

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/279

- Applicant** : Mr. TANG On Fai represented by Metro Planning and Development Company Limited
- Site** : Lots 1824 S.B RP (Part) and 1824 S.C (Part) in D.D. 125, Ha Tsuen, Yuen Long
- Site Area** : about 4,430m²
- 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”) (98.5%); and
[Restricted to a maximum plot ratio of 5.5, maximum building height of 140mPD]
“Open Space” (“O”) (1.5%)
- Application** : Temporary Open Storage of Construction Materials and Public Vehicle Park (Private Cars, Light Goods Vehicles and Medium/Heavy Goods 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 temporary open storage of construction materials and public vehicle park (private cars, light goods vehicles and medium/heavy goods vehicles) for a period of 3 years (**Plan A-1a**). The Site falls within an area mainly zoned “R(A)3” (98.5%) with minor encroachment onto the “O” zone (1.5%) on the approved HSK and HT OZP. According to the Notes of the OZP, ‘Public Vehicle Park (excluding Container Vehicle)’ is a Column 2 use under both “R(A)3” and “O” zones requiring planning permission from the Town Planning Board (the Board). According to the covering Notes of the OZP, temporary use not exceeding a period of three years within the zones 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 used for the applied use without valid planning permission (**Plans A-4a and 4b**).

- 1.2 The Site was involved in 22 previous applications for various temporary open storage, vehicle park, recycling centre and workshop uses (**Plan A-1b**). The last application No. A/HSK/210 for temporary open storage of vehicles and construction materials was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 30.3.2020 for a period of 3 years with validity till 30.3.2023. The current application is submitted by a different applicant at the same site with different use, layout and development parameters.
- 1.3 The Site is accessible from Ping Ha Road via local track with the ingress/egress located at the south-western corner of the Site (**Drawing A-1, Plans A-2 and A-3**). As shown on the layout plan at **Drawing A-2**, 3 single-storey temporary structures of 3m high with a total floor area of about 60m² (for a guard room and two site offices) are proposed. The northern part will be designated for open storage of construction materials while the southern part will be used for public vehicle park with 97 parking spaces for private cars and 6 parking spaces for light goods vehicles and medium/heavy goods vehicles. A loading/unloading bay for medium/heavy goods vehicle is provided at the north-western corner of the Site. The operation hours of the Site 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 drainage plan is shown at **Drawing A-3**.
- 1.4 A comparison of the major development parameters of the current application and the last approved application is given in the following table:

Major Development Parameters	Last Approved Application (A/HSK/210) (a)	Current Application (A/HSK/279) (b)	Difference (b) - (a)
Applied Use	Proposed temporary open storage of vehicles and construction materials (3 years)	Temporary open storage of construction materials and public vehicle park (private cars, light goods vehicles and medium/heavy goods vehicles) (3 years)	Change of open storage of vehicles to public vehicle park
Site Area	4,430m ²		Same
No. of Structures	1 (1 guardroom)	3 (1 guardroom 2 site offices)	+2
Total Floor Area	2m ²	60m ²	+58m ²
No. of Parking Spaces	Nil	<ul style="list-style-type: none"> • 97 for private cars • 6 for light goods vehicles and medium/heavy goods vehicles 	Addition of public vehicle park
No. of Loading/Unloading Bay	1 for medium/heavy goods vehicles		Same
Operation Hours	7:00 a.m. to 11:00 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays		Same

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

Application Form and plans received on 25.11.2020

(Appendix I)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The applied use is in line with the planning intention of the “R(A)3” zone which is primarily for the convenience of the nearby residents. In addition, ‘Public Vehicle Park (excluding Container Vehicle)’ is a Column 2 use under both “R(A)3” and “O” zones.
- (b) The Site is situated within the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) so that existing port back-up uses may be given sympathetic consideration until the Site is required for the implementation of the NDA development according to the Town Planning Board Guidelines for Application of Open Storage and Port Back-up Uses (TPB PG-No.13F).
- (c) The Site is subject to previous planning permissions for open storage purpose.
- (d) The applied use is compatible with the surrounding environment.
- (e) Similar planning applications have been approved by the Board in the nearby “R(A)3” and “O” zones.
- (f) The applicant has submitted drainage proposal and estimated traffic generation to support his application. There will be insignificant environmental, traffic and noise impacts since no operation will be held during sensitive hours.

