

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

APPLICATION NO. A/HSK/399

- Applicant** : Mr. LAM Ping Ki
- Site** : Lots 1903 RP, 1905 RP, 1921, 1922 RP (Part), 1943 (Part), 1945 (Part), 1946, 1947 (Part), 1948 (Part), 1949 (Part), 1950 (Part), 1953 (Part), 1954 (Part), 1955 RP (Part) and 1961 RP (Part) in D.D. 125 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 6,374m² (including GL of about 240m² or 3.8%)
- 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) “Government, Institution or Community” (“G/IC”) (about 52%);
[Restricted to maximum building height (BH) of 8 storeys]
(ii) “Open Space” (“O”) (about 46%); and
(iii) Area Shown as 'Road' (about 2%)
- Application** : Proposed Temporary Open Storage of Construction Materials, Construction Machinery and Recyclable Materials (Plastic and Metal) with Ancillary Workshop for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction material, construction machinery and recyclable materials (plastic and metal) with ancillary workshop for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls within an area straddling “G/IC” (52%) and “O” (46%) zones with a minor portion shown as ‘Road’ (2%) on the 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 open storage use without valid planning permission (**Plans A-4a and A-4b**).
- 1.2 The Site is accessible from Ping Ha Road via a local track (**Drawing A-1 and**

Plans A-2 and A-3) and the ingress/egress points are at the eastern and south-eastern parts of the Site. As shown on the layout plan at **Drawing A-1**, 9 temporary structures (not exceeding 8.5m high) with a floor area of about 995m² for office, storage, ancillary workshop and electricity meter room purposes are proposed at the Site. Six loading/unloading spaces for heavy goods vehicles will be provided. According to the applicant, the operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The proposed layout plan, the as-built drainage plan and the as-planted tree preservation plan submitted by the applicant are shown on **Drawings A-1 to A-3**.

- 1.3 The Site is involved in 9 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 with plans received on 5.8.2022 (Appendix I)
 - (b) Supplementary information (SI) received on 10.8.2022 and 11.8.2022 (Appendices Ia & Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and SI at **Appendices I and Ia**. They can be summarized as follows:

- (a) A previous application (No. A/YL-HT/1002) for similar open storage use was approved by the Board. The applicant has complied with all the approval conditions. No complaint was received during the planning approval period.
- (b) The Site is mainly used for open storage and the ancillary workshop is for cutting of materials and storage purposes. Trip generation of the site is low. Four to five vehicles per hour accessing the site during peak hours while 1 to 2 vehicles per hour during off period. The impacts to the traffic are expected to be insignificant.
- (c) The applicant pledges to comply with all the approval conditions requested by the Board and would maintain the site environment. The current application should be favorably considered.

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

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 subject to any active planning enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action would be carried out under the Town Planning Ordinance.

6. Previous Applications

- 6.1 The Site is the subject of 9 previous applications (No. A/YL-HT/3, 7, 14, 141, 148, 236, 465, 801 and 1002) for various temporary open storage uses covering different extents of the Site. Eight of these applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1996 and 2016 on the considerations that the applied uses were not incompatible with the surrounding areas, generally in line with the then Town Planning Board Guidelines TPB PG-No. 13E and no major adverse comments from concerned government departments. Amongst them, 3 planning permissions (No. A/YL-HT/7, 141 and 148) were subsequently revoked due to non-compliance with time-specific approval conditions. The remaining application (No. A/YL-HT/3) for temporary container storage yard was rejected by the Board upon review in 1995, which is not relevant to the current application. 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/1002 for temporary open parking for trailer, tractor, lorry and open storage of dry good (daily necessities), parts, construction machinery, plastic bottle and machinery with ancillary workshop and 6 loading/unloading bays was approved with conditions by the Committee on 5.2.2016 for a period of 3 years. All time-limited approval conditions have been complied with. However, the planning permission lapsed on 5.2.2019. Compared with the last approved application, the current application is submitted by the same applicant for different applied use at the same site.

