

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/207

- Applicant** : Mr. TANG Sheung Chai represented by Metro Planning and Development Company Limited
- Site** : Lots 93 S.A (Part), 771 S.B RP (Part), 772 (Part), 774 S.B RP (Part), 775 S.A RP (Part) and 775 S.B RP (Part) in D.D. 125 and Adjoining Government land (GL), Ha Tsuen, Yuen Long, N.T.
- Site Area** : 3,715m² (about) (including about 50m² of Government Land (GL))
- 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** : “Residential (Group A) 3” (“R(A)3”)
[Restricted to a maximum plot ratio of 5.5, maximum building height of 140mPD]
- Application** : Temporary Open Storage of Construction Machinery and Construction 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 construction materials for a period of 3 years (**Plan A-1**). The Site falls within the “R(A)3” 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.
- 1.2 The Site is subject to 3 previous planning applications No. A/YL-HT/929, A/HSK/35 and 179 for temporary public vehicle park or open storage uses (**Plan A-1**). The last planning application (No. A/HSK/179) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 6.9.2019 for a period of 3 years but was subsequently revoked on 18.10.2019 due to non-compliance with a time specific approval condition on the provision of fire extinguisher(s) and the submission of valid fire certificate. The Site is currently being used for the applied use without a valid planning permission (**Plans A-2, A-4a and A-4b**).

- 1.3 The Site is accessible from Ping Ha Road via a local track through an ingress/egress point at the south of the Site (**Drawing A-1, Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-1**, four single-storey temporary structures with a total floor area of not exceeding 108m², including a 3.5m high open shed over converted containers (not exceeding 90m²) and a 3.5m high structure (not exceeding 16m²) for ancillary office use, a 3m high electricity meter room (not exceeding 1m²) and a 3m high toilet (not exceeding 1m²) are proposed. A loading/unloading bay for medium/heavy goods vehicle is provided at the south-eastern portion of the Site. The remaining areas are for open storage for construction machinery and construction materials. According to the applicant, the Site is proposed to store metal frames, racks, pipes, etc. The operation hours of the proposed development are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The proposed layout plan, landscape and tree preservation plan, drainage plan and discharge path to public drain plan are shown at **Drawings A-1 to A-4** respectively.
- 1.4 All development parameters of the proposed development in the current application and the last approved application are the same and shown below:

Major Development Parameters	Previous Application No. A/HSK/179 (revoked on 18.10.2019)	Current Application No. A/HSK/207
Site Area	About 3,715m ²	
Applied Use	Temporary Open Storage of Construction Machinery and Construction Materials for a Period of 3 Years	
No. of Structures	4	
Total Floor Area	About 108m ²	
Loading/unloading Bay	1 for Goods Vehicle (3.5m x 11m)	

- 1.5 In support of the application, the Applicant has submitted the following documents:
- (a) Application Form received on 9.12.2019 **(Appendix I)**
 - (b) Supplementary Planning Statement with proposed layout plan, landscape and tree preservation plan, drainage plan and discharge path to public drain plan **(Appendix Ia)**
 - (c) Supplementary information received on 13.12.2019 providing the fire service installations (FSIs) proposal and FS 251 certificate. **(Appendix Ib)**
 - (d) Further information (FI) received on 6.1.2020 providing clarification on the FSIs proposal. **(Appendix Ic)**
[accepted and exempted from publication and recounting requirements]

1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.2.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

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 planning intention of the “R(A)3” zone could not be realized within the coming 3 years since 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 “R(A)3” zone.
- (b) The applicant forgot to purchase a fire extinguisher within 6 weeks of the approval date so that the previous planning permission was revoked on 18.10.2019.
- (c) Open storage yards, vehicle parks for heavy goods vehicle and container trailer, container depots and logistics centre are found in close proximity which make the proposed development compatible with the surrounding landscape. Almost all of the adjoining open storage and port back-up uses were granted with planning approval by the Board. The planning circumstances pertaining to the Site is similar to that of last planning permission.
- (d) The Site falls within Category 1 areas under the Town Planning Board Planning Guidelines for Application of Open Storage and Port Back-up Uses (TPB PG-No.13E) which are considered suitable for open storage and port back-up uses.
- (e) Preliminary technical proposals demonstrate that the actual impact on drainage, environmental, traffic and landscape aspects would be insignificant. A number of ameliorative and preventive measures have been proposed such that environmental condition would not be downgraded.

