

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/516

- Applicant** : Mr. TANG Sheung Chai represented by Metro Planning and Development Company Limited
- Site** : Lots 280 (Part), 281 (Part) and 681 (Part) in D.D. 125, San Wai, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 7,000m²
- 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
- Zonings** : (i) “Open Space” (“O”) (about 43.5%);
(ii) “Government, Institution or Community” (“G/IC”) (about 23.7%); and
[restricted to a maximum building height of 8 storeys]
(iii) area shown as ‘Road’ (about 32.8%)
- Application** : Temporary Open Storage of Recyclable Materials (including Metal and Plastic) & Construction Materials and Warehouse for Storage of Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of recyclable materials (including metal and plastic) & construction materials and warehouse for storage of construction materials for a period of three years at the application site (the Site) (**Plan A-1a**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), while all uses or developments within areas shown as ‘Road’ also require planning permission from the Board. The Site is currently used for open storage of recyclable materials and construction materials without valid planning permission.
- 1.2 The Site is accessible from Kai Pak Ling Road via a local track and the ingress/egress point is at the north-western part of the Site (**Plans A-2 and A-3**). According to the applicant, there are two areas of about 2,560m² and 2,150m² used

for open storage of recyclable materials (metal and plastic) and construction materials at the western and eastern parts of the Site respectively. Four temporary structures (one to two storeys, not more than 8m high) with a total floor area of not more than 724m² are used for warehouses for storage of construction materials and site office. One loading/unloading space for medium goods vehicles (11m x 3.5m) is provided (**Drawing A-2**). According to the applicant, the operation hours are from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays and there would be no operation on Sundays and public holidays. No workshop activity would be allowed on the Site. Plans showing the access leading to the Site, site layout, as-built drainage facilities and proposed fire service installations (FSIs) submitted by the applicant are at **Drawings A-1 to A-4** respectively.

1.3 The Site is involved in three previous applications including two applications for temporary open storage and/or warehouse uses which were approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2019 and 2021 respectively (details at paragraph 6 below) (**Plan A-1b**). Compared with the last approved application No. A/HSK/311, the current application is submitted by the same applicant for the same use at the same site with the same layout.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 8.4.2024 (**Appendix I**)
- (b) Supplementary Information (SI) received on 9.4.2024 (**Appendix Ia**)
- (c) Further Information (FI) received on 7.5.2024 (**Appendix Ib**)

[accepted and exempted from publication and recounting requirements]

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 summarised as follows:

- (a) The application site is the subject of a previously approved application for the same use. The applied uses are temporary in nature and would not jeopardise the long-term planning intention of the concerned zone.
- (b) The application conforms with the relevant Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses. The applied uses are not incompatible with the surrounding environment. Similar planning applications for warehouse and open storage and port back-up uses have been approved by the Board in the adjoining areas.
- (c) The impacts in terms of environment, noise, traffic and drainage are expected to be insignificant. No heavy goods vehicles exceeding 24 tonnes will access the Site. Three warehouses at the south-eastern part of the Site are aimed to shield the potential noise and visual impacts on the village houses to the southeast of the Site. The construction materials to be stored at the Site include pipes and metal. The recyclable materials being stored at the Site include metal and plastic only such as cans, scrap metal and scrap plastic. No workshop activity is proposed in the application.

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. 31B) by posting site notice and sending notice to Ha Tsuen Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

On 14.4.2023, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G). The Site falls within the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to any planning enforcement action.

6. Previous Applications

- 6.1 The Site is involved in three previous applications covering different extents of the Site. Among them, two applications (No. A/HSK132 and 311) for temporary open storage and/or warehouse uses were approved by the Committee in 2019 and 2021 respectively mainly on similar considerations that the applied/proposed uses were not incompatible with the surrounding areas; generally in line with the relevant TPB PG-No.13 and having no major adverse comments from concerned government departments. However, both of the planning permissions were subsequently revoked due to non-compliance with time-limited approval conditions. Details of these applications are summarised at **Appendix III** and their boundaries are shown on **Plan A-1b**.
- 6.2 The earlier application No. A/YL-HT/949 for proposed filling of pond (by 1m) for permitted agricultural use on a permanent basis was rejected by the Committee in 2015. The considerations for this application are not relevant to the current application which is for a different use.
- 6.3 The last previous application No. A/HSK/311 for the same use as the current application was approved by the Committee on 9.7.2021 for a period of three years but the permission was subsequently revoked on 9.10.2023 due to non-compliance with time-limited approval conditions regarding the submission and implementation of FSIs proposal.

7. Similar Applications

There are 19 similar applications involving various open storage and/or warehouse uses within/straddling the subject “O” and “G/IC” zones and area shown as ‘Road’ in the past five years. Among them, 18 applications were approved with conditions by the Committee between 2019 and 2024 based on similar considerations as mentioned in paragraph 6.1 above. Eight of the planning approvals were subsequently revoked due to non-compliance with time-limited approval conditions. Application No. A/HSK/303

was rejected in 2021 for reason of insufficient information to demonstrate no adverse environmental impacts on the surrounding areas. Details of these applications are summarised 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 Kai Pak Ling Road via a local track; and
- (b) currently used for open storage of recyclable materials and construction materials without valid planning permission.

