

TOWN PLANNING BOARD

TPB Paper No. 10997

**For Consideration by
the Town Planning Board on 7.3.2025**

REVIEW OF APPLICATION NO. A/HSK/530
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed Temporary Open Storage of Construction Materials with Ancillary Site
Office for a Period of 3 Years and Associated Filling of Land
in “Green Belt” Zone**

Lots 207 (Part) and 208 (Part) in D.D. 125, Ha Tsuen, Yuen Long, New Territories

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1. Background

- 1.1 On 20.6.2024, the applicant, Chung Kin Engineering (International) Limited represented by Prudential Surveyors International Limited, sought planning permission for proposed temporary open storage of construction materials with ancillary site office for a period of three years and associated filling of land at the application site (the Site) under section 16 of the Town Planning Ordinance (the Ordinance). The Site falls within “Green Belt” (“GB”) zone on the approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2 (**Plan R-1**).
- 1.2 On 16.8.2024, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:
 - (a) the proposed use with associated filling of land was not in line with the planning intention of the “Green Belt” zone which was primarily for the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
 - (b) the proposed use with associated filling of land was not in line with the Town Planning Board Guidelines for Application for Developments within the “Green Belt” Zone (TPB PG-No. 10) in that the proposed development was considered incompatible with the surrounding areas; and
 - (c) the proposed use with associated filling of land was not in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G) in that new open storage and port back-up uses were generally not encouraged to infiltrate into the New Development Areas.
- 1.3 The Site is subject to an active planning enforcement case No. E/YL-HSK/125 against unauthorized land filling (**Plan R-2**). Reinstatement Notice was issued on 29.10.2024 requiring reinstatement of the concerned land by 29.1.2025. As the Site has not been reinstated upon expiry of the notice, prosecution action is

being considered.

1.4 For Members' reference, the following documents are attached:

- (a) RNTPC Paper No. A/HSK/530 (Annex A)
- (b) Extract of minutes of the RNTPC Meeting held on 16.8.2024 (Annex B)
- (c) Secretary of the Board's letter dated 9.9.2024 (Annex C)

2. Application for Review

- 2.1 On 30.9.2024, the applicant applied under section 17(1) of the Ordinance for a review of RNTPC's decision to reject the application (**Annex D**).
- 2.2 On 13.12.2024, the Board agreed to defer making a decision on the application for two months as requested by the applicant.

3. Justifications from the Applicant

- 3.1 The justifications put forth by the applicant in support of the review application are detailed at **Annex D** as summarised below:
 - (a) the proposed use is temporary in nature and not incompatible with the surrounding areas;
 - (b) the TPB PG-No. 10 is only applicable to new developments which are permanent in nature;
 - (c) no significant vegetation is observed within the Site and the proposed use does not involve clearance of existing natural vegetation. The Site does not consist of features that the "GB" zone is intended to safeguard and the applicability of the planning intention of the "GB" zone for the Site should be reconsidered. No direct deviation from the TPB PG-No. 10 even though the guideline is irrelevant to the current application;
 - (d) the current application is to facilitate relocation of open storage of construction materials affected by the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) project (**Plan R-1**). The area of the Site, i.e. 3,219m², is smaller than the current operation of about 3,808m². Sympathetic consideration should be given to the application for relocation of the uses/operations affected by government projects in NDAs; and
 - (e) The proposed use will not cause adverse traffic or environmental impacts on the surrounding areas. All departments consulted have no objection to the application.

4. The Section 16 Application

The Site and its Surrounding Areas (Plans R-1 to R-4b)

- 4.1 The situation of the Site and the surrounding areas at the time of consideration of the s.16 application by the RNTPC are set out in paragraphs 8.1 and 8.2 of **Annex A**. There has not been any major change in the planning circumstances of the Site and the area since then.
- 4.2 The Site is:
- (a) currently vacant, hard-paved and fenced-off (**Plans R-4a and R-4b**); and
 - (b) accessible from Kai Pak Ling Road via a local track (**Plan R-2**).
- 4.3 To the immediate north and west of the Site are woodland and graves. The areas to its east and south mainly comprise warehouses and open storage yards within the adjoining “Other Specified Uses” annotated “Port Back-up, Storage and Workshop Uses” (“OU(PBU&SWU)”) zone where these uses are permitted (**Plan R-2**).

Planning Intention

- 4.4 There has been no change in the planning intention of the subject “GB” zone as mentioned in paragraph 9.1 of **Annex A**, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

Town Planning Board Guidelines

- 4.5 TPB PG-No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ is relevant to this application. The relevant assessment criteria are at **Appendix II** of **Annex A**.
- 4.6 On 14.4.2023, the Board promulgated TPB PG-No. 13G for Application for Open Storage and Port Back-up Uses. The Site falls within the HSK/HT NDA. Relevant extract of the Guidelines is attached at **Appendix III** of **Annex A**.

