

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/239

<u>Applicant</u>	: Brilliance View Investment Limited represented by 郭志文先生
<u>Site</u>	: Lot 595 in D.D. 114, Shek Kong, Yuen Long
<u>Site Area</u>	: About 727 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Industrial (Group D)” (“I(D)”)
<u>Application</u>	: Proposed Temporary Logistics Centre 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 logistics centre for a period of 3 years. According to the Notes of the OZP, ‘Cargo Handling and Forwarding Facility (Container Freight Station, Logistics Centre only)’ is a column 2 use within the “I(D)” zone which requires planning permission from the Town Planning Board (the Board). The Site is not subject to any previous planning application. The Site is currently paved and occupied by a vacant temporary structure (**Plans A-2 and A-4a to b**).
- 1.2 According to the applicant’s submission, the development will involve a 1-storey temporary structure (maximum 9.7m in height) with a total floor area of 694 m² for storage, logistics and office uses. The operation will mainly involve packing, labelling and sorting of goods. One loading/unloading space for light goods vehicle will be provided. The operation hours will be 8:00 a.m. to 8:00 p.m. Mondays to Saturdays and no operation on Sundays and public holidays. The Site is accessible to Kam Tin Road via local track. The plans showing the layout, access of the Site, landscape proposal and drainage proposal submitted by the applicant are shown on **Drawings A-1 to A-4**.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with supplementary statement and plans received on 28.6.2018 **(Appendix I)**
- (b) Further Information (FI) dated on 1.8.2018 in response to departmental comments **(Appendix Ia)**
(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 detailed in the supplementary statement and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed use is under Column 2 of the “I(D)” zone and is in line with the planning intention. It also does not contravene with the Town Planning Board Planning Guideline No. 13E (TPG PG-No. 13E) on “Application for Open Storage and Port Back-up Uses”.
- (b) The Site is compatible with the surrounding areas. The operation of the proposed use will be clean and tidy and no dangerous goods will be stored at the Site. The average usage of the proposed development will be once a week so the traffic impact brought by the proposed use will be insignificant.
- (c) No tree-felling, filling and/or excavation of land and blockage of water resource will be carried out and no ecological and environmental impact brought by the proposed use is anticipated. Fire services installations have already provided at the Site. Trees and drainage facilities will also be provided at the Site.
- (d) No workshop related activities such as repairing, paint-spraying and car washing will be carried out within the Site. The applicant will follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (the COP) to minimize any nuisance generated from the proposed use to the surrounding area.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner” of the respective lot. Detailed information would be deposited at the meeting for Member’s inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E) promulgated by the Town Planning Board on 17.10.2008 is relevant to the application. The Site falls within the Category 1 areas under the TPB PG-No. 13E. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is not the subject of any active enforcement cases and there is currently no enforcement action against it. The use of the Site for logistics centre or any other form of ‘Cargo Handling and Forwarding Facility’ without a valid planning permission constitutes an unauthorized development under the Town Planning Ordinance. Should there be sufficient evidence to prove that the use on site is an unauthorized development under the Town Planning Ordinance, appropriate enforcement action will be taken.

6. Previous Application

The Site is not subject to any previous application.

7. Similar Application

There is no similar application within the same “I(D)” zone.

9. The Site and Its Surrounding Areas (Plans A-1 to A-4)

9.1 The Site is:

- (a) paved and occupied by a vacant temporary structure; and
- (b) accessible via a local track from Kam Tin Road.

9.2 The surrounding areas are rural in character mixed with workshops, open storage/storage yards, warehouses, residential structures/dwellings and vacant/unused land. (**Plan A-2**):

- (a) to its north are a warehouse, vehicle repair workshop, open storage/storage yards parking of vehicles and vacant/ unused land;
- (b) to its east and southeast are residential structures/dwellings (the nearest about 10m on the southeast); and
- (c) to its south and west are some open storage yards, a warehouse, vehicle repair workshop and residential structures/dwellings.

10. Planning Intention

The planning intention of the “I(D)” zone is intended primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

11. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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 Site is accessible to Kam Tin Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD).
- (d) The land status of the local access road should be checked with the LandsD. Moreover, relevant management and maintenance authorities on using the road for accessing the Site should be consulted.

11.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department does not and will not maintain the access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint received in the past three years. However, according to the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“the COP”), he does not support the application as there are sensitive receivers in the vicinity i.e. residential dwellings on the southeast (the nearest about 10m away) and environmental nuisance is expected.
- (b) 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 the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.