8.2 The surrounding areas are predominantly occupied by open storage yards, warehouses, logistics centres, storage facilities, vehicle repair workshops intermixed with some residential dwellings and unused land. Some of these uses are covered by valid planning permissions, whilst some are suspected unauthorized developments subject to planning enforcement action.

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.

9.3 The concerned area shown as ‘Road’ is reserved for proposed road (i.e. Road D4).

10. Comments from Relevant Government Departments

10.1 Apart from the government departments 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 departments have adverse comments on the application.

Land Administration

10.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) he has reservation on the application since there is unauthorized structure(s) on Lot 281 in D.D. 125 which are already subject to lease enforcement actions according to case priority. The lot owner should apply for regularization of the lease breaches as demanded by LandsD;

- (b) there is no lease modification/land exchange application or building plan submission in relation to development at the Site approved/under processing; and
- (c) his advisory comments are at **Appendix V**.

Environment

10.2.2 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application because there are sensitive uses in the vicinity of the site (the nearest residential dwelling being about 35m away) (**Plan A-2**) and the applied uses involve the use of heavy vehicles. Environmental nuisance is expected; and
- (b) no environmental complaints pertaining to the Site were received in the past three years.

11. Public Comment Received During Statutory Publication Period

On 16.4.2024, the application was published for public inspection. During the statutory public inspection period, a public comment from an individual was received (**Appendix VII**) objecting to the application on the grounds that the approval conditions under the previous application have not yet been complied with, thus causing potential fire safety hazards and health risks to the community.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of recyclable materials (including metal and plastic) & construction materials and warehouse for storage of construction materials for a period of three years at the Site partly zoned “O” (about 43.5%) and “G/IC” (23.7%) and partly shown as ‘Road’ (about 32.8%) on the OZP. Whilst the applied uses are not in line with the planning intentions of the “O”, “G/IC” zones and area shown as ‘Road’, relevant departments including the Project Manager (West), Civil Engineering and Development Department and the Director of Leisure and Cultural Services have no adverse comment on the application. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site. Notwithstanding this, 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 uses are considered not incompatible with the surrounding land uses which are predominantly open storage yards, warehouses, logistics centres, storage facilities, vehicle repair workshops intermixed with some residential dwellings and unused land (**Plan A-2**).
- 12.3 The applied uses are generally in line with TPB PG-No. 13G in that the Site falls within the HSK/HT NDA and two previous planning approvals for temporary open storage and/or warehouse uses had been granted in 2019 and 2021 respectively. While the planning permission granted under the last application No. A/HSK/311 in 2021 was revoked due to non-compliance with the time-limited approval conditions

regarding the submission and implementation of FSIs proposal, the applicant has submitted FSIs proposal in support of the current application and the Director of Fire Services has no objection to the application. In this regard, sympathetic consideration may be given to the application. The applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of planning permission, sympathetic consideration ~~may~~ **would** not be given to any further applications.

- 12.4 While DEP does not support the application as there are sensitive uses in the vicinity (the nearest residential dwelling being about 35m away) (**Plan A-2**) and the applied uses involve the use of heavy vehicles thus environmental nuisance is expected, there was no environmental complaint pertaining to the Site received in the past three years. Should the application be approved, the applicant will 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 nuisance on the nearby sensitive receivers. To address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 13.2 below. Regarding DLO/YL, LandsD's comments on unauthorized building structure(s) on Lot 281 in D.D. 125, should the application be approved, the applicant will be advised to remedy the lease breaches or to regularise any irregularities at the Site with LandsD.
- 12.5 Given two previous approvals for temporary open storage and/or warehouse uses were granted for the Site in 2019 and 2021 respectively and 18 similar applications had been approved by the Committee in the past five years, approval of the current application is generally in line with the previous decisions of the Committee.
- 12.6 Regarding the public comment objecting to the application as summarised in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.5 above 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 recyclable materials (including metal and plastic) & construction materials and warehouse for 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 three years until **7.6.2027**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the site during the 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) no workshop activity, as proposed by the applicant, is allowed on the site at

any time during the planning approval period;

- (d) no heavy goods vehicle exceeding 24 tonnes, including container trailer/tractor, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to access the site at any time during the planning approval period;
- (e) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on the site within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **7.9.2024**;
- (g) 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 **19.7.2024**;
- (h) the submission of a revised 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 **7.12.2024**;
- (i) in relation to (h) above, the implementation of the revised 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 **7.3.2025**;
- (j) if any of the above planning condition (a), (b), (c), (d) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if any of the above planning condition (f), (g), (h) or (i) is not complied with by the 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 reason for rejection is suggested for Members' reference:

the applied uses are not in line with the planning intentions of the "O" and "G/IC" zones and area shown as 'Road' which are 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; 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 reserved for proposed road respectively. There is no strong planning justification in the submission for a departure from the planning intentions, 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

Appendix I	Application Form received on 8.4.2024
Appendix Ia	SI received on 9.4.2024
Appendix Ib	FI received on 7.5.2024
Appendix II	Relevant Extract of TPB PG-No. 13G
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	Location Plan with Vehicular Access
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	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
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2024**