

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/273

- 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
- Site Area** : 16,476m² (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
- Zoning** : “Other Specified Uses” annotated “Logistics Facility” (“OU(LF)”) (75.1%);
and
[restricted to maximum plot ratio of 5 and maximum building height of 110mPD]
“Open Space” (“O”) (24.9%)
- Application** : Proposed Temporary Warehouse for Storage of Miscellaneous Goods for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of miscellaneous goods for a period of 3 years (**Plan A-1a**). The Site falls within an area zoned “OU(LF)” (75.1%) and “O” (24.9%) on the approved HSK and HT OZP. According to the Notes of the OZP, ‘Warehouse (excluding Dangerous Goods Godown)’ is a Column 1 use under the “OU(LF)” zone and is always permitted, whereas such use is neither a Column 1 nor 2 use under the “O” zone. Nevertheless, according to the covering Notes of the OZP, temporary use not exceeding a period of three years 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 open storage of construction machinery and materials with valid planning permission (**Plans A-4a and 4b**).
- 1.2 The Site is related to 14 previous applications for various temporary open storage uses (**Plan A-1b**). The last application No. A/HSK/45 for temporary open storage of construction machinery and construction materials and ancillary site office was approved with conditions by the Rural and New Town Planning Committee (the

Committee) of the Board for a period of 3 years on 9.2.2018 with validity till 9.2.2021. All time-limited approval conditions have been complied with. The current application is submitted by the same applicant at the same site for a different applied use.

- 1.3 The Site is accessible from Ha Tsuen Road via an adjoining logistics centre and the ingress/egress point is at the south-western corner of the Site (**Drawing A-1 and Plans A-2 to A-3**). As shown on the layout plan at **Drawing A-2**, there will be 3 temporary structures with a total floor area of 22,040m² including a two-storey (13m high) structure (with a floor area of 21,780m²) for warehouse use, a two-storey (10m high) structure (with a floor area of 230m²) for office use and a single-storey (3m high) structure (with a floor area of 30m²) for guardroom. 2 parking spaces for private cars/light goods vehicles and 4 loading/unloading spaces for medium/heavy goods vehicles are provided. According to the applicant, miscellaneous goods to be stored at the Site include food, apparel, footwear, electronic goods, etc. No repairing, dismantling, assembling or other workshop activity would be allowed on the Site. The operation hours will be 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 landscape and tree preservation plan and as-built drainage plan submitted by the applicant are at **Drawings A-3 and A-4**.
- 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/45) (a)	Current Application (A/HSK/273) (b)	Difference (b) - (a)
Applied Use	Temporary open storage of construction machinery and construction materials and ancillary site office (3 years)	Temporary warehouse for storage of miscellaneous goods (3 years)	Different applied use
Site Area	16,476m ²		Same
No. of Structures	13	3	-10 (-77%)
Total Floor Area	3,467 m ²	22,040m ²	+18,573m ²
Height of Structures	1-2 storey (3 to 7.5m high)	1-2 storey (3 to 13m high)	Taller
No. of Parking Spaces	• 4 for private car/light goods vehicles	• 2 for private car/light goods vehicles	• -2 for private car/light goods vehicles
No. of Loading/Unloading Spaces	• 1 for medium/heavy goods vehicle	• 4 for medium/heavy goods vehicles	• +3 for medium/heavy goods vehicles
Operation Hours	8:00 a.m. to 8:00 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 received on 13.11.2020 **(Appendix I)**
- (b) Supplementary planning statement **(Appendix Ia)**

- (c) Further Information (FI) received on 18.12.2020 revising two loading/unloading spaces for medium/heavy goods vehicles **(Appendix Ib)**
[exempted from publication and recounting requirements]

