

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

**APPLICATION NO. A/YL-PH/819**

- Applicant** : Sinotrans (Hong Kong) Holdings Ltd.
- Site** : Lot 50 RP in D.D. 108, Pat Heung, Yuen Long
- Site Area** : 3,376.53 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Residential (Group D)” (“R(D)”) (96%)  
[maximum plot ratio of 0.2 and building height of 2 storeys (6m)]  
  
“Agriculture” (“AGR”) (4%)
- Application** : Proposed Temporary Public Vehicle Park for Medium Container Vehicles for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park for medium container vehicles for a period of 3 years. The Site is subject to three previous applications for temporary lorry / coach park, open storage or logistic and freight yard uses which were all rejected by the Rural and New Town Planning Committee (the Committee) or the Town Planning Board (the Board) on review between 1994 and 2007. The Site is currently vacant (**Plans A-2 and A-4a to A-4b**).
- 1.2 According to the applicant, 30 parking spaces for medium container vehicles (including container tractors and trailers) and 2 single-storey temporary structures (containers) for storage use with building height of not more than 3m and total floor area of 29.72m<sup>2</sup> will be provided within the Site. The operation hours are 24 hours daily. The Site is accessible to Fan Kam Road via a local track. The layout and parking plan and access plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application form with plans received on 11.9.2019 (Appendix I)
- (b) Supplementary Information (SI) received on 16.9.2019, enclosing replacement pages and updated development parameters (Appendix Ia)
- (c) FI received on 15.10.2019 providing response to departmental comments (Appendix Ib)
- (d) FI received on 21.10.2019 providing response to departmental comments (Appendix Ic)

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in section 7 of the application form in **Appendix I**, which can be summarized as there is a shortage of parking spaces in the Pat Heung / Sheung Shui vicinity, and approval of this application can help meet the local parking space demand.

## 3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E) promulgated by the Board on 17.10.2008 is relevant to the application. The Site falls within the Category 3 areas under Guidelines No. 13E. The relevant extract of the Guidelines is attached at **Appendix II**.

## 5. **Background**

A major portion of the Site was the subject of previous planning enforcement action against an unauthorized development (UD) involving storage use and use for place for parking of vehicles. Enforcement Notice was issued on 26.3.2019. Subsequent site inspections revealed that the UD has been discontinued. Compliance Notice was issued on 27.8.2019.

## **6. Previous Applications**

- 6.1 The Site was involved in three previous applications (No. A/YL-PH/4, 489 and 533) for temporary lorry / coach park, open storage or logistics and freight yard uses. They were all rejected by the Committee or the Board on review between 1994 and 2007. Details of the applications are summarized in **Appendix III** and the location of the sites are shown on **Plan A-1b**.
- 6.2 Applications No. A/YL-PH/4 for temporary lorry / coach park for a period of 12 months, No. A/YL-PH/489 for temporary open storage of construction materials and lorry park for a period of 3 years, and No. A/YL-PH/533 for temporary logistics and freight yard for a period of 3 years were rejected by the Committee / the Board on 2.12.1994, 19.8.2005 and 6.7.2007 respectively. The grounds of rejection were mainly that the development was not in line with the planning intentions of the “R(D)” and “AGR” zones; insufficient information in the submission to demonstrate that there would be no adverse environmental / drainage impacts on the surrounding area; not in line with the Town Planning Board Guidelines ‘Guidelines for Application for Open Storage and Port Back-Up Uses’ as it was not compatible with the nearby residential developments / no previous approval had been granted at the Site; approval would set undesirable precedent for other similar applications which would result in a general degradation of the environment; and insufficient information on vehicular access (for No. A/YL-PH/4 only).

## **7. Similar Application**

There is no similar application for temporary vehicle park for container vehicle in the same “R(D)” and “AGR” zone since the promulgation of TPB PG-No. 13E on 17.10.2008.

