

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/341

- Applicant** : Skyview Development Limited represented by Ever United Planning & Development Limited
- Site** : Lots 1103 RP (Part), 1104 RP, 1105, 1106 (Part), 1107 (Part), 1131 (Part), 1132 (Part), 1138 (Part), 1139 S.A RP, 1139 RP (Part), 1140 (Part), 1141 RP, 1142, 1143 RP (Part), 1145 (Part), 1146 (Part), 1153 (Part), 1154 RP (Part), 1155 (Part), 1156 (Part) and 1169 RP (Part) in D.D. 125, Ha Tsuen, Yuen Long, New Territories
- Site Area** : 16,476 m² (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
- Zonings** : "Other Specified Uses" annotated "Logistics Facility" ("OU(LF)") (75.1%)
[Restricted to maximum plot ratio of 5, maximum building height of 110mPD]; and
Open Space" ("O") (24.9%)
- Application** : Temporary Open Storage of Construction Machinery and Construction Material and Ancillary Site Office 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 material with ancillary site office for a period of 3 Years (**Plan A-1a**). The Site falls within an area mainly zoned "OU(LF)" (75.1%) and partly zoned "O" (24.9%) on the approved HSK and HT OZP. According to the Notes of the OZP of the "OU(LF)" zone, 'Open Storage (not elsewhere specified)' is always permitted and no planning permission is required. However, open storage is neither a Column 1 nor Column 2 use under the "O" zone. 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 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 a valid planning permission (**Plans A-4a and A-4b**).

- 1.2 The Site is related to 15 previous applications for various open storage uses or warehouse approved by the Rural and New Town Planning Committee of the Board (the Committee) between 1999 and 2021. The last application No. A/HSK/273 submitted by the same applicant for proposed temporary warehouse for storage of miscellaneous goods for a period of 3 years was approved by the Committee on 8.1.2021.
- 1.3 The Site is accessible from Ha Tsuen Road via a local track through the ingress and egress point at the south-western corner of the Site (**Drawings A-1 and A-2 and Plan A-3**). As shown on the layout plan at **Drawing A-2**, the open storage areas are proposed at the north-east, north-west and south-east portions of the Site. 5 temporary structures, ranging from 1-2 storeys (3m or 6.5m high) for storage of construction machinery and materials, ancillary site office, washroom and guard room are proposed. 4 unloading and unloading bays for medium and heavy goods vehicles and 2 parking spaces for private cars and light good vehicles are provided. According to the applicant, no repairing, dismantling, assembling and other workshop activities are proposed at the Site. The operation hours of the site are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays and no operation will be held on Sundays and public holidays. The as-built landscape and tree preservation plan and the drainage plan are shown at **Drawings A-3 and A-4** respectively.
- 1.4 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 No. A/HSK/273 (a)	Current Application No. A/HSK/341 (b)	Difference (b) - (a)
Applied Use	Temporary warehouse for storage of miscellaneous goods for a period of 3 years	Temporary open storage of construction machinery and construction material with ancillary site office for a period of 3 years	Different use
Site Area	16,476 m ²	16,476 m ²	Same
No. of Structures	3	5	+2
Total GFA	22,040 m ²	590m ²	-21,450 m ²
Height of Structure	1-2 storeys (3m-13m high)	1-2 storeys (3m-6.5 high)	-6.5 m
No. of Parking Space	2 (for private cars/light goods vehicles)	2 (for private cars/light goods vehicles)	Same
No. of Loading/ Unloading Bay	4 for medium/heavy goods vehicles	4 for medium/heavy goods vehicles	Same
Operation Hours	Mondays to Saturdays: 8:00 a.m. to 8:00 p.m. No operation on Sundays and public holidays		Same

1.5 In support of the application, the applicant has submitted the Application Form (received on 5.11.2021) with planning statement (**Appendix I**).

2. Justifications from the Applicant

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

- (a) The applied use is in line with the planning intention of “OU(LF)” zone while the planning intention of “O” zone could not be realized in the coming 3 years as the land resumption for the HSK NDA is yet to commence. The application is on temporary basis and would not result in any long term adverse impact to the planning intention of the area.
- (b) The proposed development conforms to the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) as the Site is the subject of previous planning approvals including No. A/HSK/45 for temporary open storage use and No. A/HSK/273 for temporary warehouse for storage purpose. The proposed development is not a new development on green site. Moreover, the applicant had complied with almost all relevant approval conditions in the previous planning permissions. Sympathetic consideration may be given to the current application.
- (c) The applied use is not incompatible with its surrounding environment which is predominantly open storage and port back-up uses such as logistics centres and warehouses, container depots and open storage yards.
- (d) The applied use would not generate significant impacts to the surrounding environment with limited opening hours from 8:00 a.m. to 8:00 p.m. and no operation on Sundays and public holidays. Other mitigation measures are taken, including provision of peripheral planting to minimize the visual impact, maintenance of existing drainage facilities to mitigate the drainage impact and provision of hard paving to avoid fugitive dust impact.

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

The Applicant is not a “current land owners” 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 publishing on local newspapers. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. 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**.

6. Previous Applications

- 6.1 The Site is related to 15 previous applications (No. A/YL-HT/81, 154, 244, 390, 524, 540, 552, 576, 621, 634, 791, 900, 924 and No. A/HSK/45 and 273) for various open storage uses and logistics centre covering different extents of the Site. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Of these applications, 11 (No. A/YL-HT/81, 154, 244, 390, 540, 621, 791, 900, 924 and No. A/HSK/45 and 273) were approved with conditions by the Committee between 1999 and 2021 on the considerations that the applied uses were not incompatible with the surrounding areas; being generally in line with the then Town Planning Board Guidelines TPB PG-No.13; and no major adverse comments from concerned government departments. However, the planning permissions under 4 applications (No. A/YL-HT/154, 540, 791 and 900) were subsequently revoked due to non-compliance with time-limited approval conditions.
- 6.3 The application No. A/HSK/45, submitted by the same applicant for the same open storage use as the current application, was approved by the Committee on 9.2.2018. All time-limited approval conditions were complied with. The last application No. A/HSK/273 for proposed temporary warehouse for storage of miscellaneous goods for a period of 3 years was approved by the Committee on 8.1.2021. Compared with the last approved application No. A/HSK/273, the current application is submitted by the same applicant for a different use with different layout and development parameters.
- 6.4 Applications No. A/YL-HT/524, 552, 576 and 634 were rejected by the Committee/Board between 2008 and 2010 mainly on grounds of not in line with the then TPB PG-No. 13 and the planning intentions of the then zonings, adverse traffic, environmental, visual and/or drainage impacts on the surrounding areas and incompatibility with the nearby village settlements.

7. Similar Application

There is no similar application within the same “OU(LF)” and “O” zones on the OZP.

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

- 8.1 The Site is:
 - (a) accessible from Ha Tsuen Road via a local track; and
 - (b) currently used for the applied use without valid planning permission.
- 8.2 The surrounding areas have the following characteristics:
 - (a) to its immediate north and northeast are some vacant/unused land and agricultural land and the residential dwellings/village settlement of Tseung Kong Wai (the nearest one being about 24m away) (**Plan A-2**);

- (b) to its east are some vacant land, some storage use, an open storage yard of construction materials and some residential structures;
- (c) to its south across a nullah are an open storage yard of construction materials and a logistics centre; and
- (d) to its immediate west are an open storage yard of construction materials under valid planning permission and a logistics centre. To its northwest are a vehicle park, some vacant/unused land and an open storage yard of construction materials, while to its southwest is a piece of unused land.

9. Planning Intentions

- 9.1 The planning intention of the “OU(LF)” zone is primarily for development of modern logistics facilities to complement the development of Hong Kong as a Regional Distribution Centre and Logistics Hub.
- 9.2 The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residential as well as the general public.

10. Comments from Relevant Government Departments

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

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots (OSALs) 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. 9 OSALs are covered by Short Term Waivers.
- (b) The applicant should be reminded of the detailed comments in **Appendix VI**.

Traffic

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

- (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 or reverse onto/from public roads.
- (c) The applicant should be reminded of the detailed comments in

Appendix VI.

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

- (a) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.
- (b) The access road connecting the Site with Han Tsuen Road is not and will not be maintained by HyD. HyD shall not be responsible for maintaining any access connecting the Site with Ha Tsuen Road.

Environment

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

- (a) He does not support the application as there are sensitive uses in the vicinity of the Site (the nearest residential dwelling being about 24 m away) (**Plan A-2**), and the development involves use of medium/heavy goods vehicles. 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 latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (‘COP’).

Drainage

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

- (a) She has no objection in principle to the application from a drainage point of view. Should the application be approved, a condition should be stipulated requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of her Division.
- (b) The applicant should be reminded of the detailed comments in **Appendix VI.**

Building Matters

10.1.6 Comments of the Chief Building Surveyor/NTW, 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 VI.**

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 FSIs being provided to his satisfaction.
- (b) Having considered the nature of the 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.”

- (c) The applicant should be reminded of the detailed comments in **Appendix VI**.

Long Term Development

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

- (a) The Site falls within the boundary of Hung Shui Kiu/Ha Tsuen (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 the sites under the Second Phase and the 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 Second Phase development will commence in 2024. In this regard and subject to the necessary approvals as required, the Government plans to acquire these relevant sites by end 2023 progressively for the development of HSK/HT NDA.
- (b) The applicant should be reminded of the detailed comments in **Appendix VI**.

Others

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

- (a) The part of the Site zoned “O” is not on the priority list for development agreed by the Yuen Long District Council. She has no plan to develop the portion of the Site zoned “O” into public open space at present.
- (b) 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 Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.

11. Public Comments Received During Statutory Publication Period

On 12.11.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from two individuals (**Appendices V-1 to 2**) were received. The commenters object to the application on the grounds that the proposed development will increase traffic flow and cause environmental nuisances and pose fire safety hazards to the villagers; implementation of the “OU(LF)” zone is crucial in resolving the brownfield conundrum and in ensuring local employment opportunities to avoid long commuting of the new residents.

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of construction machinery and construction material with ancillary site office for a period of 3 years at a site mainly zoned “OU(LF)” (75.1%) and partly within the “O” (24.9%) zone on the OZP. According to the Notes of the OZP, the applied temporary open storage use is always permitted within the “OU(LF)” zone, but temporary uses not exceeding 3 years requires planning permission within the ‘O’ zone. The applied use is not in line with the planning intention of the “O” zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residential as well as the general public. Nevertheless, PM/W of CEDD envisages that the site formation and engineering infrastructure works for the portion of the Site within the Second Phase development will commence in 2024 and DLCS indicates that there is no plan to develop the portion of the Site zoned “O” into public open space at present. 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 applied use is not incompatible with the surrounding land uses which are predominantly occupied by open storage yards and logistics centres.

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 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 is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and 10 previous planning approvals for similar/same open storage uses were given. The current application is submitted by the same applicant for the same use as the previously approved application for open storage use covering the same site in 2018 (No. A/HSK/45) and all the relevant time-limited approval conditions were complied with. The last approved application No. A/HSK/273, which was submitted by the same applicant, is for a different use. In this regard, sympathetic consideration may be given to the application.
- 12.5 Concerned government departments, including C for T, CE/MN, DSD and D of FS, have no objection to or no adverse comment on the application, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the nearest residential dwelling being 24m away) (**Plan A-2**), and the development involves the use of medium/heavy goods vehicles and thus environmental nuisance is expected. However, there is no substantiated environmental complaint pertaining to the Site in the past three years. To address the concerns on the possible environmental nuisances or the technical requirements of the 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 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 15 previous applications involving the Site and 10 of them were approved for various open storage uses (**Plan A-1b**). 4 previous applications were rejected by the Committee/Board between 2008-2010 on the basis of different planning circumstances including different zonings of the Site and the requirements of the then TPB PG-No. 13. Approval of the subject application is generally in line with the Committee's previous decisions.
- 12.7 Two public comments objecting the application were received during the statutory publication period as summarised 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 proposed temporary open storage of construction machinery and construction material with ancillary site office 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 **24.12.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 8:00 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 repairing, dismantling, assembling and other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) the submission of a revised drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **24.6.2022**;
- (e) in relation to (d) above, the implementation of the revised 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 **24.9.2022**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site should 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 **4.2.2022**;
- (h) 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 **24.6.2022**;
- (i) in relation to (h) 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 **24.9.2022**;
- (j) if any of the above planning conditions (a), (b), (c) 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 (d), (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 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 "O" zone, which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residential as well as the general public respectively. 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 has failed to demonstrate that the 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 5.11.2021 with planning statement
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 Applications covering the Site
Appendix IV	Good Practice Guidelines for Open Storage issued by the Director of Fire Services
Appendices V-1 to 2	Public comments
Appendix VI	Advisory clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**