2. Justifications from the Applicant

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

- (a) The applied use is in line with the planning intention of the “OU(LF)” zone while the the planning intention of the “O” zone could not be realized in the coming 3 years due to land resumption for the development of Hung Shui Kiu new town is yet to commence. The proposed development would not result in any long-term adverse impacts to the planning intention of the area.
- (b) The Site is the subject of two previous planning permissions No. A/YL-HT/924 and A/HSK/45 for temporary open storage use and the Site is not a new development on green site. The applicant had complied with all the approval conditions in the previous planning permissions. In view of the change of use to temporary warehouse for storage purpose, a fresh application is submitted.
- (c) The proposed development conforms to the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) since the Site is for existing open storage and port back-up uses with previous planning approvals and permitted under the previous OZPs.¹
- (d) The adjoining land lots are almost wholly occupied for open storage and/or port back-up uses such as logistics centres, temporary warehouses, container depot and open storage yards. Almost all of them were either ‘existing use’ or granted with planning permissions on temporary basis. Since the proposed development is not incompatible with the surrounding environment, preferential treatment should be given to the current application.
- (e) A number of environmental mitigation measures including restricted operation hours and peripheral planting and drainage facilities are proposed to minimize potential impacts. In addition, compared with the previous application, the proposed development will store miscellaneous goods within enclosed warehouse which is more static and favourable to the surrounding environment.

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 notices on local newspapers. Detailed information would be deposited at the meeting for Members’ inspection.

¹ TPB PG-No. 13F is not applicable to the applied warehouse use.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site is related to 14 previous applications (No. A/YL-HT/81, 154, 244, 390, 524, 540, 552, 576, 621, 634, 791, 900 and 924 and A/HSK/45) for various temporary open storage uses. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Of these previous applications, 10 applications (No. A/YL-HT/81, 154, 244, 390, 540, 621, 791, 900 and 924 and A/HSK/45) were approved with conditions by the Committee for a period of 3 years between 1999 to 2018 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. 13 and no major adverse comments from concerned Government departments. However, the planning permissions under applications No. A/YL-HT/154, 540, 791 and 900 were subsequently revoked due to non-compliance with the time-specific approval conditions.
- 5.3 Applications No. A/YL-HT/524, 552, 576 and 634 were rejected by the Committee mainly on the 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.
- 5.4 The last application No. A/HSK/45 for temporary open storage of construction machinery and construction material and ancillary site office was approved with conditions by the Committee for a period of 3 years on 9.2.2018. All time-limited approval conditions have been complied with. Compared with the last application, the current application is submitted by the same applicant at the same site for a different use with different layout and development parameters.

6. Similar Application

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

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

- 7.1 The Site is:
 - (a) currently used for open storage of construction machinery and construction material under valid planning permission; and
 - (b) accessible from Ha Tsuen Road via an adjoining logistics centre.
- 7.2 The surrounding areas have the following characteristics:
 - (a) to its immediate north and northeast are some active agricultural land and the residential dwellings/village settlement of Tseung Kong Wai (the nearest one is about 24m away) (**Plan A-2**);

- (b) to its east are some vacant land, an open storage yard of construction materials and two residential structures;
- (c) to its immediate south is 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 while to its northwest and southwest is a vehicle park and a piece of unused land respectively.

8. **Planning Intentions**

- 8.1 The planning intention of the “OU (LF)” zone is primarily for development of modern logistic facilities to complement the development of Hong Kong as a Regional Distribution Centre and Logistic Hub.
- 8.2 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 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 Old Scheduled Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The private lots covered by Short Term Waivers (STWs) are listed below:

Lot No. in D.D.125	STW No.	Purposes
1143 RP	4356	Temporary Open Storage of Construction Machinery and Construction Material and Ancillary Site Office
1153	4357	
1154 RP	4358	
1155	4359	(i) Temporary Open Storage of Construction Machinery and Construction Material and Ancillary Site Office (ii) Warehouse (excluding Dangerous Goods Godown)
1156 & 1158	4984	Warehouse (excluding Dangerous Goods Godown)
1138	5101	Temporary Open Storage of Construction Machinery and Construction Material and Ancillary Site Office
1139 RP	5102	Temporary Open Storage of Construction Machinery and Construction Material and Ancillary Site Office

1169	5104	Temporary Open Storage of Construction Machinery and Construction Material and Ancillary Site Office
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- (c) Should the application be approved, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. The STW holders will need to apply to his office for modification of the STW conditions where appropriate. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comments on the application from traffic engineering view point.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The 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 Transport Department (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) He does not support the application because there are sensitive uses in the vicinity of the Site (the nearest residential dwelling being about 24m away) (**Plan A-2**) and environmental nuisance is expected.
- (b) There was no 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 relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites'.