## **8. The Site and Its Surrounding Areas (Plans A-1a to Plan A-4b)**

- 8.1 The Site is:
- (a) currently vacant; and
  - (b) accessible to Fan Kam Road via a local track.
- 8.2 The surrounding areas are generally rural in character mixed with residential dwellings/structures, parking of vehicles, open storage/storage yards, workshops, warehouse, fallow agricultural land, orchard, chicken shed and vacant/unused land. Some of the open storage/storage yards, warehouse, workshops and parking of vehicles are suspected unauthorized developments subject to enforcement action by the Planning Authority:
- (a) to its north is an area of parking of container vehicles, tractors, trailers and lorries. To the further north are residential dwellings / structures, open storage yards and warehouses;

- (b) to its south and west are residential dwellings / structures (the nearest less than 10m on the south and west), orchard, chicken shed, open storage of vehicles, vehicle repair workshops, and vacant / unused land; and
- (c) to its east are fallow agricultural land, orchard, residential structure / dwelling and unused land.

## **9. Planning Intention**

- 9.1 The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.
- 9.2 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land / farm / fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

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

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
  - (a) The Site comprises an Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
  - (b) The Site is accessible from Fan Kam Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
  - (c) The Site does not fall within Shek Kong Airfield Height Restriction Area (SKAHRA).
  - (d) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only

application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

### **Traffic**

#### 10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) There is insufficient information in the submission for Transport Department to support the application. He has the following outstanding comments on the application from traffic engineering perspective not yet addressed by the applicant:
  - (i) the applicant should provide the trip generation / attraction due to the 30 container vehicles and assess the impact on Fan Kam Road; and
  - (ii) the applicant should demonstrate the smooth maneuvering of vehicles to / from Fan Kam Road.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included in the planning approval.
- (c) The Site is connected to the public road network via a local access road which is not managed by his department. The land status of that local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of that local access road should be clarified with the relevant lands and maintenance authorities accordingly.

#### 10.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department is not / shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.

- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road drains.

### **Environment**

#### 10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) In accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP), he does not support the application as there are sensitive receivers, i.e. residential dwellings located to the immediate south and west of the Site (less than 10m) and in the vicinity, and the proposed use involves heavy vehicles, environmental nuisance is expected.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest COP issued by DEP.
- (c) There was no substantiated environmental complaints concerning the Site received by DEP in the past three years.

### **Landscape**

#### 10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) She has no objection to the application.
- (b) The Site was involved in three previous applications and she had no objection to these applications from landscape planning perspective.
- (c) Based on the aerial photo taken on 3.1.2018, the Site is situated in an area of rural landscape character comprising of scattered tree groups, village houses and temporary structures. The proposed development is considered not incompatible with the surrounding environment.
- (d) Referring to a site visit dated 15.10.2019, part of the Site is vacant and hard paved, while part of the Site is covered with grass and groundcover. A number of existing trees including *Albizia lebeck* (大葉合歡), *Dimocarpus longan* (龍眼), *Ficus hispida* (對葉榕) and *Macaranga tanarius* (血桐) in good to fair conditions are found within the Site. Although the proposed layout is in direct conflict with existing trees, given the affected trees are common species and can be easily

found in the local market, significant adverse impact on landscape resources due to the proposed development is not anticipated.

- (e) In view that the Site is not abutting prominent public frontage and significant adverse landscape and visual impact due to the proposed development is not anticipated, landscape condition is not recommended should the Board approve the application.

### **Nature Conservation and Agricultural**

#### 10.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The Site falls within the “R(D)” and “AGR” zones. The Site is currently a paved vacant land occupied by a container. Although the agricultural activities are not active in the vicinity, agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses a potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) The Site is disturbed in nature. Tam Shui Hang (a river channel located around 13m to the northeast) supports a diversity of wetland-dependent bird species. While he has no adverse comment on the application from nature conservation perspective, the applicant shall adopt necessary measures to avoid disturbance and pollution to the Tam Shui Hang should the application be approved.

### **Drainage**

#### 10.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal for the development and implementation and maintenance of the drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be included.

## **Fire Safety**

### 10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design / nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporating the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

## **Building Matters**

### 10.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are Unauthorized Building Works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.



- (d) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Food and Environmental Hygiene**

#### 10.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surroundings.
- (b) For any waste generated from the business, the applicant should arrange disposal properly at their own expense.
- (c) Proper license / permit issued by FEHD is required if there is any catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

### **District Officer's Comments**

#### 10.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comment from the locals upon close of consultation and he has no particular comment on the application.