Previous Application

- 4.7 There is no previous application covering the Site.

Similar Application

- 4.8 There is no similar application within the same “GB” zone on the OZP.

5. Comments from Relevant Government Departments

- 5.1 Comments on the section 16 application made by relevant government departments are set out in paragraph 10 and **Appendix IV** of **Annex A**. Their

advisory comments, if any, are at **Appendix V** of **Annex A** and recapped at **Annex E**.

- 5.2 For the review application, relevant government departments have been further consulted and they maintained their previous comments on the application.

6. Public Comments Received During Statutory Publication Period

- 6.1 On 18.10.2024, the review application was published for public inspection. During the statutory public inspection period, two public comments were received from Kadoorie Farm and Botanic Garden Corporation and an individual (**Annexes F-1 and F-2**) raising objection to the application mainly on the grounds of not in line with the planning intention of the “GB” zone; expansion of brownfield uses into the green area with mainly slopes and graves; no previous approval has been granted at the Site; and potential cumulative effects on the green area of approving the current application.
- 6.2 Two public comments, both objecting to the application, were received at the section 16 application stage as set out in paragraph 11 of **Annex A**.

7. Planning Considerations and Assessments

- 7.1 The application is for a review of the RNTPC’s decision on 16.8.2024 to reject the subject application for proposed temporary open storage of construction materials with ancillary site office for a period of three years and associated filling of land at the Site zoned “GB” on the OZP (**Plan R-1**). The application was rejected for the reasons that the proposed use with associated filling of land was (i) not in line with the planning intention of the “GB” zone; (ii) not in line with the TPB PG-No. 10 in that the proposed development was considered not compatible with the surrounding areas; and (iii) not in line with the TPB PG-No. 13G in that new open storage and port back-up uses were generally not encouraged to infiltrate into the NDAs. The major development parameters and layout of the proposed use remain unchanged in the review application. There has been no material change in the planning circumstances since the consideration of the section 16 application by the RNTPC in August 2024. The planning considerations and assessments as set out in paragraph 12 of **Annex A** remain valid.

Justifications for the Review Application

- 7.2 In support of the review application, the applicant put forward justifications that (1) the proposed use is temporary in nature and not incompatible with the surrounding areas; (2) the TPB PG-No. 10 is only applicable to new developments which are permanent in nature; (3) the proposed use does not involve clearance of existing natural vegetation and no direct deviation from the TPB PG-No. 10; (4) the current application is to facilitate relocation of open storage of construction materials affected by the HSK/HT NDA. Sympathetic consideration should be given to the application for relocation of the uses/operations affected by government projects in NDAs; and (5) the proposed use will not cause adverse traffic or environmental impacts on the surrounding

areas. All departments consulted have no objection to the application. Having considered the written representation, the planning considerations and assessments on the review application are detailed below.

Planning Intention of the “GB” Zone and Land Use Compatibility

- 7.3 In Justification (1) of the review submission, the applicant states that the proposed use is temporary in nature, and is not incompatible with the surrounding areas. In this regard, the Site is located at the southern fringe of the subject “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. The proposed open storage use and associated filling of land are not in line with the planning intention of the “GB” zone. While there are warehouses and open storage yards to its east and south, they are mainly located within the adjoining “OU(PBU&SWU)” zone where these uses are permitted. The Site is adjoined by woodlands and graves to its immediate north and west within the “GB” zone. The proposed use and associated filling of land which involved vegetation clearance and concrete paving are considered not compatible with the surrounding areas. There is no strong planning justification given in the review submission for a departure of the planning intention, even on a temporary basis.

Not in line with TPB PG-No. 10

- 7.4 According to the TPB PG-No. 10, an application for new development within “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The design and layout of any proposed development within “GB” zone should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape.
- 7.5 In Justification (2) of the review submission, the applicant states that the TPB PG-No. 10 is only applicable to the new developments which are permanent in nature. In this regard, it should be pointed out that TPB PG-No. 10 is applicable to all applications under section 16 of the Ordinance with their application site falling within an area zoned “GB” on the OZP, irrespective of the proposed/applied use is temporary or permanent in nature. An application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. Also, the applicant states in Justification (3) of the review submission that the proposed use does not involve clearance of existing natural vegetation and there is no direct deviation from the TPB PG-No. 10. In this regard, with reference to aerial photos in 1990¹, 2004, 2014 to 2023 (**Plans R-3a to R-3f**), it is noted that the Site was covered by dense trees and vegetation on 13.4.2014 and vegetation clearance had subsequently been undertaken at the Site. The Site has been degraded from woodland to hard-paved land. The proposed open storage and associated filling of land are also considered not compatible with the surrounding land uses as explained in paragraph 7.3 above. As such, the

¹ The Site was covered by dense trees and vegetation back in 1990, before the Ha Tsuen Interim Development Permission Area Plan No. IDPA/YL-HT/1 was gazetted on 17.8.1990 (**Plan R-3a**).

proposed use and associated filling of land which involved vegetation clearance and concrete paving are considered not in line with TPB PG-No. 10.

