

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/210

- Applicant** : Sky Grand Development Limited represented by Metro Planning & Development Company Limited
- Site** : Lot 143 (Part) in D.D. 52 and Adjoining Government Land, Sheung Shui, New Territories
- Site Area** : About 1,230 m² (including about 12 m² of Government Land)
- Land Status** : (i) Block Government Lease (demised for agricultural use)
(about 99% of the Site)
(ii) Government Land (about 1% of the Site)
- Plan** : Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
- Zoning** : “Other Specified Uses (Port Back-up Uses)” (“OU(PBU)”)
- Application** : Proposed Temporary Vehicle Repair Workshop for Private Car for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary vehicle repair workshop for private car for a period of 3 years. The Site falls within an area zoned “OU(PBU)” on the approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16 (**Plan A-1**). According to the Notes of the OZP, ‘Vehicle Repair Workshop’ is a Column 2 use in “OU(PBU)” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 The Site is accessible via a local track branching off from Man Kam To Road (**Plan A-1**). According to the applicant, the proposed development involves 3 single-storey temporary structures (i.e. Structures 1 to 3) (about 3 to 4.5 m in height) for vehicle repair workshop, site office and toilet respectively with a total floor area of about 100 m². The remaining uncovered area of the Site would be used for parking of private car for repairing. Two private car parking spaces would be provided at the Site (**Drawing A-1**). The operation hours of the Site are between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays. The proposed layout plan and drainage plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is part of the subject of 2 previously rejected applications (No. A/NE-FTA/64 & 146) for uses different from the current application. Details are provided in paragraph 5.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 30.12.2021 **(Appendix I)**
 - (b) Further Information (FI) on 24.1.2022 **(Appendix Ia)**
(accepted and exempted from publication)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia** respectively. They can be summarised as follows:

- (a) the proposed development is in line with the planning intention of the “OU(PBU)” zone;
- (b) the proposed development is not incompatible with the surrounding land uses which are mainly open storage uses and port back-up activities;
- (c) the Site is remote and suitable for vehicle repair workshop;
- (d) Prior booking is required to use the parking space and loading/unloading space at the Site. To ensure pedestrian safety, the applicant also undertakes to provide signage at the entrance of the Site; and
- (e) adverse traffic, environmental and drainage impacts are not anticipated.

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 taking reasonable steps to give notification to the owner including sending notice to the Sheung Shui District Rural Committee by registered mail and posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the government land portion within the Site, TPB PG-No.31A is not applicable.

4. Background

The Site is the subject of an active enforcement case against unauthorised development (UD) involving storage use (including deposit of containers). Enforcement Notice was issued on 20.7.2021 requiring discontinuation of the UD by 20.9.2021. As revealed by recent site inspection, the Site was mostly vacant. Site conditions will be monitored according to the established procedures.

5. Previous Applications

- 5.1 The Site is part of the subject of 2 previous applications (No. A/NE-FTA/64 & 146) for proposed temporary open storage uses submitted by different applicants. The applications were rejected by the Committee on 11.6.2004 and 12.9.2014 respectively mainly on the grounds that the applicants failed to demonstrate that the proposed development would not pose interference to the overhead electricity supply line which traverses the application site and would not jeopardise the provision of electricity supply and cause electrical hazards; and to demonstrate that the development would have no adverse environmental and traffic impacts on the surrounding area.
- 5.2 Details of the previous applications are summarised at **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application for temporary vehicle repair workshop uses within the same “OU(PBU)” zone.

7. The Site and Its Surrounding Area (Plans A-1, A-2, unmanned aerial vehicle (UAV) photo on Plan A-3 and site photos on Plans A-4a to 4b)

- 7.1 The Site is:
- (a) mainly vacant, hard-paved and fenced off;
 - (b) traversed by a 132kV overhead electricity supply line in a northwest-southeast direction (**Plan A-2**); and
 - (c) accessible from Man Kam To Road via a local track.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the immediate north is fallow agricultural land and to the further north are some temporary domestic structures;
 - (b) to the immediate east is a local track leading to Man Kam To Road, across which are unused land and grave yards within the “Green Belt” zone;
 - (c) to the immediate south is unused land with some temporary domestic structures to the further south; and
 - (d) to the west are vacant land, an open storage site and fallow agricultural land.

8. Planning Intention

The planning intention of the “OU(PBU)” zone is intended primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Lot 143 in D.D. 52 (the Lot) and adjoining government land (GL). The Lot is an Old Schedule Lot held under the Block Government Lease (demised for agriculture use) without any guaranteed right of access. The applicant should make his own arrangement for acquiring access to the Site. There is no guarantee that any adjoining government land (GL) will be allowed for vehicular access to the Site;
- (b) an unauthorised structure is erected on the Lot and a portion of adjoining GL is occupied without approval from her office. Her office reserves the right to take necessary lease enforcement actions against the structure on private lot and land control action against the irregularities on GL as appropriate;
- (c) according to the proposed development, a toilet would be erected on the site. The applicant should note that any proposed toilet facility should meet the current health requirements; and
- (d) if the planning application is approved, the owner of the lot concerned shall apply to her office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area and to regularise the unauthorised structures on Site. The applications for STW and STT will be considered by government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date will be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by her office.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) based on the FI submitted by the applicant, there would be adequate parking, loading / unloading and manoeuvring spaces at the Site, and the provision and management of pedestrian facilities to ensure pedestrian safety i.e. signage would be erected at the entrance of the Site, she has no further comment on the application from traffic engineering point of view and considers that the traffic impact induced by the proposed development is tolerable;
- (b) the vehicular access between the Site and Man Kam To Road is not managed by her office. The applicant should seek comment from responsible party; and

- (c) should the application be approved, the applicant is required to implement the traffic management measures as proposed by the applicant to her satisfaction.