#### 10.2 The following Government departments have no comment on the application:

- (a) Commissioner for Police;
- (b) Director of Electrical and Mechanical Services;
- (c) Chief Engineer/Construction, Water Supplies Department; and
- (d) Project Manager(West), West Development Office, Civil Engineering and Development Department.

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

- 11.1 On 20.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, five public comments from World Wide Fund for Nature Hong Kong, Hong Kong Bird Watching Society, Designing Hong Kong Limited, Kadoorie Farm and Botanical Garden, and an individual were received (**Appendices IV-1 to IV-5**).

- 11.2 All the comments object to the application mainly on the grounds that the development is not in line with the planning intention of the “R(D)” and “AGR” zones; the Site has potential for farmland rehabilitation; the proposed vehicle park would lead to degradation of the rural environment; the Site is subject to enforcement case and involves suspected “destroy first, develop later” case; approval of the application would further legitimize unauthorized development and set an undesirable precedent; the Site is subject to three rejected applications; and adverse drainage impact.

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

- 12.1 The application is for proposed temporary public vehicle park for medium container vehicles for a period of 3 years at the Site mostly zoned “R(D)” (96%) with a minor portion zoned “AGR” (4%). The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. The proposed use is not in line with the planning intention of the “R(D)” zone. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.
- 12.2 The proposed development involves the parking of container vehicles and is considered not compatible with the surrounding area where residential dwellings/structures, fallow agricultural land, orchard, chicken shed and vacant/unused land are found.
- 12.3 The Site falls within Category 3 areas under the TPB PG-No. 13E. The following consideration in the Guidelines are relevant:

Category 3 areas: within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions.

- 12.4 The application does not comply with the TPB PG-No. 13E in that there is no previous approval granted at the Site for port-back up use and that further proliferation of such use is not acceptable. Moreover, DEP does not support the application as there are residential structures / dwellings located to the immediate south and west (less than 10m) and in the vicinity of the Site (**Plan**

A-2), and the proposed use is a 24-hour operation involving heavy vehicle, environmental nuisance is expected. C for T advises that there is insufficient information in the submission to support the application. Hence, the current application does not warrant sympathetic consideration.

- 12.5 The Site is subject to 3 previous applications for temporary lorry / coach park, open storage or logistics and freight yard uses, and all of them were rejected by the Committee or the Board on review between 1994 and 2007 as stated in paragraph 6.2 above. There is no similar application within the same “R(D)” and “AGR” zone for vehicle park for container vehicle after the promulgation of TPB PG-No. 13E on 17.10.2008. Approval of the application would set an undesirable precedent for other similar applications in the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.
- 12.6 Five public comments objecting the application were received during the statutory publication period as stated in paragraph 11 above. In this regard, the departmental comments as well as planning considerations and assessments as stated above are relevant.

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

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “R(D)” zone, which is for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
  - (b) the application does not comply with the TPB PG-No. 13E in that no previous approval has been granted at the Site, and there are adverse departmental comments on the proposed development; and
  - (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “R(D)” zone. The cumulative impact of approving such applications would result in a general degradation of the rural environment of the area.
- 13.2 Alternatively, 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 1.11.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicles without valid licenses issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked / stored on the Site at any time during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the submission of 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 1.5.2020;
- (d) in relation to (c) above, the implementation of 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 1.8.2020;
- (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 submission of 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 1.5.2020;
- (g) in relation to (f) above, the implementation of 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 1.8.2020;
- (h) if any of the above planning conditions (a), (b) 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
- (i) if any of the above planning conditions (c), (d), (f) or (g) 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**.

**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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

**15. Attachments**

<b>Appendix I</b>	Application form with plans received on 11.9.2019
<b>Appendix Ia</b>	Supplementary Information (SI) received on 16.9.2019, enclosing replacement pages and updated development parameters
<b>Appendix Ib</b>	FI received on 15.10.2019 providing response to departmental comments
<b>Appendix Ic</b>	FI received on 21.10.2019 providing response to departmental comments
<b>Appendix II</b>	Relevant extract of the Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses' (TPB PG-No. 13E)
<b>Appendix III</b>	Previous applications covering the Site
<b>Appendices IV-1 to IV-5</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout and Parking Plan
<b>Drawing A-2</b>	Access Plan
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Application Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2019**