

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/159

- Applicant** : WU Siu Sing represented by Metro Planning and Development Company Limited
- Site** : Lots 39 (Part), 40 (Part), 41 (Part) , 52 S.A (Part), 52 S.B (Part) and 53 (Part) in D.D. 128, Ha Tsuen, Yuen Long
- Site Area** : 1,700m² (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”) (about 95.4%)
[Restricted to a maximum building height (BH) of 8 storeys]; and

an area shown as ‘Road’ (about 4.6%)
- Application** : Temporary Open Storage of Construction Machinery and Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of construction machinery and materials for a period of 3 years (**Plan A-1a**). The Site is zoned “G/IC” with minor encroachment onto an area shown as ‘Road’ on the approved HSK and HT OZP. 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. In any area shown as ‘Road’ on the OZP, all uses or developments require planning permission from the Board. The Site is currently being used for open storage of construction machinery and material without a valid planning permission.
- 1.2 The Site is related to 7 previous planning applications No. A/YL-HT/53, 264, 416, 559, 670, 842 and 1021 for temporary open storage of construction machinery and materials (**Plan A-1b**). The last planning application (No. A/YL-HT/1021) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 13.5.2016. All the approval conditions had been complied with. However, the permission expired on

13.5.2019.

- 1.3 The Site is accessible from Kai Pak Ling Road via a local track (**Drawing A-1 Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-2**, the Site is divided into two portions. The ingress/egress points are located at the western boundary of the Site. Two single-storey converted containers (3m high) with a total floor area of 40m² for storage use and two parking spaces for private vehicles are located at the southern part of the Site. The remaining part of the Site is for open storage for construction machinery and materials.
- 1.4 According to the applicant, the operation hours of the proposed development are from 7:00 a.m. to 11:00 p.m. from Monday to Saturday, and there will be no operation on Sundays and public holidays.
- 1.5 The major development parameters of the proposed development in the current application and the last approved application are shown below:

Major Development Parameters	Previously Approved Application (A/YL-HT/1021)	Current Application (A/HSK/159)	Difference
Site Area	About 1,700 m ²		Nil
Applied Use	Temporary Open Storage of Construction Machinery and Material for a Period of 3 Years		
No. of ingress/egress	2		
No. of Structures	2		
Total Floor Area	40m ²		
No. of vehicles Parking Spaces	2		

- 1.6 In support of the application, the Applicant has submitted the following documents:
- (a) Application Form received on 20.5.2019 **(Appendix I)**
- (b) Supplementary Planning Statement with proposed vehicular access plan, proposed layout plan, landscape and tree preservation plan and as-built drainage plan **(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 falls within the “Category 1 areas” of the Board’s Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) in which open storage and port back-up uses are considered suitable. Preliminary technical assessments on traffic, drainage, visual and environmental aspects demonstrate that the development would not generate adverse impacts on the surrounding area, therefore the application complies with the guidelines and should receive favourable consideration by the Board.

- (b) The planning intention of the “G/IC” zone could not be realized within the coming 3 years because land resumption for the development of Hung Shui Kiu new town is yet to commence. The proposed development is temporary in nature and would not jeopardize the long term planning intention of “G/IC” zone.
- (c) With regards to the sustaining growth of boundary trades and the opening of the Shenzhen Bay Bridge and Kong Sham Western Highway in 2007, open storage and off-site port back-up activities are very common across the North-west New Territories. However, the shortage of land for open storage use in Ha Tsuen is acute because the “Open Storage” (“OS”) zone has been already fully occupied. There is a pressing demand for open storage and port back-up facilities in proximity to the Kong Sham Highway and Ha Tsuen is considered suitable for such purpose.
- (d) The “G/IC” zone where the Site falls within is currently filled with open storage uses, rural workshops and container depots. The Site is at a distance of more than 150m away from the nearest residential dwelling of Fung Kong Tsuen. The development is compatible with the surrounding environments and would generate no significant impact to its surroundings.
- (e) The adjoining lots of the Site are being used for open storage and port back-up uses, either of ‘existing use’ or with approved permissions. It demonstrates the Board’s recognition of the intense demand for open storage land in Ha Tsuen. Favourable treatment alike the other approved applications adjoining the Site should be received by the applicant.
- (f) All approval conditions of the last planning permission No. A/YL-HT/1021 were complied with.
- (g) There are minimal traffic impact, insignificant drainage and environmental impacts from the development. The current application is not a new development and it was covered by seven previous planning permissions since 1998. All the implemented drainage facilities will be maintained by the applicant at his own expense. No workshop activities, including dismantling, repairing and cleaning would be held at the Site.

