

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/485

- Applicant** : Skyview Development Limited represented by Ever United Planning & Development Limited
- Site** : Various Lots in D.D. 125, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 16,476m²
- 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** : (i) “Other Specified Uses” annotated “Logistics Facility” (“OU(LF)”) (about 75%); and
[restricted to a maximum plot ratio of 5 and a maximum building height of 110mPD]
- (ii) “Open Space” (“O”) (about 25%)
- Application** : Temporary Open Storage of Construction Machinery, Construction Material and Ancillary Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction machinery, construction material and ancillary site office for a period of three years at the application site (the Site) (**Plan A-1a**). According to the Notes of the OZP, while ‘Open Storage (not elsewhere specified)’ use is always permitted in the “OU(LF)” zone, temporary use or development of any land or buildings within the “O” zone not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the open storage of construction materials and machinery and workshop without valid planning permission.
- 1.2 The Site is accessible from Ha Tsuen Road via a local track, and the ingress/egress point is at the southwestern corner of the Site (**Plans A-2 and A-3**). According to the applicant, six areas for open storage of construction machinery and construction material are provided at the Site while five existing temporary structures (one to two storeys, not more than 3m to 6.5m high) with a total floor area of about 590m²

are used for open sheds for storage of construction machinery and construction material, ancillary site office, washroom and guard room. Four loading/unloading spaces for medium/heavy goods vehicles (M/HGVs) (each of 11m x 3.5m) and two parking spaces for private cars/light goods vehicles (LGVs) (each of 7m x 3.5m) are provided (**Drawing A-2**). According to the applicant, no repairing, dismantling, assembling and other workshop activities will be carried out at the Site. The operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays and there would be no operation on Sundays and public holidays. Plans showing the access leading to the Site, site layout, as-built drainage facilities and fire service installations (FSIs) submitted by the applicant are at **Drawings A-1 to A-4** respectively.

- 1.3 The Site is involved in 16 previous planning applications for various temporary open storage or warehouse uses, of which 12 were approved by the Rural and New Town Planning Committee (the Committee) of the Board between 1999 and 2021 (details at paragraph 6 below). Compared with the last application No. A/HSK/341 approved by the Committee on 24.12.2021, the current application is submitted by the same applicant for the same use with the same layout at the same site.
- 1.4 In support of the application, the applicant has submitted an Application Form with attachments received on 30.8.2022 (**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 summarised as follows:

- (a) A number of previous applications for the same applied use at the Site have been approved by the Board since 2014. The last approved application No. A/HSK/341 was revoked due to non-compliance with time-limited approval condition regarding the submission and implementation of the revised drainage proposal and the implementation of the FSIs proposal. The applicant has submitted relevant proposals in support of the current application.
- (b) The development conforms with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13). The applied use is not incompatible with the surrounding environment. Similar planning applications for open storage and port back-up uses have been approved by the Board in the adjoining areas.
- (c) The applied use is temporary in nature and would not jeopardise the long-term planning intention of the concerned zone. The impacts on environment, traffic and drainage are expected to be insignificant. No dangerous goods will be stored and no workshop activity is proposed 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. 31A) by posting site notice and publishing in local newspapers.

Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

On 14.4.2023, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G). The Site falls within the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to any planning enforcement action.

6. Previous Applications

6.1 The Site is involved in 16 previous applications for various temporary open storage or warehouse uses covering different extents of the Site. Amongst them, 12 applications including 11 applications (No. A/YL-HT/81, 154, 244, 390, 540, 621, 791, 900, 924 and A/HSK/45 and 341) for various temporary open storage uses and one application (No. A/HSK/273) for temporary warehouse use were approved by the Committee between 1999 and 2021 mainly on similar considerations that the applied/proposed uses were not incompatible with the surrounding areas; generally in line with the relevant TPB PG-No.13 and no major adverse comments from concerned government departments. However, six of the planning permissions were subsequently revoked due to non-compliance with time-limited approval conditions. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.

6.2 The other four applications (No. A/YL-HT/524, 552, 576 and 634) for various temporary open storage uses were rejected by the Committee/the Board upon review between 2008 and 2010 mainly on the grounds of not in line with the relevant 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.