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 of the application outside the Site and sending registered mail to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” requirements are not applicable to the Government land portion.

4. Background

As the storage uses on the Site are not covered by valid planning permission, they would be subject to planning enforcement action.

5. 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**.

6. Previous Applications

6.1 The Site is subject to three previous applications No. A/YL-HT/929, A/HSK/35 and 179 for temporary public vehicle park for medium goods vehicle, heavy goods vehicle and container trailer with ancillary site office or temporary open storage of construction machinery and construction materials. All applications were approved by the Committee with conditions for a period of 3 years on 2.1.2015, 12.1.2018 and 6.9.2019 respectively. Details of the applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

6.2 For the last application No. A/HSK/179, one of the approval conditions on the provision of fire extinguisher(s) and the submission of a valid fire certificate had not been complied with and the planning permission was revoked on 18.10.2019. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with same layout and development parameters.

7. Similar Applications

There are 4 similar applications (No. A/YL-HT/789, 951, 990 and A/HSK/47) for similar open storage uses within the same "R(A)3" zone on the OZP since the promulgation of TPB PG-No. 13E on 17.10.2008. All 4 similar applications were approved by the Committee between 2012 and 2018 taking into consideration that the applied uses were not incompatible with the surrounding uses. Amongst these applications, application No. A/YL-HT/990 was subsequently revoked due to non-compliance with time-specific approval conditions. Particulars of these applications and the decisions of the Committee are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently fenced off and used for open storage of construction machinery and construction materials; and
- (b) accessible from Ping Ha Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are a vacant ice factory and two godowns. To the further north is a logistics centre under a valid planning permission No. A/HSK/63;

- (b) to its northeast across Ping Ha Road, are a yard for open storage of scrap metal under a valid planning permission No. A/HSK/47, a logistics centre and several vehicle repair workshops, yards for open storage of recycling materials and trucks and a residential dwelling;
- (c) to its southeast is a vehicle repair workshop under a valid planning permission No. A/HSK/81 and a residential dwelling (about 74m away); to its immediate south is a converted container for site office use; to its further south is a workshop and warehouse under a valid planning permission No. A/HSK/86 and an open storage yard of construction materials and a warehouse; and
- (d) to its southwest are a logistics centre with storage under a valid planning permission No. A/HSK/99 while to its west is a yard for open storage of construction materials and machinery.

9. Planning Intention

The Site falls within the “R(A)3” zone on the approved HSK and HT OZP. The planning intention of the “R(A)3” zone is primarily for high-density residential developments. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purpose-designed non-domestic building up to five storeys.

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) No permission has been given for occupation of GL (about 50m² subject to verification) included in the Site. Attention is drawn to the fact that the act of occupation of GL without Government’s prior approval is not allowed. With the implementation of tightened arrangements for handling regularization applications, LandsD will no longer accept application for regularization of new or extension of unlawful occupation of GL or erection of new structures which is found commenced on or after 28 March 2017.
- (c) The Site is accessible from Ping Ha Road through GL and private lot(s). His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over to the Site.

- (d) The private Lot No. 774 S.B RP in D.D. 125 is covered by a Short Term Waiver (STW) No. 4354 for the purposes of “Temporary Public Vehicle Park for Medium Goods Vehicle, Heavy Goods Vehicle and Container Trailer with Ancillary Site Office”.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should the application be approved, the STW holders will need to apply to his office for modification of the STW conditions where appropriate and 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, if any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. 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 Buildings(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, 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 vehicles are allowed to queue back to public roads or reverse onto/from public roads.