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. 31) by posting site notice and registered mail to Ha Tsuen Rural Committee. 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 1 areas under the revised Guidelines. Relevant extracts of the

Guidelines are attached at **Appendix II**.

5. **Background**

As the storage use on the Site is not covered by a valid planning permission, it would be subject to planning enforcement action

6. **Previous Applications**

- 6.1 The Site is related to 7 previous applications No. A/YL-HT/53, 264, 416, 559, 670, 842 and 1021 for temporary open storage of construction machinery and materials. All of these applications were approved with conditions by the Committee between 1998 and 2016. However, one of these approved applications (A/YL-HT/559) was subsequently revoked due to non-compliance with approval condition regarding the provision of fencing for the Site.
- 6.2 The last application No. A/YL-HT/1021 for temporary open storage of construction machinery and materials was approved with conditions by the Committee on 13.5.2016. However, the permission expired on 13.5.2019. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.3 As compared with the last approved application, the current application is submitted by the same applicant for the same use at the same site and with the same layout.

7. **Similar Applications**

There are 12 similar applications for temporary open storage uses within the same "G/IC" zones in Hung Shui Kiu and Ha Tsuen since the promulgation of TPB PG-No. 13E on 17.10.2008. All of these similar applications were approved with conditions by the Committee. Amongst these, two earlier applications were subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) currently being used for the applied uses without a valid planning permission; 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 an open storage yard for construction material under a valid planning permission No. A/HSK/52, a logistics centre under a valid

planning permission No. A/HSK/59, a residential dwelling, and open storage yards for construction materials;

- (b) to its east a logistics centre under a valid planning permissions No. A/HSK/108 and another logistics centre;
- (c) to its south are woodland, graveyards, an open storage yard; and
- (d) to its west are an open storage yard for metal ware, an open storage yard for scrap metal and plastic product under a valid planning permission No. A/HSK/77, and an open storage yard for construction materials and metal ware under a valid planning permission No. A/YL-HT/1070.

9. Planning Intention

The “G/IC” zone 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. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application and the public comments 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 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) Lot No. 41 in D.D. 128 is covered by Short Term Waiver (STW) No. 4462 for the purpose of “Temporary Open Storage of Construction Materials with Ancillary Workshop”.
- (c) The Site is accessible from Kai Pak Ling Road through Government Land (GL) and private lots. His office does not guarantee right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should the application be approved, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site. The STW holders will need to apply to his office for modification

of the STW conditions where appropriate. 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. Application for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it would be subject to such terms and conditions, including among others the payment of premium or fees, 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, TD):

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is 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 TD's preview. The applicant should 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 at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Fung Kong Tsuen Road.

Environment

10.1.4 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 structure is about 65m away) (**Plan A-2**) and along the access road (Kai Pak Ling Road) and environmental nuisance is expected.
- (b) No substantiated environmental complaint pertaining to the site has been received over the past 3 years.

- (c) Should the application be approved, the applicant is reminded to follow the latest “Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance.

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 application from a drainage point of view.
- (b) According to the applicant’s submission, the existing drainage facilities which was implemented under approved application No. A/YL-HT/1021 will be maintained for the subject development.
- (c) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (d) The applicant shall be reminded that the required condition record should include coloured photos showing the current condition of the drainage facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catch pits, sand traps, manholes, terminal catch pits/manholes and the downstream discharge path as indicated on the submitted drainage proposal.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site.
- (b) If the existing structures (not being New Territories Exempted Houses) are erected on leased land without the approval of the BD, they are Unauthorized Building Works (UBW) under the Building Ordinance (BO) and should not be designated for any approved use under the captioned application.
- (c) 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 application site under the BO.
- (d) Before any new building works (including containers/open sheds as

temporary buildings and land filling) are to be carried out on the site, prior approval and consent of BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO.