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. 31A) by posting site notice and sending notice to the Ping Shan Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site falls within Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is subject to an on-going planning enforcement action (No. E/YL-HSK/69) against an unauthorised development (UD) involving use for place for parking of vehicles. Enforcement Notice was issued on 30.11.2020 to the concerned parties requiring the discontinuation of the UD.

6. Previous Applications

- 6.1 The Site was involved in 22 previous applications No. A/YL-HT/2, 7, 91, 161, 171, 188, 211, 233, 297, 302, 477, 507, 539, 570, 632, 662, 733, 811, 829 and 1053 and A/HSK/113 and 210 for various temporary open storage, vehicle park, recycling centre and workshop uses. Details of this application are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Amongst these previous applications, 15 applications (No. A/YL-HT/7, 297, 302, 477, 507, 539, 570, 632, 662, 733, 811, 829 and 1053 and A/HSK/113 and 210) for various open storage and/or parking of vehicle and workshop use were approved with conditions by the Board/Committee on the considerations that the applied uses were not incompatible with the surrounding areas, generally in line with the then Town Planning Board Guidelines No. 13 and no major adverse comment from concerned Government departments. However, nine of them were subsequently revoked due to non-compliance with approval conditions.
- 6.3 The remaining seven earlier applications for temporary open storage of containers and construction machinery, container trailer and tractor park and recycling materials handling yard were rejected by the Committee due to reasons of not in line with planning intention; setting of undesirable precedent; insufficient information to demonstrate that there would be no adverse drainage, traffic environmental and/or landscape impacts on the surrounding areas; and approval of the application would result in further degradation of the environment in the area.
- 6.4 The last application No. A/HSK/210 for proposed temporary open storage of vehicles and construction materials was approved with conditions by the Committee on 30.3.2020 for a period of 3 years with validity till 30.3.2023. Compared with the last application, the current application is submitted by a different applicant at the same site for different use with different layout and development parameters.

7. Similar Applications

There are three similar applications (No. A/HSK/187, 218 and 277) within the same "R(A)3" zone on the OZP for temporary open storage and parking of tractors and/or construction materials use approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.2 above. However, application No. A/HSK/218 was subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
- (a) currently fenced off and used for the applied use without valid planning permission; and
 - (b) accessible from Ping Ha Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its north is an open storage of construction materials and workshop;
- (b) to its east across Tin Ying Road is a nullah, further east are various residential development including Locwood Court and Tin Shing Court in Tin Shui Wai New Town;
- (c) to its immediate south is an open storage of construction materials; and
- (d) to its west is a logistics centre while to its southwest is an open storage of vehicles.

9. Planning Intention

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 received 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) The private Lot No. 1824 S.C in D.D. 125 is covered by a Short Term Waiver (STW) No. 4879 for the purposes of “Temporary Open Storage Of Private Car, Tires and Construction Material with Ancillary Site Office”.
- (c) 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 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. 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 Commissioner for Transport (C for T):

- (a) He has no adverse comments on the application from traffic engineering view point.
- (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.
- (c) The local track leading to the Site is not under Transport Department (TD)'s 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 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) There was no environmental complaint pertaining to the Site received in the past 3 years.
- (b) 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'.

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) The applicant should be reminded of the detailed comments in **Appendix VII**.
- (c) Should the application be approved, he would suggest that conditions be stipulated requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

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) The applicant should be reminded of the detailed comments in **Appendix VII**.

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 applicant should adhere to the 'Good Practice Guidelines for Open Storage' at **Appendix V**.
- (d) Having considered the nature of the open storage, an additional approval condition requiring "the provision of fire extinguisher(s) within 6 weeks from the date of planning approval" should be stipulated. To address this approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval.
- (e) The applicant should be reminded of the detailed comments in **Appendix VII**.