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 Ping Ha 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 dwelling is about 74m away) (**Plan A-2**) and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) Should the 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 Sites' ('COP') 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 planning statement submitted by the applicant, the existing drainage facilities which was implemented under an approved application No. A/HSK/35 will be maintained for the subject development.
- (c) Should the application be approved, he would suggest imposing approval conditions 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, demolition 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 the existing fire service installations (FSIs) on the Site being maintained in efficient working order at all times.
- (b) Approval conditions on provision of fire extinguisher, submission and/or implementation of FSIs proposals are not required.

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 existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA, formerly known as HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK/HT NDA and the latest plan, to ensure timely and orderly implementation, the development of HSK/HT 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 3 in the latest programme of the HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that clearance of the Site will not be arranged before 2024.

Water Supply

10.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). The cost of any necessary diversion shall be borne by the developer of the proposed development.
- (c) In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centre line of the water mains shall be provided to WSD. No structure shall be built or materials stored within this waterworks reserve. Free access shall be made available at all times for staff of the WSD or their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (d) No trees or shrubs with penetrating roots may be planted within the Waterworks reserve or in the vicinity of the water main.
- (e) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of public water mains within and in close vicinity of the Site.

District Officer's Comments

10.1.10 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 locals on the application.

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

- (a) Commissioner of Police (C of P); and
- (b) Director of Agriculture, Fisheries and Conservation (DAFC).

11. Public Comments Received During Statutory Publication Period

On 17.12.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 7.1.2020, no public comment was received.

12. Planning Considerations and Assessment

- 12.1 The application is for temporary open storage of construction machinery and construction materials for a period of 3 years at a site zoned “R(A)3” on the OZP. The planning intention of the “R(A)3” zone is intended primarily for high-density residential developments. Whilst the proposed development is not in line with the planning intention of “R(A)3” 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, open storage yards and logistics centres. 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 74m 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 the unauthorized development 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 has approved three previous applications for temporary public vehicle park or temporary open storage of construction machinery and construction materials on the Site as well as 4 similar applications in the same “R(A)” zone since 2008 (**Plan A-1**). Although the previous application No. A/HSK/179 submitted by the same applicant for the same use was revoked due to non-compliance with a time specific approval condition on provision of fire extinguishers, the applicant has already fulfilled all the fire service installations (FSIs) requirements in the current submission and DFS has no objection to the application. 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 publication period.

13. Planning Department’s Views

13.1 Based on the assessment made in paragraph 12 above, the Planning Department considers that the temporary open storage of construction machinery and construction 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 **20.3.2023**. 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) the existing landscape planting on the Site shall be maintained at all times during the planning approval period;
- (d) the existing drainage facilities on site shall be maintained at all times during the planning approval period;
- (e) the existing fire services installations implemented on the site shall be maintained in efficient working order 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 **20.6.2020**;
- (g) 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; and
- (h) if any of the above planning condition (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

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

- (a) the proposed development is not in line with the planning intention of the "R(A)3" zone which is intended primarily for high-density residential developments. There is no strong planning justification 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 9.12.2019
Appendix Ia	Supplementary Planning Statement with the proposed layout plan, landscape and tree preservation plan, drainage plan and discharge path to public drain plan
Appendix Ib	Supplementary information received on 13.12.2019 providing the FSIs proposal and FS 251 certificate
Appendix Ic	Further information received on 6.1.2020 clarifying on the FSIs proposal
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 "R(A)3" zone on the approved Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2 since the promulgation of TPB PG-No. 13E on 17.10.2008
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape and Tree Preservation Plan
Drawing A-3	Proposed Drainage Plan
Drawing A-4	Discharge Path to Public Drain Plan

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2020**