- (e) 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.
- (f) 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.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to him 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 FSI to be installed should be clearly marked on the layout plans. The applicant should adhere to the 'Good Practice for Open Storage' at **Appendix V**.
- (d) Moreover, 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 D of FS'.
- (e) To address this additional approval condition, the applicant is advised to submit a valid fire certificate (FS251) to him for approval.
- (f) The applicant is reminded that if the proposed structures are required to comply with the Buildings Ordinance (Cap 123), detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Long Term Development

10.1.8 Comments of Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD):

- (a) He has no objection to the application for temporary use for 3 years, which should be considered in accordance with the provisions of the current OZP and infrastructure capacities.
- (b) The Site falls within the boundary of 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 Works 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

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

- (a) He has no comment on the application from departmental point of view.
- (b) 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) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 28.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 18.6.2019, no public comment was received.

12. Planning Considerations and Assessment

12.1 The application is for proposed temporary open storage of construction machinery and materials for a period of 3 years at a site zoned "G/IC" with minor encroachment onto an area shown as 'Road' on the HSK and HT OZP. The planning intention of the "G/IC" zone 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. Whilst the proposed development is not in line with the planning intention of "G/IC" zone, the detailed implementation programme for this part of NDA is still being formulated, and PM/NTW, CEDD has no objection to the proposed temporary use for 3 years.

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 the implementation of government projects.

12.2 The Site is located in an area which is predominantly occupied by warehouses and open storage yards. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).

12.3 According to the TPB PG-No. 13E, the Site falls within Category 1 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

12.4 The proposed development is generally in line with the TPB PG-No. 13E in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up uses; relevant proposals have been submitted to demonstrate that the proposed use would not generate adverse impacts; and technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.

12.5 There is no major adverse comment from concerned Government departments, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the nearest residential dwelling being about 65m away) and environmental nuisance is expected (**Plan A-2**). However, there has not been any substantiated environmental complaint against the Site over the past 3 years. To address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments, relevant approval conditions have been recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on site would subject to enforcement action by the Planning Authority. 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 The Committee had approved seven previous applications for the same use on the site (**Plan A-1b**) and 12 similar applications in the same "G/IC" zone since 2008 (**Plan A-1a**). Approval of the subject application is in line with the Committee's previous decisions

12.7 There is no public comment received during the statutory public inspection period.

13. Planning Department's Views

13.1 Based on the assessment made in paragraph 12, the Planning Department considers that the temporary open storage of construction machinery and 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 planning permission shall be valid on a temporary basis for a period of 3 years until **19.7.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. to 7:00 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 cutting, cleansing, melting, dismantling or any other workshop activity is allowed to be carried out on the site, as proposed by the applicant, during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the public road at any times during the planning approval period;
- (e) the existing drainage facilities on site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **19.10.2019**;
- (g) the provision of fire extinguisher(s) and the submission of a valid fire certificate (FS251) 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 **30.8.2019**;
- (h) 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 **19.1.2020**;
- (i) in relation to (h) above, the implementation of the 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 **19.4.2020**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (e) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;

- (k) if any of the above planning conditions (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; and

Advisory clauses

The recommended advisory clauses are attached at **Appendix VI**.

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

- (a) the applied use is not in line with the planning intention of the "Government, Institution or Community" zone, which is intended primarily for the provision of Government, institution or community facilities. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied development would not have adverse environmental impacts on the surrounding areas.

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 20.5.2019
Appendix Ia	Supplementary Planning Statement with proposed vehicular access plan, proposed layout plan, landscape and tree preservation plan and as-built drainage plan
Appendix II	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the same "G/IC" zone on the approved Hung Shui Kiu and Ha Tsuen OZP
Appendix V	'Good Practice for Open Storage Sites' by the Fire Services Department
Appendix VI	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan

Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage 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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2019**