

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/225

- Applicant** : Skywin International Development Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 1827 S.B (Part), 1827 S.B ss.1, 1828 (Part), 1843 (Part), 1844 (Part), 1845 (Part), 1846 (Part), 1848 and 1849 (Part) in D.D. 125 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long, New Territories
- Site Area** : 5,748m² (about) (including about 1,520m² of GL (about 26.4%))
- 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”) (78.6%);
[Restricted to a maximum plot ratio (PR) of 5.5 and maximum building height (BH) of 140mPD]
- “Residential (Group A)4” (“R(A)4”) (10.3%); and
[Restricted to a maximum PR of 5 and maximum BH of 120mPD]
- “Open Space” (“O”)(11.1%)
- Application** : Temporary Warehouse for Storage of Spare Parts and Adblue 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 warehouse for storage of spare parts and adblue for a period of 3 years (**Plan A-1a**). The Site is zoned “R(A)3” (78.6%), “R(A)4” (10.3%) and “O” (11.1%) on the approved HSK and HT OZP. 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 to 4b**).
- 1.2 The Site is involved in 16 previous applications (No. A/YL-HT/2, 7, 171, 188, 211, 233, 477, 507, 539, 570, 632, 662, 733, 811 and 928 and A/HSK/31) for various open storage, recycling centre, logistics centre and vehicle parking uses (**Plan A-1b**). The last application No. A/HSK/31 for the same applied use was

approved by the Rural and New Town Planning Committee (the Committee) of the Board on 22.12.2017 for a period of 3 years but the permission was subsequently revoked on 22.5.2020 due to non-compliance with time-specific approval condition on the provision of the fire service installations (FSIs). The current application is submitted by the same applicant for the same use with the same development parameters.

1.3 The Site is accessible from Ping Ha Road via a local track and the ingress/egress point is at the eastern part of the Site (**Drawing A-1, Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-2**, a total of 8 structures with a floor area of not exceeding 3,781m² are proposed including a 10m high warehouse structure with a total floor area of not exceeding 3,560m² located at the western part of the Site for storage purpose, two 3m high electricity meter rooms (9m² and 6m² respectively) at the south-western corner and southern boundary of the Site. At the eastern part of the Site are two single storey structures (each of 4m high and 60m²) for site office and toilet uses, a 4.5m high water tank and pump room (60m²), a single storey guard room (3m high and 6m²) and a 3.5m high toilet (20m²). A total of 2 parking spaces for private car and 2 loading/unloading bays for medium/heavy goods vehicle are also proposed. The remaining areas are for manoeuvring space. According to the applicant, the operation hours are from 7:00 am to 9:00 pm from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The proposed landscape and tree preservation plan, as-built drainage plan and FSIs plan submitted by the applicant are at **Drawings A-3 to A-5**.

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/31) (a) (Revoked on 22.5.2020)	Current Application (A/HSK/225) (b)	Difference (b) - (a)
Applied Use	Temporary Warehouse for Storage of Spare Parts and Adblue (3 years)		Same
Site Area	5,748m ²		Same
No. of Structures	8		Same
Total Floor Area	3,781m ²		Same
No. of Parking Spaces	2 for private cars		Same
No. of Loading/unloading Spaces	2 for Medium/Heavy Goods Vehicles		Same
Operation Hours	7:00 a.m. to 9:00 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:

- (a) Application Form with annex and plans received on 4.5.2020. (**Appendix I**)
- (b) Supplementary Information (SI) received on 8.5.2020 providing planning justification (**Appendix Ia**)

- (c) Further Information (FI) received on 15.5.2020 providing **(Appendix Ib)** the FSIs proposal
[accepted and exempted from publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are attached to the Application Form at **Appendix I** and supplemented in SI at **Appendix Ia**. They can be summarized as follows:

- (a) The proposed development is temporary in nature and would not jeopardize the long-term planning intention of the area.
- (b) The Site is subject to a number of previous planning permissions for open storage and port back-up use since 1996.
- (c) The development conforms with Town Planning Board Guidelines for Application for open Storage and Port Back-up Uses (TPB PG-No. 13F)¹ as the Site is subject to previous planning permissions.
- (d) The adjoining areas are occupied for open storage and port back-up uses which make the proposed development not incompatible with the surrounding environment. Most of them were granted with planning permissions. Similar preferential treatment should be granted for the current application.
- (e) There is a shortage of land for port back-up use in Ha Tsuen.
- (f) There were sufficient mitigation measures and the impact to the environment, traffic and drainage are expected to be insignificant as the applied use is housed within enclosed structures and surface U-channel has been provided.
- (g) Follow up actions on the provision of FSIs in the previous application are being undertaken subsequent to examination by Fire Services Department. However, the implementation of FSIs can only be finished by June 2020. The applicant will comply with all approval conditions this time.

