions of the "G/IC" and "O" zones, which are primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory, and 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 respectively. There is no strong planning justification in the submission for a departure from the planning intentions, even on a temporary basis; and

- (b) the applicant fails to demonstrate that the applied use would not generate adverse environmental impact to the surrounding area.

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 1.3.2022
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	Relevant Extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D)
Appendix IV	Previous and Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	'Good Practice for Open Storage Sites' by the Fire Services Department
Appendix VIII	Public Comment
Drawing A-1	Location and Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	As-built 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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2022**