

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

APPLICATION NO. A/HSK/378

- Applicant** : Mr. TANG Cheuk Lun represented by Ever United Planning and Development Limited
- Site** : Lots 26 RP (Part), 29 RP (Part), 31 RP (Part) in D.D. 128, Lots 2401 (Part), 2402, 2403 (Part), 2404 (Part), 2409 RP (Part), 2420 RP (Part), 2422 RP (Part), 2423 (Part), 2424 (Part), 2426, 2427 (Part), 2428, 2429, 2430 (Part), 2431 (Part), 2432 (Part), 2439 (Part), 2974 (Part), 2975 S.A (Part), 2975 S.B (Part), 2977 S.A (Part), 2979 (Part), 2980 (Part), 2982 RP, 2983 RP (Part) in D.D. 129 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long
- Site Area** : about 19,100m² (including GL of 476 m² or 2.5%)
- 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) “Residential (Group B) 2” (“R(B)2”) (about 78%);
[Restricted to maximum plot ratio of 2.5 and maximum building height of 60mPD]
(ii) “Open Space” (“O”) (about 5.4%); and
(iii) Area shown as ‘Road’ (about 16.6%)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Containers for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary open storage of containers for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls within an area straddling “R(B)2”(about 78%) zone and an area shown as ‘Road’ (about 16.6%) with minor encroachment onto the “O” (about 5.4%) zone on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “R(B)2” and “O” 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. 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

with valid planning permission (**Plans A-4a and 4b**).

- 1.2 The Site is accessible from Lau Fau Shan Road (**Plan A-2**). According to the layout plan at **Drawing A-1**, the south-western part of the Site is for open storage of containers. There are 4 single-storey temporary structures (3.5m - 8m high) at the eastern periphery of the Site for rain shelters, office and toilet, or electricity meter room. 2 parking spaces (7m x 3.5m each) for private car/light goods vehicle and 10 parking spaces (16m x 3.5m each) for container trailer/tractor are also provided. According to the applicant, the operation hours are from 7:00 a.m. to 9:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The as-planted landscape and tree preservation plan and the as-built drainage plan are shown at **Drawings A-2** and **A-3** respectively.
- 1.3 The Site is involved in 10 previous applications (details at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the Application Form (received on 18.5.2022) with supplementary planning statement (**Appendix I**).

2. Justifications from the Applicant

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

- (a) The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) is applicable to the applied use. The Site is the subject of a previous approved application No. A/HSK/161. All time-limited approval conditions have been complied with. Furthermore, the implementation of the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) is not scheduled to start in a short period of time. Sympathetic consideration should be given to the current application.
- (b) The applied use is temporary in nature and will not jeopardize the long-term planning intention of the zoned uses.
- (c) The applied use is compatible with its surrounding areas which are of similar open storage and port back-up uses. The Board has approved numerous similar applications in the vicinity.
- (d) The applicant commits to provide a number of environmental mitigation measures, including restriction of the operation hours to 7:00 a.m. to 9:00 p.m. with no operation on Sundays and public holidays, and no cutting, dismantling, cleansing, repairing, compaction, tyre repair, vehicle repair, container repair, and workshop activities to be carried out on the Site. The drainage impact would be insignificant with provision of surface U-channel within the Site.
- (e) The applied use will not cause significant traffic impact with adequate parking spaces and manoeuvring space provided within the Site.

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 publishing notice at local newspapers. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements are not applicable to the GL portion.

4. Town Planning Board Guidelines

- 4.1 On 27.3.2020, the Board promulgated the revised 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 TPB 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 10 previous applications (No. A/YL-HT/125, 184, 275, 385, 542, 622, 690, 790, 1031 and A/HSK/161) for various temporary open storage uses. All these applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) from 2000 to 2019 on the considerations that approval of the applications on temporary basis would not jeopardise the long-term planning intention of the area; the applications were generally in line with the then Town Planning Board Guidelines No.13; and there were no major adverse comments from concerned government departments. However, 5 of the planning permissions (No. A/YL-HT/125, 184, 542, 690 and 790) were subsequently revoked due to non-compliance with the time-limited approval conditions. 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/161, which was submitted by the same applicant for the same applied use at the same site, was approved with conditions by the Committee on 19.7.2019 for a period of 3 years with validity up to 19.7.2022. All the approval conditions have been complied with. The layout and development parameters of the current application are the same as the last planning approval. The current application is a renewal application.

