

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

**APPLICATION NO. A/HSK/133**

- Applicant** : Wu Siu Sing represented by Metro Planning and Development Company Limited
- Site** : Lots 108 S.A (Part), 108 S.B ss.1 (Part), 108 S.B ss.2, 108 S.B ss.3 (Part), 110 (Part) and 112 (Part) in D.D.128, Ha Tsuen, Yuen Long
- Site Area** : 1,888 m<sup>2</sup>(about)
- 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
- Zoning** : “Government, Institution or Community” (“G/IC”)  
[Restricted to maximum building height of 3 storeys]
- Application** : Proposed Temporary Open Storage of Construction Machinery 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 open storage of construction machinery (including electric generators and miniature excavators) for a period of 3 years (**Plan A-1**). The Site falls within the “G/IC” zone on the approved HSK and HT OZP No. S/HSK/2. 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) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently vacant.
- 1.2 The Site is accessible to Kai Pak Ling Road via a local track with ingress/egress at the north-western corner of the Site (**Plans A-2 and A-3 and Drawing A-1**). As shown on the proposed layout plan (**Drawing A-2**), four temporary structures with a total floor area of 454m<sup>2</sup> are proposed. These include 2 single-storey (8.5m high) warehouses for storage of construction machinery (total 440m<sup>2</sup>), a single-storey (3m high) structure for site office use (30m<sup>2</sup>) and a single-storey (3m high) structure for toilet use (4m<sup>2</sup>). One loading/unloading bay (7m x 3.5m) for light goods vehicles is also proposed. The remaining area of the Site is for open storage of construction machinery and manoeuvring space. According to the applicant, only light goods

vehicles not exceeding 5.5 tonnes will be used for the delivery of construction machinery. No repairing, cleansing, dismantling, and any other workshop activity will be carried out at the Site. The operation hours are from 9 a.m. to 7 p.m. and there will be no operation on Sundays and public holidays. The proposed landscape plan and drainage plan submitted by the applicant are at **Drawings A-3, A-4 and A-5**.

1.3 The major development parameter of the current application are summarised as follows:

<b>Site Area</b>	About 1,888m <sup>2</sup>
<b>Applied Use</b>	Proposed Temporary Open Storage of Construction Machinery for a Period of 3 Years
<b>Total Floor Area</b>	About 454m <sup>2</sup>
<b>No. and Height of Structures</b>	4 - 2 warehouses for storage of construction machinery (8.5m high) (GFA of 200m <sup>2</sup> and 220 m <sup>2</sup> respectively) - 1 site office (3m high) (GFA of 30m <sup>2</sup> ) - 1 toilet (3m high) (GFA of 4m <sup>2</sup> )
<b>No. of Loading/Unloading Space</b>	1 for light goods vehicle (7m x 3.5m)
<b>Operation Hours</b>	9 a.m. to 7 p.m. Mondays to Saturdays excluding Sundays and public holidays

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

- (a) Application Form received on 16.1.2019 **(Appendix I)**
- (b) Supplementary Planning Statement with proposed vehicular access plan, proposed layout plan, proposed landscape plan, proposed drainage plan and discharge path **(Appendix Ia)**

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

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement at **Appendix Ia**. They can be summarized as follows:

- (a) The Site is zoned “G/IC” and its implementation works are yet to commence. Given the proposed development is temporary in nature, it would not jeopardize the long term planning intention of the Site which could not be realized within the coming 3 years.
- (b) A number of applications for open storage or warehouse uses within the “G/IC” zone on the same OZP have been approved by the Board between 2016 and 2017 and hence approval of the subject application is in line with the Committee’s previous decisions.
- (c) There is a general shortage of land and strong demand for open storage uses in the area.

Temporary approval for open storage uses could relieve the pressing demands and create employment opportunity in Ha Tsuen area.

- (d) The proposed development is compatible with its surrounding areas, which is mainly occupied by open storage yards, workshops and warehouses at its south.
- (e) The proposed development would not generate significant impact (noise and drainage) to the surrounding area and the applicant has also recommended a number of environmental mitigation measures including provision of fencing, restrictions on operation hours and no repairing, cleansing, dismantling or any other workshop activity would be carried out on the Site to minimize potential environmental impact.
- (f) The proposed open storage will not cause adverse traffic impact to the local road network. Since the Site is for storage of construction machinery, traffic flow generated is minimal. The proposed open storage has clearly defined egress/ingress. With adequate maneuvering space and loading/unloading space within the Site, no queuing or waiting on public road is envisaged.