Not in line with TPB PG- No. 13G

- 7.6 In Justifications (4) and (5) of the review submission, the applicant claims that the current application is to facilitate relocation of open storage of construction materials affected by the HSK/HT NDA and all departments consulted have no objection to the application. Hence, sympathetic consideration should be given to the application. While the Government has strived for providing appropriate assistance to affected brownfield operations in general, the Board has set out the general planning criteria for considering applications for open storage and port back-up uses in NDAs under TPB PG-No. 13G. In this regard, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs, and sympathetic consideration may only be given to applications for relocation of the uses/operations affected by government projects to sites designated for development purpose in NDAs before these sites are required for NDA development, subject to policy support given by the relevant policy bureau(x) to the application and no adverse departmental comments and local objections or the concerns could be addressed by approval conditions. Although the applicant claims that the application is to facilitate the relocation of an existing business operation affected by the HSK/HT NDA, it should be noted that the Site is zoned “GB” which is not designated for development purpose in the NDA and the Site is not being used for open storage and port back-up uses nor the subject of previous planning approval for similar uses. Thus, sympathetic consideration for relocation of the uses/operations affected by government projects under TPB PG-No. 13G is not applicable to the current application.

Setting Undesirable Precedent

- 7.7 There is no previous application for open storage use approved at the Site. Moreover, no approval for similar applications for open storage use has been granted by the Committee within the same “GB” zone. Approval of the application would set an undesirable precedent and encourage proliferation of similar developments within the “GB” zone. The cumulative effect of approving such similar applications would further deteriorate the landscape quality and result in a general degradation of the natural environment of the area, thereby frustrating the planning intention of the “GB” zone.

Other Departmental Comments

- 7.8 For the review application, relevant government departments including the Director of Agriculture, Fisheries and Conservation, Commissioner for Transport, Chief Engineer/Mainland North, Drainage Services Department, Director of Environmental Protection and Director of Fire Services have been further consulted and they maintained no objection to or no adverse comment on the application.

Public Comments

- 7.9 Regarding the public comments objecting to the review application on the grounds as summarised in paragraph 6 above, the planning considerations and assessments in paragraphs 7.1 to 7.8 above are relevant.

8. Planning Department's Views

- 8.1 Based on the assessments made in paragraph 7, having taken into account the public comments in paragraph 6 and given that there has been no material change in the planning circumstances since the consideration of the subject application by the RNTPC, PlanD maintains its previous view of not supporting the review application for the following reasons:
- (a) the proposed use with associated filling of land is not in line with the planning intention of the “Green Belt” zone which is primarily for the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
 - (b) the proposed use with associated filling of land is not in line with the Town Planning Board Guidelines for Application for Developments within the “Green Belt” Zone (TPB PG-No. 10) in that the proposed development is considered incompatible with the surrounding areas; and
 - (c) the proposed use with associated filling of land is not in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G) in that new open storage and port back-up uses are generally not encouraged to infiltrate into the New Development Areas.
- 8.2 Alternatively, should the Board 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 7.3.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a 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 7.9.2025;
- (b) in relation to (a) above, the implementation of the 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 7.12.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (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 **18.4.2025**;
- (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 **7.9.2025**;
- (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 **7.12.2025**;
- (g) if the above planning condition (c) 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;
- (h) if any of the above planning condition (a), (b), (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; and
- (i) upon expiry of the planning permission, the reinstatement of the application site including the removal of hard paving and grassing of the application site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The Recommended Advisory Clauses are attached at **Annex E**.

9. Decision Sought

- 9.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the review 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.

10. Attachments

Plan R-1	Location Plan
Plan R-2	Site Plan
Plans R-3a to R-3f	Aerial Photos taken in 1990, 2004, 2014 to 2023
Plans R-4a and R-4b	Site Photos

Annex A	RNTPC Paper No. A/HSK/530
Annex B	Extract of Minutes of the RNTPC Meeting held on 16.8.2024
Annex C	Secretary of the Board's Letter dated 9.9.2024
Annex D	Letter from the Applicant dated 30.9.2024
Annex E	Recommended Advisory Clauses
Annexes F-1 and F-2	Public Comments

**PLANNING DEPARTMENT
MARCH 2025**