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 notices to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPB PG-No. 31A are not applicable to the Government land portion.

4. Background

The storage use on the Site would be subject to planning enforcement action.

¹ The applied warehouse use is not classified as open storage and port back-up uses and the TPB-PG No. 13F is not applicable.

5. Previous Applications

- 5.1 The Site is the subject of 16 previous applications (No. A/YL-HT/2, 7, 171, 188, 211, 233, 477, 507, 539, 570, 632, 662, 733, 811 and 928 and A/HSK/31) for various open storage, recycling centre, logistics centre and vehicle parking uses. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 11 of these applications were approved with conditions by the Committee/Board between 1996 and 2017 on the considerations that the applied uses were not incompatible with the surrounding areas, generally in line with the then Town Planning Board Guidelines TPB PG-No. 13E and no major adverse comments from concerned Government departments. Amongst these, seven of the applications (No. A/YL-HT/7, 477, 507, 539, 570, 662 and A/HSK/31) were subsequently revoked due to non-compliance with time-specific approval conditions.
- 5.3 The remaining 5 applications were rejected by the Committee/Board between 1995 and 2002 on the considerations that the development was not in line with the intention of the zonings, had adverse impacts on the surrounding area and would create undesirable precedents for similar applications.
- 5.4 The last application No. A/HSK/31 for temporary warehouse for storage of spare parts and adblue was approved by the Committee on 22.12.2017 for a period of 3 years but was revoked on 22.5.2020 due to non-compliance with time-specific condition on the provision of FSIs. Comparing with the last approved application, the current application is submitted by the same applicant for the same use at the same site with the same layout.

6. Similar Applications

There are 4 similar applications (No. A/HSK/37, 70, 177 and 183) for various warehouse and office uses within the same “R(A)3”, “R(A)4” and “O” zones on the approved HSK and HT OZP. All of these similar applications were approved with conditions by the Committee between 2018 to 2019 on similar considerations as mentioned in paragraph 5.2 above. However, the permissions under applications No. A/HSK/37 and 70 were subsequently revoked due to non-compliance with the time-specific approval conditions. Details of the above applications are summarized at **Appendix III** and their locations are shown on **Plan A-1a**.

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

- 7.1 The Site is:
 - (a) being used for the applied use without valid planning permission; and
 - (b) accessible from Ping Ha Road via a local track.
- 7.2 The surrounding areas have the following characteristics:
 - (a) to its immediate north is an open storage of construction materials. To its further north is parking of vehicles and trucks, and vehicle service centre;
 - (b) to the east are Tin Ying Road and a drainage channel;

- (c) to the immediate south is a warehouse and an open storage of recycling material. To the further south is an open storage of scrap metal under a valid planning permission (Application No. A/HSK/122); and
- (d) to its northwest, west and southwest are open storage of containers, two logistics centre and a warehouse with valid planning permissions (Applications No. A/HSK/105, 177, 183 and 187).

8. Planning Intentions

- 8.1 The planning intention of the “R(A)3” and “R(A)4” zones are 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.
- 8.2 On the other hand, the planning intention of the “O” zone is primarily for the provision of outdoor open-air public space of active and/or passive recreational uses serving the needs of local residents as well as the general public.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application received are summarized as follows:

Land Administration

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

- (a) The Site comprises GL and Old Schedule Agricultural Lots (OSALs). The OSALs are held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) The GL within the Site (of about 1,520m² subject to verification) is covered by Short Term Tenancy No. 2835 (STT 2835) for the purposes of Temporary Logistics Centre and Warehouse for Storage of Metal with Ancillary Workshop.
- (c) The private lots covered by Short Term Waivers (STWs) are listed below:

Lot(s) No(s). in D.D.125	STW No.	Purposes
1845	3616	Temporary Recyclable Collection Centre (Including Plastics, Paper and Metals) with Ancillary Workshop and Site Offices
1846	4454	
1846	4057	Temporary Logistics Centre and Warehouse for Storage of Metal with Ancillary Workshop

1827 S.B	4656	Temporary Storage of Construction Materials and Containers, Logistics Centre and Ancillary Workshop
1827 S.B ss.1	5003	Temporary Logistics Centre and Warehouse for Storage of Metal with Ancillary Workshop and Temporary Storage of Construction Materials and Containers, Logistics Centre and Ancillary Workshop
1828	5004	
1843, 1844 and 1848	5005	
1849	5006	

- (d) Should the application be approved, the STW/STT holders will need to apply to his office for modification of the STW/STT conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation 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 rent or fee, as may be imposed by LandsD.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no adverse comment to the application from traffic engineering view point.
- (b) Sufficient manoeuvring space 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 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.