Drainage

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

- (a) He has no objection in principle to the application from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a revised drainage proposal and implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning permission.
- (c) His detailed comments are in **Appendix III**.

Fire Safety

11.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plan should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) If the existing structures are erected on leased land without approval of his department (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.

- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) For UBW erected on leased land, enforcement action may be taken by the 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) 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.
- (d) 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.

District Officer's Comments

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

His office has not received any comments from locals upon close of consultation and has no particular comment on the application.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Commissioner of Police (C of P); and
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

12. Public Comments Received During Statutory Publication Period

On 6.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.7.2018, four public comments from Sheung Tsuen Village Committee Vice-chairman, Sheung Tsuen Village Committee and Sheung Tsuen Indigenous Villager Representatives (**Appendices IV-1 to**

IV-4) objecting the application were received. The objections are mainly on the grounds that the proposed use will cause adverse traffic impact and road safety problem to the nearby villagers with the increased traffic flow of heavy vehicles.

13. Planning Considerations and Assessment

13.1 The Site falls within Category 1 areas stated in the TPB PG-No.13E. The following criteria are relevant:

Category 1 areas: Favorable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be address through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses, such as container trailer/tractor park and open storage of chemical products/dangerous goods etc., may cause significant environmental and traffic concerns.

13.2 The proposed temporary logistics centre is located within the “I(D)” zone which is intended primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. According to the applicant, the proposed logistics centre is for storage, logistic and office uses and is mainly for packing, labelling and sorting of goods. It is considered that the proposed use is not in conflict with the planning intention of “I(D)” zone.

13.3 The proposed logistics centre is considered not incompatible with the surrounding area which is rural in character predominated by workshops, warehouse, open storage/storage yards, vacant/unused land and residential structures/dwellings.

13.4 The application is generally in line with the TPB PG-No. 13E in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up uses; relevant proposals have been submitted to demonstrate that the proposed use would not generate adverse impacts; and the technical requirements and concerns of relevant Government departments could be addressed through the implementation of approval conditions.

13.5 Relevant departments consulted including C for T, CE/MN of DSD and D of FS, excepted DEP, have no adverse comment on the application. DEP does not support the application as there are sensitive receivers in the vicinity (the nearest residential dwelling/structure about 10m to its southeast). No environmental complaint was received by DEP in the past three years. To mitigate any potential environmental nuisance, approval conditions restricting the operation hours and types of vehicles, and prohibiting dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are recommended in paragraph 14.2 (a) to (d) below. Any non-compliance with the approval conditions would result

in revocation of the planning permission and unauthorized development on site would be subject to enforcement action by the Planning Authority. Also, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' issued by Environmental Protection Department in order to minimize the possible environmental impacts on the nearby sensitive receivers. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 14.2 (e) to (j) below.

- 13.6 Four public comments objecting the application were received during the statutory publication period as mentioned in paragraph 12 above. In this regard, C for T has no objection to the application, planning considerations and assessments as stated above are also relevant.

14. Planning Department's Views

- 14.1 Based on the assessment made in paragraph 13 and having taken into account the public comments as mentioned in paragraph 12, the Planning Department considers that the proposed temporary logistics centre could be tolerated for a period of 3 years.
- 14.2 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 17.8.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:
- (a) no operation between 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 medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
 - (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site, as proposed by the applicant, at any time during the planning approval period;
 - (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
 - (f) the submission of a revised 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 17.2.2019;

- (g) in relation to (f) above, the implementation of drainage proposal 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 17.5.2019;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 17.2.2019;
- (j) in relation to (i) above, the provision of 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 17.5.2019;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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
- (l) if any of the above planning conditions (f), (g), (i) or (j) 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 attached at **Appendix V**.

- 14.3 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 intention of the "I(D)" zone which is intended primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

15. Decision Sought

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

- 15.2 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.
- 15.3 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.

16. Attachments

Appendix I	Application form received on 28.6.2018
Appendix Ia	FI received on 1.8.2018 in response to departmental comments
Appendix II	Relevant Extracts of Town Planning Board Guidelines for “Application for Open Storage and Port Back-up uses” (TPB PG-No. 13E)
Appendix III	Detailed comments from CE/MN of DSD
Appendices IV-1 to IV-4	Public comments received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Access Plan of the Site
Drawing A-3	Landscape Proposal
Drawing A-4	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a – A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2018**