Long-Term Development

10.1.8 Comments of the 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 HSK/HT NDA. To ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot(s) concerned falls within a site under Remaining Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that the site formation and engineering infrastructure works for the Remaining Phase development will commence in 2030.

Others

10.1.9 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) The Site is zoned “R(A)3” and “O” on the approved HSK and HT OZP No. S/HSK/2. The portion zoned “O” is not on the priority list for development agreed by the Yuen Long District Council. She has no plan to develop the Site into public open space at present.
- (b) Since the application involves private lots only, she has no in-principle objection to the application.

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 the locals on the application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD).

11. Public Comments Received During Statutory Publication Period

On 4.12.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments from individuals were received. The commenters raised concerns/objected to the application on reasons that the development is too close to Kingswood Villa and will overload the traffic capacity and pose safety hazards to the villagers, and that approving the brownfield uses would cause environmental degradation and noise nuisance, and would affect the implementation of the planned development (**Appendices VI-1 to 4**).

12. Planning Considerations and Assessment

12.1 The application is for temporary open storage of construction materials and public vehicle park (private cars, light goods vehicles and medium/heavy goods vehicles) for a period of 3 years at the Site within an area mainly zoned “R(A)3” (98.5%) with minor encroachment onto the “O” zone (1.5%) on the OZP. The planning intention of the “R(A)3” zone is primarily for high-density residential developments. Whilst the applied use is not in line with the planning intention of the “R(A)3” zone, the implementation programme for this part of NDA is still being formulated, and PM/W of CEDD has no objection to the temporary use at 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 the implementation of government projects.

- 12.2 The applied use is not incompatible with the surrounding land uses which are predominantly used for open storage yards, workshops and logistics centres. In addition, there are no residential dwellings in the vicinity (**Plan A-2**).
- 12.3 The Site falls within the HSK/HT NDA. For applications in NDAs, the following considerations under the TPB PG-No. 13F are relevant:
- For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.
- 12.4 The applied use with open storage of construction materials is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and previous planning approval has been given. The current application is partly for similar open storage use of the last approved application No. A/HSK/210, the planning permission of which is still valid. Compared with the last planning permission, part of the Site with previous open storage of vehicles, will be used for parking of vehicles, and concerned Government departments have no adverse comment on the application. As such, sympathetic consideration may be given to the application.
- 12.5 Relevant Government departments, including C for T, CE/MN, DEP, DSD and D of FS, have no objection to or adverse comment on the application. To address the concerns on the possible environmental nuisances or the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorized development on the Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' to minimize the possible environmental impacts on the surrounding areas.
- 12.6 There are 14 previously approved planning applications for open storage and/or parking of vehicles use at the Site (**Plan A-1b and Appendix III**) and three similar applications for open storage with/without parking uses within the same "R(A)3" zone on the OZP (**Plan A-1a**). Approval of the current application is in line with the Committee's previous decisions.
- 12.7 Four public comments were received during statutory publication period as mentioned in paragraph 11. 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 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary open storage of construction materials and public vehicle park (private cars, light goods vehicles and medium/heavy goods vehicles) 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 **22.1.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 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 and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (d) no heavy goods vehicles exceeding 24 tonnes, including container tractors/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) the implementation of the accepted 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 **22.10.2021**;
- (f) in relation to (e) above, the implemented drainage facilities on Site shall be maintained at all times during the planning approval period;
- (g) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **5.3.2021**;
- (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 **22.7.2021**;
- (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 **22.10.2021**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (f) 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
- (k) if any of the above planning conditions (e), (g), (h) or (i) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied open storage use 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.

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 and plans received on 25.11.2020
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Previous Application Covering the Site
Appendix IV	Similar Applications Within the Same "R(A)3" Zone on the approved Hung Shui Kiu and Ha Tsuen OZP
Appendix V	Good Practice Guidelines for Open Storage issued by the Director of Fire Services
Appendices VI-1 to 4	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed 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
Plans A-4a and 4b	Site Photos