7. Similar Applications

There are 13 similar applications (No. A/HSK/30, 113, 122, 126, 165, 181, 187, 210, 218, 252, 279, 340 and 355) for various temporary open storage uses within the same “G/IC” and “O” zones on the OZP in the past 5 years. All applications were approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.1 above. 5 permissions of these applications were subsequently revoked due to non-compliance with time-specific 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-4b)

8.1 The Site is:

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

8.2 The surrounding areas have the following characteristics:

- (a) to its north and northwest are a site for parking of trailer and vehicle under valid planning permission, an open storage yard of oil drum, a repair workshop and some parking of vehicles which are suspected unauthorized developments (UDs). Further northwest across Ping Ha Road are some residential dwellings;
- (b) to its east is an open storage yard of recycling material and workshop under valid planning permission;
- (c) to its south are a warehouse and 4 open storage yards of construction materials, construction materials and machinery, recycling materials and tyre and repair workshop, which are suspected UD; and
- (d) to its west and southwest are a site for parking of trailer and open storage of construction materials and machinery under valid planning permission and an open storage yard of vehicles and construction machinery which is a suspected UD.

9. Planning Intentions

- 9.1 The planning intention of the “G/IC” zone is primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory.
- 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 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 6 parking spaces for heavy vehicles will be provided at the Site and hence heavy vehicles traffic is expected. The heavy vehicle traffic will travel along within 50m from the sensitive uses (the nearest being about 21m away) (**Plan A-2**);
- (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 V**.

11. Public Comments Received During Statutory Publication Period

On 16.8.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from two individuals were received (**Appendices VII-1 to VII-2**) with one objecting to the application on the grounds that the applied use will increase traffic flow, cause traffic congestion and environmental nuisance, pose fire safety hazard and adversely affect their living quality. Another individual expresses concern on how to accommodate the large amount of construction materials stored over the New Territories.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of construction materials, construction machinery and recyclable materials (plastic and metal) with ancillary workshop for a period of 3 years at a site straddling “G/IC” (52%) and “O” (46%) zones and with a minor portion shown as ‘Road’ (2%) on the OZP. The planning intention of the “G/IC” zone is primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or 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 above planning intentions, 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 application. 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 proposed use is not incompatible with the surrounding land uses which are predominantly used for open storage yards, parking sites, warehouse and logistics centre with some of them covered by valid planning permissions (**Plan A-2**).
- 12.3 The proposed use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and 8 previous planning approvals for various open storage uses were given. The current application is submitted by the same applicant for different applied use at the same site as compared with the last approved application (No. A/YL-HT/1002). 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 6 parking spaces for heavy vehicles will be provided at the Site and hence heavy vehicles traffic is expected. Also, the heavy vehicle traffic will travel along within 50m from the sensitive uses (the nearest being about 21m away). However, there was no 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. 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 8 previous planning approvals for various temporary open storage uses at the Site (**Plan A-1b**), there are 13 approvals for similar applications within the same "G/IC" and "O" zones on the OZP (**Plan A-1a**). Approval of the current application is in line with the Committee's previous decisions.
- 12.6 Two public comments objecting to or expressing concern on the application were 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 comments mentioned in paragraph 11, the Planning Department considers that the proposed temporary open storage of construction materials, construction machinery and recyclable materials (plastic and metal) with ancillary workshop 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 **23.9.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) all workshop activities shall be carried out inside the enclosed structures at all times on the Site during the planning approval period;
- (b) the existing drainage facilities shall be maintained at all times during planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of Town Planning Board by **23.12.2022**;
- (d) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **4.11.2022**;

- (e) 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 **23.3.2023**;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **23.6.2023**;
- (g) if any of the above planning condition (a) or (b) 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
- (h) if any of the above planning condition (c), (d), (e) or (f) 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 proposed use is not in line with the planning intentions of the "G/IC" and "O" zones, which are primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or 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 proposed use would not generate adverse environmental impact to 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
Appendix Ia

Application Form received on 5.8.2022
SI received on 10.8.2022

Appendix Ib	SI received on 11.8.2022
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
Appendices VII-1 to VII-2	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	As-built Drainage Plan
Drawing A-3	As-planted Tree Preservation 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 and A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**