9.1.3 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

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

- (a) There were no substantiated environmental complaints pertaining to the Site received in the past 3 years.
- (b) 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

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

- (a) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application No. A/HSK/31 will be maintained for the subject development. He has no objection in principle to the development from a drainage point of view.
- (b) Should the application be approved, a condition should be stipulated in the approval requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (c) The applicant is reminded that the required condition record should include coloured photos showing the current condition of the drainage facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catch pits, sand traps, manholes, terminal catch pits/ manholes and the downstream discharge path as indicated on the submitted drainage proposal.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of BA should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

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 FSIs being provided to his satisfaction.
- (b) The FSIs proposal in the application is considered acceptable to his Department. Please be advised that the installation/maintenance/modification/repair work of FSIs shall be undertaken by an Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/maintenance/modification/repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to D of FS.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Long-Term Development

9.1.8 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. According to the Planning and Engineering Study for the HSK/HT NDA and the latest plan, to ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The lot(s) concerned falls within a site under Stages 3 and 4 Works in the latest programme of the HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that clearance of the Site will not be arranged before 2024.

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

- (a) The Site is zoned “R(A)3”, “R(A)4” and “O” on the approved HSK & 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. He has no plan to develop the Site into public open space at present.
- (b) Since the application period is only three years, he has no in-principle objection to the application.

District Officer’s Comments

9.1.10 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

- (a) He has no comment on the application.
- (b) His office has not received any comment from the locals on the application.

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

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

10. Public Comments Received During Statutory Publication Period

On 12.5.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from an individual and a district councillor were received. The commenters are of the view that the planned developments in the HSK/HT NDA should be implemented according to specified timelines instead of continual approving temporary developments and that the application will jeopardize the long term development of HSK/HT NDA (**Appendices IV-1 & 2**).

11. Planning Considerations and Assessments

11.1 The application is for temporary warehouse for storage of spare parts and adblue for a period of 3 years at a site zoned “R(A)3”, “R(A)4” and “O” on the approved HSK and HT OZP. The planning intentions of the “R(A)3” and “R(A)4” zones are primarily for high-density residential developments while that for the “O” zone is intended for the provision of outdoor open-air public space. Whilst the applied use is not in line with the planning intentions, the implementation programme for this part of NDA is still being formulated, and PM/W of CEDD and DLCS have no objection to the temporary use for a period of 3 years 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.

- 11.2 The temporary warehouse for storage of spare parts and adblue under application is not incompatible with the surrounding land uses which are predominantly used for open storage yards, warehouses and logistics centres (**Plan A-2**).
- 11.3 There is no adverse comment from concerned Government departments including DEP. There was also no substantiated environmental complaint pertaining to the Site in the past three years. Relevant approval conditions have been recommended in paragraph 12.2 to address the possible environmental nuisances or the technical requirements of the concerned Government departments. 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 be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 11.4 There are 11 previously approved planning applications for open storage, recycling centre, logistics centre and vehicle parking uses at the Site (**Plan A-1b**) and 4 similar applications approved for warehouse and office uses in the same "R(A)3", "O" and "R(A)4" zones on the approved HSK and HT OZP (**Plan A-1a**). Approval of the subject application is in line with the Committee's previous decisions. While the planning permission under the last approved application (No. A/HSK/31) was revoked due to non-compliance with the approval condition on the provision of FSIs, relevant proposal has been included in the current submission and is accepted by D of FS and the applicant committed to complete the implementation of the required FSIs timely (**Appendices I and Ia**). As such, sympathetic consideration may be given to this application. However, as the previous application submitted by the same applicant has been revoked, should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. 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 would not be given to any further application.
- 11.5 There are two public comments received on the application during statutory publication period as summarised in paragraph 10. The planning considerations and assessments in the above paragraphs are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary warehouse for storage of spare parts and adblue could be tolerated for a period of 3 years.
- 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 3 years until **26.6.2023**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 9:00 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) the existing trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the Site should be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **26.9.2020**;
- (g) the implementation of the accepted 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 **26.12.2020**;
- (h) if any of the above planning conditions (a), (b), (c), (d) or (e) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (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**.

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

the development is not in line with the planning intentions of the "R(A)3", "R(A)4" and "O" zones, which are intended primarily for high-density residential developments and the provision of outdoor open-air public space. There is no strong planning justification to deviate from the planning intentions, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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 the planning justification, proposed vehicular access plan, proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan received on 4.5.2020
Appendix Ia	SI received on 8.5.2020 providing the planning justifications
Appendix Ib	FI received on 15.5.2020 providing the FSIs proposal
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within the same “R(A)3”, “R(A)4” and “O” Zones on the approved Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2
Appendices IV-1 & 2	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Drawing A-5	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 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2020**