Environment

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

- (a) he has no objection to the application; and
- (b) the applicant is advised to avoid water quality impacts on the watercourse in close vicinity of the Site during construction phase by adopting mitigation measures in ProPECC PN 1/94; and to follow the environmental mitigation measures as set out in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites and Temporary Uses' (CoP) during operation phase to minimise any possible environmental nuisances and water quality pollution. Should a septic tank and soakaway system be adopted, its design, construction, operation and maintenance should follow ProPECC 5/93.

Landscape

9.1.4 Comments of the Chief Town Planner/Urban Design and Landscape (CTP/UD&L, PlanD):

- (a) she has no objection to the application from the urban design and landscape planning perspective as no significant landscape impact arising from the proposed development is anticipated; and
- (b) should the application be approved, it is considered not necessary to impose a landscape condition in the planning permission.

Electricity Supply and Safety

9.1.5 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) he has no objection to the application from electricity supply and safety perspectives; and
- (b) the applicant is advised to observe the safety requirements as specified in relevant guidelines and regulations. Detailed comments are appended in **Appendix IV**.

Drainage

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

- (a) he has no objection to the application; and

- (b) should the application be approved, the applicant is required to submit and implement a drainage proposal for the Site to ensure that it will not cause any adverse drainage impact to the adjacent area. Detailed comments are appended in **Appendix IV**; and
- (c) the Site is in an area where no public sewerage connection is available.

Fire Safety

9.1.7 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) and water supplies being provided to the satisfaction of his department; and
- (b) detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. His detailed comments are appended at **Appendix IV**.

Building Matters

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

- (a) he has no objection in-principle under the Buildings Ordinance to the proposed use on the Site. There is no record of approval by the Building Authority for the existing buildings/structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application; and
- (b) his advisory comments are at **Appendix IV**.

District Officer's Comments

9.1.9 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- he has consulted the locals regarding the application. Three Indigenous Inhabitant Representatives (IIRs) of Sheung Shui Heung object to the proposal on the grounds that the proposed development would generate environmental and noise pollution; bring adverse impacts to the traffic conditions and public safety in the neighbourhood; and affect the fung shui of Sheung Shui Heung. The Chairman of Sheung Shui District Rural Committee, the Chairman of Fung Shui Area Committee and the Resident Representative (RR) of Sheung Shui Heung indicate no comment on the application.

9.2 The following government departments have no comment on/no objection to the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. **Public Comments Received During Statutory Publication Period (Appendix III)**

On 7.1.2022, the application was published for public inspection. During the statutory public inspection period, 3 public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Two individuals raise objection to the application mainly on the grounds that the proposed development would cause adverse traffic and environmental impacts on the surrounding areas, increase fire risk and pose threats to the villagers; and the proposed development would pose interference to the 132kV overhead electricity supply line which traverses the Site and cause electrical hazards.

11. **Planning Consideration and Assessments**

- 11.1 The application is for a proposed temporary vehicle repair workshop for private car for a period of 3 years at the Site zoned “OU(PBU)” (**Plan A-1**). While, the proposed development is considered generally not in line with the planning intention of the “OU(PBU)” zone which is primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses, the Site is currently hard paved and surrounded by open storage yards and warehouses uses and it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “OU(PBU)” zone.
- 11.2 The proposed development is considered not incompatible with the surrounding land uses comprising mainly warehouses, open storage yards and some temporary structures (**Plan A-2**). Since significant adverse impact arising from the temporary use under the application on existing landscape resources is not anticipated, CTP/UD&L, PlanD has no objection from landscape planning perspective.
- 11.3 Having reviewed the FI submitted by the applicant and noting that the applicant will implement relevant traffic/pedestrian management measures, C for T has no further comment on the application from traffic engineering point of view and considers that the traffic impact induced by the proposed development is tolerable. DEP has no objection to the application and advises the applicant to follow the environmental mitigation measures as set out in the revised CoP. Other government departments consulted, including D of FS, CE/C of WSD, CE/MN of DSD and DEMS, have no objection to or no adverse comment on the application.
- 11.4 The Site is part of the subject of 2 previous applications (No. A/NE-FTA/64 & 146) for temporary open storage uses, which were rejected by the Committee in 2004 and 2014 respectively mainly on the grounds that the applicants failed to demonstrate that the proposed development would not pose interference to the overhead electricity supply line which traverses the Site. According to the layout of the proposed development, no temporary structure will be erected under the section of the overhead power line traversing the Site (**Plan A-2 and Drawing A-1**), at which only vehicles waiting for repairing would be parked. DEMS has no objection to the application. The planning circumstances of the current application are different from the previously rejected applications.
- 11.5 Regarding the local comments conveyed by DO(N), HAD and public comments on the application as detailed in paragraphs 9.1.9 and 10 above, government departments’ comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account local comments conveyed by DO(N), HAD and public comments as detailed in paragraphs 9.1.9 and 10 respectively, the Planning Department has no objection to the application.
- 12.2 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 18.2.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a 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 18.8.2022;
- (b) in relation to (a) above, the provision of drainage facilities 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 18.11.2022;
- (c) the submission of proposals for water supplies for fire-fighting and fire service installations 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 18.8.2022;
- (d) in relation to (c) above, the provision of water supplies for fire-fighting and fire service installations 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 18.11.2022;
- (e) the implementation of traffic management measures within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 18.11.2022;
- (f) if any of the above planning conditions (a), (b), (c), (d) or (e) 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 at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:
- the proposed development is not in line with the planning intention of the "OU(PBU)" zone, which is intended primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form with Attachments received on 30.12.2021
Appendix Ia	Further Information received on 24.1.2022
Appendix II	Previous Applications
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	UAV Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2022**