7. Similar Applications

There are 4 similar applications (No. A/HSK/127, 157, 339 and 368) for temporary open storage uses partly within the same “R(B)2” and “O” zones in the last 5 years, which 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-4b)

8.1 The Site is:

- (a) accessible from Lau Fau Shan Road; and
- (b) currently used for the applied use with valid planning permission.

8.2 The surrounding areas have the following characteristics:

- (a) to its west and northwest are an open storage yard of containers under valid planning permission, a sewage pumping station and a vacant site;
- (b) to its immediate east are a vacant site, a car inspection centre under valid planning permission, and 2 logistics centres (one under valid planning permission and another being suspected unauthorized development (UD)). Further east across Lau Fau Shan Road within the “V” zone under another OZP are a cluster of residential dwellings at San Hing Tsuen (the nearest residential dwelling is about 33m away) (**Plan A-2**), and some parking of vehicles;
- (c) to its southeast is a logistics centre under valid planning permission; and
- (d) to its southwest across a nullah is a warehouse under valid planning permission. Further southwest is a knoll with some graves.

9. Planning Intentions

- 9.1 The planning intention of the “R(B)2” zone is primarily for medium-density residential developments.
- 9.2 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 V** and **VI** 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 as there are sensitive uses in the vicinity of the Site (the nearest residential dwelling being about 33m away) (**Plan A-2**) and the applied use involves the use of heavy vehicles. Environmental nuisance is expected;
- (b) no environmental complaint pertaining to the Site was received in the past 3 years; and
- (c) his other advisory comments are provided in the Recommended

Advisory Clauses in **Appendix VI.**

11. Public Comment Received During the Statutory Publication Period

On 27.5.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual (**Appendix VIII**) was received objecting to the application on the grounds that the proposed development will cause environmental nuisance, pose fire safety hazard to the villagers and adversely affect their living quality.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary open storage of containers for a period of 3 years at the Site mainly zoned “R(B)2” (about 78%) and within an area shown as ‘Road’ (about 16.6%), with minor encroachment onto the “O” (about 5.4%) zone on the OZP. The planning intention of the “R(B)2” zone is primarily for medium-density residential developments, whereas that of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses. Whilst the applied use is not in line with the planning intentions of the “R(B)2” and the “O” zones, 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 occupied by vehicle service workshop, logistics centres, warehouse and open storage yard (**Plan A-2**).
- 12.3 The current application is a renewal application of the last approved application (No. A/HSK/161) 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 uses, and all the approval conditions under the last approved application have been complied with. Compared with the last approved application, the current application is submitted by the same applicant 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 applied use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and there are 10 previous planning approvals for similar/same open storage uses. 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.
- 12.5 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 of the Site (the nearest residential dwelling is about 33m away) (**Plan A-2**), and the applied use involves the use of heavy vehicles and thus environmental nuisance is

expected. However, there was no environmental complaint pertaining to the Site received in the past 3 years. To address the concern on the possible environmental nuisance or the technical requirements of the 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.

- 12.6 In addition to 10 previous planning approvals at the Site for temporary open storage uses, there are 4 similar approvals for such uses within the same "R(B)2" and "O" zones on the OZP (**Plan A-1a**). Approval of the subject application is generally in line with the Committee's previous decisions.
- 12.7 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 in paragraph 11, the Planning Department considers that the temporary open storage of containers 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 20.7.2022 to 19.7.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 9:00 p.m. to 7:00 a.m. is allowed on the Site, as proposed by the applicant, during the planning 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) the existing drainage facilities on the Site should be maintained at all times during the planning approval period;
- (d) 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 **20.10.2022**;
- (e) 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 **31.8.2022**;
- (f) 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 **20.1.2023**;

- (g) in relation to (f) 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 **20.4.2023**;
- (h) if any of the above planning condition (a), (b) or (c) 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
- (i) if any of the above planning condition (d), (e), (f) or (g) 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) to (g) are all the same as the previous application No. A/HSK/161; while conditions on prohibition of workshop activities, prevention of vehicle queuing back to the public road, restrictions on stacking height of containers and distance of container stacking from the periphery of the Site, and maintenance of fencing, existing trees and landscape plants 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 "R(B)2" and "O" zones which are primarily for medium-density residential developments and for provision of outdoor open-air public space for active and/or passive recreational uses, 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 18.5.2022

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	Proposed Layout Plan
Drawing A-2	As-planted Landscape and Tree Preservation Plan
Drawing A-3	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
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JULY 2022**