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/45 will be maintained for the subject development. He has no objection in principle to the application 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 should be reminded of his detailed comments in **Appendix IV**.

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) The applicant should be reminded of his detailed comments in **Appendix IV**.

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 services installations (FSIs) being provided to his satisfaction.
 - (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to him for approval.
 - (c) The applicant should be reminded of his detailed comments in **Appendix IV**.

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, 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 New Development Area (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 Second Phase and 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 approval as required, the Government planned to acquire these relevant sites by end 2023 for the development of HSK/HT NDA.

Others

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

- (a) The Site falls within areas zoned “OU(LF)” 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 involves private lots only, he has no in-principle objection to the application.

9.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) The applicant should take note of any interfacing issue with the proposed fresh and flushing water mains designed and implemented under the HSK/HT NDA project that will intersect the Site (**Plan A-2**).

District Officer’s Comments

9.1.11 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.

9.2. Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application.

10. Public Comment Received During Statutory Publication Period

On 20.11.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments from two individuals and a Yuen Long District Councillor were received. The commenters raised concerns/ objected to the application on reasons that the development will increase traffic flow and pose safety hazards/environmental degradation for the villagers, and that the brownfield uses should be relocated to multi-storey building(s) in appropriate area for efficient land use. The proposed building height of 13m was also considered excessive as it would cause visual intrusion (**Appendices III-1 to 3**).

11. Planning Considerations and Assessment

- 11.1 The application is for proposed temporary warehouse for storage of miscellaneous goods for a period of 3 years at the site within an area zoned “OU(LF)” (75.1%) and “O” (24.9%) on the OZP. The planning intention of the “OU(LF)” zone is primarily for development of modern logistic facilities to complement the development of Hong Kong as a Regional Distribution Centre and Logistic Hub, whereas 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 residents as well as the general public. It is noted that majority of the Site (about 75%) falls with the “OU(LF)” zone in which ‘Warehouse (excluding Dangerous Goods Godown)’ is a Column 1 use under the zone and is always permitted. Whilst the development is not in line with the planning intention of the “O” zone, PM/W of CEDD and DLCS have no objection to the temporary use at the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government projects.
- 11.2 The Site is located in an area predominantly occupied by various open storage yards and port back-up facilities. The applied use is generally not incompatible with the surrounding major land uses.
- 11.3 There is no adverse comment from concerned Government departments, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the nearest residential dwelling being about 24m away), and environmental nuisance is expected (**Plan A-2**). However, there were no environmental complaints pertaining to the Site in the past three years. Furthermore, relevant approval conditions have been recommended in paragraph 12.2 to address the concerns on the possible environmental nuisances or the technical requirements of the other 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 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 nearby sensitive receivers.
- 11.4 There are 10 previous planning approvals for various temporary open storage uses at the Site (**Plan A-1b**). Approval of the subject application is in line with the Committee’s previous decisions. Besides, the current application is submitted by the same applicant of the last approved application No. A/HSK/45 for temporary open storage of construction machinery and construction materials for a period of 3 years till 9.2.2021 and all time-limited approval conditions complied with. As such, sympathetic consideration may be given to the application.
- 11.5 There are three public comments received on the application during the statutory publication period as summarised in paragraph 10 above. 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 miscellaneous goods 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 **8.1.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 8:00 p.m. to 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 or any other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (e) the landscape planting on the Site shall be maintained at all time during the planning approval period;
- (f) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on Site within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **8.4.2021**;
- (h) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **8.7.2021**;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **8.10.2021**;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) 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 (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 IV**.

12.3 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 residents as well as the general public. There is no strong planning justification to deviate from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied development would not have adverse environmental impact on the surrounding areas.

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 received on 13.11.2020 with planning statement and drawings
Appendix Ia	Supplementary planning statement with proposed vehicular access, proposed layout plan, as-planted landscape and tree preservation plan and as-built drainage plan
Appendix Ib	FI received on 18.12.2020 revising two loading/unloading spaces for medium/heavy goods vehicles instead of for container vehicles
Appendix II	Previous Applications Covering the Site
Appendices III-1 to 3	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-planted Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos