

30th September 2024

Your Ref.: -

Our Ref.: 2024/(PSIL)JTHSKOS/PSIL/TPB/L01_S17

By Post & Email

Town Planning Board Secretariat
15/F, North Point Government Offices
333 Java Road, North Point, Hong Kong

Dear Officer,

Re: Section 17 Review under the Town Planning Ordinance for the Section 16 Application (Application No. A/HSK/530) for the Proposed Temporary ‘Open Storage of Construction Materials with Ancillary Site Office’ for a Period of 3 Years at Lot Nos. 207 (Part) and 208 (Part) in Demarcation District (D.D.) 125, Hung Shui Kiu, Yuen Long, New Territories, Hong Kong

- S17 Review on S.16 Application No. A/HSK/530 -

I refer to your letter dated 09.09.2024.

On behalf of the Applicant, Chung Kin Engineering (International) Limited (CKEIL), Prudential Surveyors International Limited (PSIL) hereby submit under Section 17 of the Town Planning Ordinance a request to review a decision of the Town Planning Board on the S.16 Application No. A/HSK/530 issued on 09.09.2024.

It is important to point out the TPB’s considerations in respect of the Application are mainly based on the planning assessment as state on the Rural and New Town Planning Committee (RNTPC) Paper and the relevant extract of minutes of the RNTPC meeting held on 16.08.2024. We believe the application decision deserves a review due to the following response to address the TPB rejection reasons: -

TPB Rejection Reason (a)

The proposed use with associated filling of land is not in line with the planning intention of the “Green Belt” zone which is primarily for the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;

Response

Referring to the Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No. S/HSK/2 (the OZP), the planning intention of the “Green Belt” (“GB”) zone which “is primarily for the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets.” This is elaborated in the Town Planning Board Guidelines for Application for Development within Green Belt Zone, section 1.3 (TPB PG-No. 10), “to conserve existing landscape features, areas of scenic value and areas of recognized “fung shui” importance; to define the outer limits of urbanized districts and to serve as a buffer between and within urban areas; and to provide additional outlets for passive recreational uses.”

Referring to the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department from the Appendix IV of the RNTPC Paper No. A/HSK/530, "with reference to the aerial photo of 2023, the Site is situated in an area of miscellaneous rural fringe landscape character predominated by open storage, temporary structures and scattered tree groups. The proposed use is considered no incompatible with the surrounding environment and character of temporary usage; with reference to aerial photos, noting that Site was covered by dense vegetation in 2014, and then subsequently cleared as observed in aerial photo in 2015. Landscape character and resources of the "GB" zone were already affected. By comparing aerial photos between 2019 and 2023, noting the Site is fenced-off and vacant for years, and no significant vegetation are observed within the Site from site photo records dated 28.06.2024 and as significant landscape impacts arising from the proposed use is not anticipated, she has no comment on the application from landscape planning perspective". Given the above comment from the Chief Town Planner/Urban Design and Landscape, the current site does not consist of features that the "GB" zone is intended to safeguard and the applicability of the planning intention of the "GB" zone for the Site should be reconsidered.

Rejection Reason (b)

The proposed use with associated filling of land is not in line with the TPB Guidelines for Application for Developments within the "Green Belt" Zone (TPB PG-No. 10) in that the proposed development is considered incompatible with the surrounding areas; and

Response

Referring to the TPB PG-No. 10 (2b.), "an application for new development in a "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. In this connection, the TPB PG-No. 10 is only applicable to the new developments which are permanent in nature. Nonetheless, the TPB PG-No. 10 is inapplicable to the current proposed use since the guideline is for permanent use instead of temporary use.

The Applicant would like to reiterate that the current Application is for a proposed Temporary 'Open Storage of Construction Materials with Ancillary Site Office' for a Period of 3 Years. With reference to the Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No. S/HSK/2 (the OZP), section (9) (b), "temporary use or development of any land or building not exceeding a period of three years requires permission from the Town Planning Board. Notwithstanding that the use or development is not provided for in terms of the Plan, the Town Planning Board may grant permission, with or without conditions, for a maximum period of three years, or refuse to grant permission." In this regard, the planning intention of the "Green Belt" zone in the OZP is irrelevant to the current Application and should not be a material matter of consideration to this Application.

Besides, referring to the TPB PG-No. 10, section (g.), "the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment". In this connection, for the sake of clarity, the current Application Site is free from vegetation and does not involve the clearance of existing natural vegetation, or affect the existing natural landscape, or cause any adverse visual impact on the surrounding. This is supported by the Chief Town Planner/Urban Design and Landscape, Planning Department's that "no significant vegetation are observed within the Site from site photo records dated 28.06.2024."

It should be noted that the Application Site is adjacent to other logistic use and is surrounded in an area that is predominately bounded by temporary structures, storage and open storage and woodland intermixed with graves. In terms of compatibility, the Chief Town Planner/Urban Design and Landscape, Planning Department had commented "*the proposed use is considered no incompatible with the surrounding environment and character of temporary usage.*" Given the above, the proposed development has no direct contradiction or deviation from the TPB PG-No. 10 even though the guideline is irrelevant and there area no insurmountable adverse impact as there are no vegetation in existence for the current Application or compatibility issue.

Rejection Reason (c)

The proposed use with associated filling of land is not in line with the TPB Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G) in that new open storage and port back-up uses are generally not encouraged to infiltrate into the New Development Areas.

Response

The Applicant would like to reiterate the current Application is to facilitate the relocation of the existing operation from Lot Nos. 280(Part) and 681 (Part) in D.D. 125, New Territories to facilitate the land resumption for the Hung Shui Kiu and Ha Tsuen New Development Area (NDA) project.

Referring to the Applications in New Development Areas (NDAs) of the TPB PG-No. 13G, section (3.3), "sympathetic consideration may be given to applications for relocation of the uses/operations affected by government projects to sites designated for development purpose in NDAs (including those planned for GIC and open space developments) as temporary use/ development before these sites are required for NDA development, subject to policy support given by the relevant policy bureau(x) to the application and no adverse departmental comments and local objections, or the concerns could be addressed by approval conditions as set out in paragraph 2.6(b) above. There is a general presumption against such uses at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the OS and PBU uses. Applications will normally be rejected unless under exceptional circumstances."

The current application is to facilitate relocation of open storage of construction materials displaced by the government-led Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) project. As the HSK/HT NDA has no land reserved for accommodating affected brownfield operations including the open storage of construction materials, the applicant and other displaced operators need to identify relocation sites elsewhere should they wish to re-establish their businesses. Site search has not been easy for the applicant given the limited supply of private land in the area with the right zoning or operational requirements for his open storage of construction materials and sympathetic consideration should be given.

The Site proposed in the current application is the only one considered suitable and practicable after an extensive site search carried out by the applicant. The proposed open storage of construction materials is not incompatible with the surrounding land uses; will not cause adverse traffic or environmental impacts on the neighbouring area; and is of similar scale of the existing operation to be displaced by the HSK/HT NDA project. Sympathetic consideration is required for the continual operation of the company and to secure the employment of its staff.

The land freed up by the HSK/HT NDA will together with other cleared land be redeveloped into the HSK/HT NDA, capable of providing at least 2 million square metres of commercial floor area, over 70 hectares for industrial sites and about 441 hectares for housing. Facilitating relocation of affected brownfield operations including the open storage of construction materials is crucial to the smooth clearance for and implementation of the NDA project.

It should be made aware that the departments have no objection to the Application and therefore the Proposed Development is technically feasible. Below are the abstracted comments from the Appendix IV of RNTPC Paper No. A/HSK/530 demonstrating there are no adverse departmental comments. Comments of the District Lands Officer/Yuen Long, Lands Department, "*no adverse comment on the application*"; Comments of the Commissioner for Transport, "*no adverse comment on the application from traffic engineering point of view*"; Comments of the Chief Highway Engineer/New Territories West, Highways Department, "*no objection to the application from highway maintenance point of view*"; Comments of the Chief Engineer/Mainland North, Drainage Services Department, "*no objection in principle to the application from drainage point of view*"; Comments of the Director of Environmental Protection, "*no adverse comment on the application*"; Comments of the Director of Fire Services, "*no in-principle objection to the application subject to the fire service installations (FSIs) being provided to his satisfaction*"; Comments of the Chief Building Surveyor/New Territories West, Buildings Department, "*no objection to the application under the Buildings Ordinance*"; Comments of the Project Manager (West), Civil Engineering and Development Department, "*no adverse comment on the application from the development point of view*"; Comments of the Chief Engineer/Construction, Water Supplies Department, "*no objection to the application*"; Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department, "*as significant landscape impact arising from the proposed use is not anticipated, she has no comment on the application from landscape planning perspective*"; Comments of the District Officer (Yuen Long), Home Affairs Department, "*no comment from departmental point of view*"; and, Comments of the Director of Agriculture, Fisheries and Conservation, "*no comment on the application*".

Relating to the Proposed Development within the HSK/HT NDA, it should be noted that the Application Site is about 3,219 sq.m which is smaller to its current operation of about 3,808 sq.m. Given that the existing site and the current Applicant Site is within the same OZP, there is no net increase in OS / PBU uses, in fact a net decrease is recorded.


Referring to the Applications in New Development Areas (NDAs) of the TPB PG-No. 13G section (3.3), "*Any approved temporary use and development should not jeopardize the long-term planned development on the respective site/the surrounding area under the NDA and the applicant should be advised that the site would be required by the government at any time during the planning approval period for implementation of government projects.*"

Although there is no direct policy support, the Applicant is seeking such support from the Development Bureau at this time. It should be noted **all department consulted have no objection**. The objecting two public comments are very limited and were mainly on the grounds of not in line with the planning intention which have been addressed in the above. There are no residential dwelling nearby and therefore the current Application should be approved, given the sympathetic consideration and exceptional circumstances to relocate to facilitate the implementation of HSK/HT NDA project. The Applicant agrees that if the site is required for NDA use, the Applicant would relocate. Besides the TPB can manage the continuity of the

operation by refusing the renewal of the application upon its expiration. Hence, the approval of the temporary use would not jeopardize the long-term planned development on the respective site.

In light of the above responses to the rejection reasons, we believe the current Application deserves a sympathetic consideration review from the TPB. A Technical Planning Letter in support of the planning review application is under preparation and will be submitted in due course. Should you have any further queries, please feel free to contact the undersigned.

Yours faithfully,
For and on behalf of
PRUDENTIAL SURVEYORS INT'L LTD



Raymond C H Tam
Technical Director,
Planning and Development

FW/RT/rt

CC by Email: Applicant