6.3 The last previous application No. A/HSK/341 was approved by the Committee on 24.12.2021 for a period of three years but the permission was subsequently revoked on 24.6.2023 due to non-compliance with time-limited approval conditions regarding the submission and implementation of the revised drainage proposal and the implementation of FSIs proposal.

7. Similar Applications

There are three similar applications for temporary open storage uses within/straddling the subject "OU(LF)" and "O" zones in the past five years. All of them were approved with conditions by the Committee between 2019 and 2022 based on similar considerations as mentioned in paragraph 6.1 above. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) accessible from Ha Tsuen Road via local track; and
- (b) currently used for open storage of construction materials and machinery and workshop without valid planning permission.

8.2 The surrounding areas are predominantly occupied by open storage yards, logistics centre and warehouse, with residential dwellings concentrated in the village clusters of Tseung Kong Wai and Sik Kong Wai located at the north and east respectively.

9. Planning Intention

The planning intention of the “O” zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV** and **V** respectively.

10.2 The following government department does not support the application.

Environment

10.2.1 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application because there are sensitive users in the vicinity of the site (the nearest residential dwelling being about 24m away) (**Plan A-2**) and the applied use involves the use of heavy vehicles. Environmental nuisance is expected; and
- (b) no substantiated environmental complaints pertaining to the Site were received in the past three years.

11. Public Comments Received During Statutory Publication Period

On 8.9.2023, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received (**Appendices VII-1 and VII-2**). One individual objects to the application mainly on the grounds that the approval conditions under the previous application have not yet been complied with and the applied use may cause drainage problems and pose fire safety hazard. The other individuals provides view on increasing animal-related facilities which is not relevant to the application.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction machinery, construction material and ancillary site office for a period of three years at the Site zoned “OU(LF)” (about 75%) and “O” (about 25%) on the OZP. Whilst the applied use is not in line with the planning intention of the “O” zone, the Project Manager (West), Civil Engineering and Development Department and Director of Leisure and Cultural Services have no adverse comment on the application. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site. Notwithstanding this, 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 considered not incompatible with the surrounding land uses which are predominantly open storage yards, logistics centre and warehouse, and some residential dwellings (**Plan A-2**).
- 12.3 The applied use is generally in line with TPB PG-No. 13G in that the Site falls within the HSK/HT NDA and 11 previous planning approvals for various temporary open storage uses covering different extents of the Site had been granted from 1999 to 2021. While the planning permission granted under the last application No. A/HSK/341 was revoked due to non-compliance with the time-limited approval conditions regarding the submission and implementation of the revised drainage proposal and implementation of FSIs proposal, relevant proposals have been submitted in the current application. The Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to the application. In this regard, sympathetic consideration may be given to the application. The applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of planning permission, sympathetic consideration may not be given to any further applications.
- 12.4 The Commissioner for Transport has no adverse comment on the application. While DEP does not support the application as there are sensitive uses in the vicinity (the nearest residential dwelling being about 24m away) (**Plan A-2**) and the applied use involves the use of heavy vehicles thus environmental nuisance is expected, there was no environmental complaint pertaining to the Site received in the past three years. Should the application be approved, the applicant will be advised to follow the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the nearby sensitive receivers. To address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 13.2 below.
- 12.5 Given 11 previous approvals for various temporary open storage uses had been granted for the Site between 1999 and 2021 and three similar applications had been approved by the Committee between 2019 and 2022, approval of the current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the public comment objecting to the application as summarised in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.5 above 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 machinery, construction material and ancillary site office could be tolerated for a period of three 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 three years until **27.10.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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;
- (b) the submission of a revised drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **27.4.2024**;
- (c) in relation to (b) 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 **27.7.2024**;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) 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 **8.12.2023**;
- (f) the submission of a revised 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 **27.4.2024**;
- (g) the implementation of the revised 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 **27.7.2024**;
- (h) if any of the above planning condition (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning condition (b), (c), (e), (f) or (g) 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 V**.

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

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. There is no strong 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 received on 30.8.2023
Appendix II	Relevant Extract of TPB PG-No. 13G
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	'Good Practice for Open Storage Sites' by the Fire Services Department
Appendices VII-1 and VII-2	Public Comments
Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	FSIs 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 to 4c	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**