

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

**APPLICATION NO. A/HSK/418**

- Applicant** : Mr. LAM Ping Ki
- Site** : Lot 1617 (Part), 1618 RP (Part) and 1619 RP (Part) in D.D. 125 and Adjoining Government Land (GL), Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : About 1,000 m<sup>2</sup> (including GL of 47m<sup>2</sup> or 4.7%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Open Space” (“O”)
- Application** : Temporary Vehicle Repair Workshop and Open Storage of Construction Materials for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning approval for temporary vehicle repair workshop and open storage of construction materials for a period of three years at the application site (the Site) (**Plan A-1**). 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). The Site is currently occupied by the applied use without planning permission.
- 1.2 The Site is accessible from Ping Ha Road via a local track and the ingress/egress point is located at its east (**Plans A-1, A-2 and Drawing A-1**). Two single-storey structures with one for office and storage of tools, and the other for meter rooms with storage of tools, with a total floor area of about 160m<sup>2</sup> and height of about 4.5m, are provided at the northeastern and southwestern parts of the Site respectively. Two private car parking spaces and four heavy goods vehicles (HGVs) parking spaces are provided (all floating parking spaces). According to the applicant, the operation hours will be between 8:00 a.m. and 8:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays.

- 1.3 In support of the application, the applicant has submitted an Application Form with attachments received on 13.10.2022 (**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 (**Appendix I**). They can be summarised as follows:

- (a) The Site has been used as open storage of construction materials since 1990s. The Site has been planned and managed taking into account the views of the nearby residents.
- (b) There are port back-up uses along Ping Ha Road and its vicinity. Demand for vehicles repair services is much needed in the area.
- (c) In view of the small site area and its traffic flow with only two to three cars/trips during the peak hours, traffic impact from the applied use would be insignificant.
- (d) The applicant will follow the environment mitigation measures.

**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 notice and sending notice to Ha Tsuen Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPB PG-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 subject to an on-going planning enforcement action (No. E/YL-HSK/96) against an unauthorized development (UD) involving workshop use. Enforcement Notice was issued on 14.9.2022 to the concerned parties requiring discontinuation of the UD.

**6. Previous Application**

There is no previous application at the Site.

## **7. Similar Applications**

There are two similar applications No. A/HSK/147 and 211 within/straddling the same “O” zone on the OZP for temporary open storage uses, which were approved by the Committee between 2019 and 2020 on the considerations that the applied uses were in line with the then Town Planning Board Guidelines TPB PG-No. 13; not incompatible with the surrounding areas; and they were no major adverse comments from concerned government departments. Details of the application are summarised at **Appendix III** and its locations are shown on **Plan A-1**.

## **8. 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.

## **9. The Site and Its Surrounding Areas (Plans A-1 to A-4)**

9.1 The Site is:

- (a) accessible from Ping Ha Road via a local access (**Plan A-3**); and
- (b) paved, fenced off and used for the applied use without planning permission (**Plan A-4**).

9.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to its north and northeast is some vacant land, agricultural land and residential dwellings of Sha Chau Lei (the nearest one being 6m away);
- (b) to its east is a vehicle repair workshop which is a UD. To its further northeast are an sitting-out area, parking of vehicles and a residential care home for the elderly; and
- (c) to its south are some residential dwellings, a place for parking of trucks and vehicle repair workshop uses which are suspected UDs. To its west, southwest and northwest are some open storage yards, one of which is covered by a valid planning permission.

## **10. Comments from Relevant Government Departments**

10.1 Apart from the government departments as set out in paragraph 10.2 below, other government 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 receivers of residential use in the vicinity of the Site (the closest residential dwelling being about 6m away) (**Plan A-2**) and the applied use involves the use of heavy vehicles. Environmental nuisance is expected;
- (b) one substantiated environmental complaint regarding noise pertaining to the Site was received in the past three years; and
- (c) his other advisory comments are provided in the Recommended Advisory Clauses in **Appendix V**.

## **11. Public Comments Received During the Statutory Publication Period**

On 21.10.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received objecting to the application on the grounds that the applied use will generate environmental nuisances, pose fire safety hazards to the villagers and adversely affect their living quality; and opining that the Site is too close to residential dwellings and a children's playground which is unacceptable from environmental point of view (**Appendices VI-1 and 2**).

## **12. Planning Considerations and Assessments**

- 12.1 The application is for vehicle repair workshop and open storage of construction materials at the Site zoned "O" on the OZP. Whilst the applied use is not in line with the planning intention of the "O" zone, the implementation programme for this part of the Hung Shui Kiu New Development Area is still being formulated. The Project Manager (West), Civil Engineering and Development Department and Director of Leisure and Cultural Services have no objection to the proposed temporary use at the Site. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area. 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 Site is situated at the fringe of the existing village of Sha Chau Lei, predominated by open storage yards and workshops. The applied use is generally not incompatible with the surrounding land uses (**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. According to Planning Department's record, the site and its adjoining areas were previously occupied by open storage uses before the first gazettal of the respective statutory town plan covering the Site. As such, sympathetic consideration may be given to the application.
- 12.4 There is no objection to or adverse comment on the application from concerned government departments, except DEP. DEP does not support the application

because there are sensitive receivers in the vicinity (the nearest residential dwelling being about 6m away), and environmental nuisance is expected (**Plan A-2**). Although one substantiated noise complaint pertaining to the Site was received in the past three years, relevant approval conditions are recommended in paragraph 13.2 to address the possible environmental nuisance or the technical requirements of the other concerned government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and any UD on the Site would be subject to planning enforcement action. Besides, the applied use would also need to comply with the Noise Control Ordinance (Cap 400) and any other relevant regulations to prevent any possible environmental nuisance to the surrounding areas. Should the application be approved, the applicant will be advised to follow the '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 Two similar applications involving the subject "O" zone have been approved since 2019 (**Plan A-1**). Approval of the current application is generally in line with the Committee's previous decisions.
- 12.6 Two public comments objecting to the application were received as summarised in paragraph 11 above. The planning considerations and assessments in paragraph 12.1 to 12.5 above are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary vehicle repair workshop and open storage of construction materials could be tolerated for a period of three 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 **9.12.2025**. 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 **9.6.2023**;
- (d) in relation to (c) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.9.2023**;

- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 **20.1.2023**;
- (g) the submission of a fire service installations proposal within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.6.2023**;
- (h) in relation to (g) 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 **9.9.2023**;
- (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 at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

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 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.

#### **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**

<b>Appendix I</b>	Application Form with attachments received on 13.10.2022
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 13F
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendices VI-1 and 2</b>	Public Comments
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-1</b>	Drainage Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2022**