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

The applicant is not a “current land owner” and 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. 31) by posting site notice and sending notice to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

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

On 17.10.2008, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). The site falls within Category 4 areas under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

### **5. Background**

The Site is not subject to any planning enforcement action.

### **6. Previous Application**

There is no previous application covering the Site.

### **7. Similar Application**

There is no similar application within the subject “G/IC” zone on the OZP.

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

8.1 The Site is:

- (a) fenced, hard-paved and currently vacant; and
- (b) accessible from Kai Pak Ling Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are a piece of vacant land, a woodland and a number of residential dwellings including village houses and Mountain Royal within the “Village Type Development” (“V”) zone of Fung Kong Tsuen (**Plan A-2**);
- (b) to its immediate east is a woodland. A cluster of village houses under construction within the “V” zone of Fung Kong Tsuen are at its further east;
- (c) to its south are mainly hard-paved areas and a structure under construction, while to its further south is an open storage yard of recycling materials;
- (d) to its west are some open storage yards of containers or vehicles and vehicle repair workshops.

## **9. Planning Intention**

- 9.1 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. It is also intended to provide land for uses directly related to or in support of the work of the Government organizations providing social services to meet community needs, and other institutional establishments.
- 9.2 The Site falls within an area designated for “Government reserve” on the adopted Hung Shui Kiu and Ha Tsuen Outline Development Plan (ODP) No. D/HSK/1. According to the ODP, the Site is reserved for the provision of Government or social welfare facilities in support of the work of the Government and/or to provide services meeting community needs.

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

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

### **Land Administration**

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises 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 Kai Pak Ling Road through Government land (GL) and private lot(s). His office provides no maintenance works to 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.
- (d) Should the application be approved, the lot owner(s) of the lot(s) without Short Term Waiver (STW) will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on the Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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 LandsD.

### **Traffic**

#### 10.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT):

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.
- (c) The local track leading to the Site is not under his purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided to prevent surface water flowing from the Site to the nearby public road and drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Fung Kong Tsuen Road or Deep Bay Road.

### **Environment**

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

- (a) No environmental complaint pertaining to the Site has been received in the past three years.
- (b) Should the planning application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest

‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage’ (‘COP’).

### **Drainage**

10.1.5 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 a drainage point of view. His detailed comments on the submitted drainage proposal are shown in item (h) at **Appendix V**.
- (b) He would suggest that a condition should be stipulated requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities.

### **Landscaping**

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

- (a) With reference to the aerial photo of 2018 and 2019, it is observed that the Site is vacant. The Site is situated in a village landscape character disturbed by open storage yards. Significant change to the landscape character arising from the application is not envisaged.
- (b) In consideration that the Site is in close proximity to existing village houses, adequate landscape screen planting in particularly along the eastern and northern boundaries should be provided. Should the application be approved by the TPB, he would suggest that a condition should be stipulated requiring the applicant to submit and implement a revised landscape proposal.

### **Fire Safety**

10.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection 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 incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans. Good practice guidelines for open storage should be adhered to (**Appendix III**).
- (d) Having considered the nature of open storage, the following approval condition shall be added:

“The provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of Director of Fire Services”

- (e) The applicant is advised to submit a valid fire certificate (FS251) to his Department for approval.
- (f) 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**

10.1.8 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) are to be carried out on the Site, prior approval and consent of the BD 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) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Nature Conservation**

10.1.9 Comments of the Director of Agriculture, Fisheries and Conservation (D of AFC):

The Site falls within the “G/IC” zone and its surrounding areas are partly disturbed. As the applicant indicated that the proposed development would not involve land filling, site formation and tree felling, he has no adverse comment on the application from nature conservation point of view.

### **Long Term Development**

10.1.10 Comments of the Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD);

- (a) He has no objection to the temporary use for 3 years, which should be

considered in accordance with the provisions of the existing OZP and infrastructure capacities.

- (b) The Site falls within the boundary of Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The lot(s) concerned falls within a site under Stage 4 Work stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site will not be arranged before the first population intake of the HSK NDA expected in 2024.

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

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

His office has not received any comment from the locals on the application.

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

- (a) Commissioner of Police (C of P);
- (b) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD); and
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

On 25.1.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 15.2.2019, one public comment was received from a private individual (**Appendix IV**). The commenter objects to the application mainly on the grounds that it is a "Destroy to Build" application and there are inadequate GIC facilities in the district.

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

12.1 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. It is also intended to provide land for uses directly related to or in support of the work of the Government organizations providing social services to meet community needs, and other institutional establishments. Whilst the proposed development is not in line with the planning intention of the "G/IC" zone, the implementation programme for this part of NDA is still being formulated and PM/NTW of CEDD has no objection to the proposed temporary use for 3 years on the Site. 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 Site is situated adjacent to some village houses of Fung Kong Tsuen at its north and east, and some open storage yards/workshops at its west and south. The “Other Specified Uses” annotated ‘Port Back-Up, Storage and Workshop Uses’ zone, where open storage and workshop uses are always permitted, is located to the further south of the Site (**Plan A-2**). Although the Site is located in proximity to some residential dwellings, DEP has no objection to the proposed temporary use at the Site as no heavy vehicle would be used for the proposed development.
- 12.3 The site falls within Category 4 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:
- Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, 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 applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. A maximum period of 2 years may be allowed upon renewal of planning permission for an Applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merit.
- 12.4 The proposed development is generally not in line with the TPB PG-No. 13E in that the Site falls within Category 4 areas which is intended to be rejected except under exceptional circumstances as mentioned in paragraph 12.3 above. Whilst the Site falls within Category 4 areas, it should be noted that the planning circumstances of the area has been changed. The Site was rezoned from “Green Belt” on the previous Ha Tsuen OZP to “G/IC” on the current OZP. Taking into account the specific circumstances pertaining to the case and no adverse comment from relevant Government departments, sympathetic consideration may be given to the current application.
- 12.5 There is no adverse comment from the concerned Government departments on the proposed development, and no substantiated environmental complaint pertaining to the Site has been received in the past three years. Relevant approval conditions, including no heavy goods vehicles would be allowed to access to the Site, have been recommended in paragraph 13.2 to address the possible environmental nuisances or the technical requirements of the concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and the unauthorized development on Site would be subject to enforcement action by the Planning Authority. 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 minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.6 There is one public comment received with concern stated in paragraph 11 above. 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 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department considers that the proposed temporary open storage of recyclable materials 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 **8.3.2022**. 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 planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no repairing, cleansing, dismantling or any other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no goods vehicles exceeding 5.5 tonnes, including container tractor/trailers as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to public road or reverse onto/from the public road at all times during the planning approval period;
- (f) the submission of a revised drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **8.9.2019**;
- (g) the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **8.12.2019**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a tree preservation and landscape proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **8.9.2019**;
- (j) in relation to (i) above, the implementation of the tree preservation and landscape proposal within 9 months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **8.12.2019**;
- (k) the provision of the fire extinguisher(s) and the submission of a valid fire

certificate (FS 251) within **6** weeks from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **19.4.2019**;

- (l) 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 **8.9.2019**;
- (m) in relation to (l) 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 **8.12.2019**;
- (n) the provision of fencing within 6 months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **8.9.2019**;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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
- (p) if any of the above planning conditions (f), (g), (i), (j), (k), (l), (m) or (n) 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 at **Appendix V**.

13.2 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "G/IC" zone which is intended 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. No strong planning justification has been given in the submission for a departure from such planning intention, even on a temporary basis;
- (b) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the same "G/IC" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

## **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 reasons for rejection should be given to the applicant.

**15. Attachments**

<b>Appendix I</b>	Application Form received on 16.1.2019
<b>Appendix Ia</b>	Supplementary Planning Statement with proposed vehicular access plan, proposed layout plan, proposed landscape plan, proposed drainage plan and discharge path
<b>Appendix II</b>	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
<b>Appendix III</b>	‘Good Practice Guidelines for Open Storage’ issued by the Fire Services Department
<b>Appendix IV</b>	Public comment
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Landscape Plan
<b>Drawing A-4</b>	Proposed Drainage Plan
<b>Drawing A-5</b>	Discharge Path
<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  
MARCH 2019**