

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/351

- Applicant** : Profit Richest Investment Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 33 (Part), 54 (Part), 64 (Part), 65 (Part), 66 (Part), 67 (Part), 69 (Part), 70 (Part), 71, 72 (Part), 73 (Part), 74, 75, 76 (Part), 77 (Part) and 78 S.A (Part) in D.D. 124, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 9,680m²
- 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
- Zonings** : “Open Space” (“O”) (about 58.1%);
“Other Specified Uses” annotated ‘Logistics Facility’ (“OU(LF)”) (about 37.6%); and
[Restricted to maximum plot ratio (PR) of 5 and maximum building height (BH) of 110mPD]
“Village Type Development” (“V”) (about 4.4%).
[Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Proposed Temporary Warehouse for Storage of Food Provision and Electronic Goods and Shop and Services (Shop for Selling Food Provisions) 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 food provision and electronic goods and shop and services (shop for selling food provisions) uses for a period of 3 years (**Plan A-1**). The Site straddles over “O” (about 58.1%) and “OU(LF)” (about 37.6%) zones with minor encroachment onto the “V” zone (about 4.4%) on the approved HSK and HT OZP. According to the Notes of the OZP, ‘Warehouse’ use is always permitted in the “OU(LF)” zone but neither a Column 1 nor Column 2 use under the “O” zone. For the proposed ‘shop and services’ use, it is a Column 2 use under the “OU(LP)” and “O” zones. Nevertheless, the covering Notes of the OZP stipulate that temporary uses 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 mainly occupied by a warehouse without valid planning permission (**Plan A-4**).

1.2 The Site is accessible from a local track leading from Tin Ha Road and the ingress/egress point is at the north-east of the Site (**Plan A-2**). One 2-storey high (12m) temporary structure (GFA of 11,528m²) and one single storey (12m high with GFA of 790m²) are proposed for warehouse and shop and services uses respectively. There will also be 8 other temporary structures with a total floor area of about 716m² and building height ranging of 3m to 12m (1-2 storey) for various ancillary facilities including site offices, staff room, rain shelter, water tank and pump room, guardroom and toilet uses. Two loading/unloading bays (L/UL) for medium goods vehicle (MGV) and heavy goods vehicle (HGV), one L/UL bay for container trailer and 10 private car parking spaces for customers are also provided. The proposed development is intended for storage and sales of electronic goods and food provision such as rice, edible oil, canned food, brand new mobile phones and tablets¹. The proposed vehicular access plan, layout plan and drainage plan are at **Drawings A-1 to A-3**.

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

- (a) Application Form with annex and plans received on 6.12.2021 (**Appendix I**)
- (b) Supplementary Information (SI) received on 9.12.2021 (**Appendix Ia**)
- (b) Further Information (FI) received on 6.1.2022 clarifying the background information (**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 at **Appendices I and Ia**. They can be summarized as follows:

- (a) The Site was zoned “Open Storage” (“OS”) under the previous Ha Tsuen OZP and the applied use has been established for a long time². The applicant wishes to regularize the proposed development because the temporary structures are required to be regularized by Lands Department (LandsD). The proposed development conforms to the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)³.
- (b) There are similar warehouses with planning permission under applications No. A/HSK/296 and 313 within the same “O” zone⁴. The planning circumstances pertaining to the Site are similar to the recently approved case. Preferential consideration should be given to the current application.
- (c) The proposed development is a temporary use for a period of 3 years and would not jeopardize the long-term planning intention of the current zonings. No open storage

¹ The proposed warehouse and shop and services will share the same roof.

² According to the aerial photo taken on 26.5.2017 when the Site was rezoned from “OS(1)” to the current zoning, there was no warehouse structure erected on the Site.

³ TPB PG-No. 13F is not applicable to the applied warehouse use.

⁴ These 2 applications do not fall within the same “O” zoning of the Site

use will be carried out at the Site.

- (d) There will be insignificant environmental and noise impacts since the applied use is housed within an enclosed structure and no operation will be held during sensitive hours. Minimal traffic impact is expected.

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 notice to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

4.1 The Site fell mostly within an area zoned “OS(1)” with minor encroachment onto the adjoining “V” zone on the previous OZP (i.e. the then Ha Tsuen OZP No. S/YL-HT/10) before 2017. On 26.5.2017, the Site was rezoned to the current zonings under the draft HSK and HT OZP No. S/HSK/1).

4.2 The Site is not subject to planning enforcement action.

5. Previous Application

There is no previous application involved at the Site.

6. Similar Application

There is no similar application for warehouse or shop and services use within the same “O” and “OU(LF)” zones.

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

7.1 The Site is:

- (a) fenced off and mainly occupied by a warehouse without valid planning permission; and
- (b) accessible via local track to Tin Ha Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north is a warehouse; to its northwest is an open storage yard;
- (b) to the east is a warehouse; to its southeast are some vacant land;
- (c) to its south are some open storage yards, parking of vehicles (2 under valid planning permissions), warehouse, storage and some residential dwellings (the closest one being about 48m away); to its southwest are warehouses, parking of

vehicles and workshop; and

(d) to its immediate west is a warehouse and an open storage yard.

8. Planning Intentions

- 8.1 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 residential as well as the general public.
- 8.2 The planning intention of the “OU(LF)” zone is primarily for the development of modern logistics facilities to complement the development of Hong Kong as a Regional Distribution Centre and Logistics Hub.

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 Schedule Agricultural Lots (OSALs) 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) According to his record, there is no lease modification/land exchange application or building plan submission in relation to the development at the Site being approved/under processing.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

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.

- 9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/ drains.

Environment

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

- (a) He does not support the application as there are sensitive users in the vicinity of the Site (the nearest residential dwelling being about 48m away) (**Plan A-2**) and the development involves use of heavy vehicles. Environmental nuisance is expected.
- (b) There was one non-substantiated environmental complaint regarding miscellaneous aspect pertaining to the Site received in the past three 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' to minimize any potential environmental nuisance.

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view, and also no comment on the drainage proposal submitted together with the application.
- (b) Should the Board be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

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 for the existing structures at the Site.
- (b) The applicant should be reminded of the 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 service 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 the 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 Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT 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 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 plans to acquire the relevant sites by end 2023 for the development of HSK/HT NDA.

District Officer's Comments

9.1.9 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. The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (b) Director of Leisure and Cultural Services (DLCS).

10. Public Comments Received During Statutory Publication Period

On 14.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received. The commenter raises objection to the application on reasons that the development will increase traffic flow and cause congestion, environmental pollution and fire risk, and affecting the villagers' safety and quality of life (**Appendix III-1**).

11. Planning Considerations and Assessment

11.1 The application is for proposed temporary warehouse for storage of food provision

and electronic goods and shop and services (shop for selling food provisions) for a period of 3 years at a site within an area straddles over “O” (about 58.1%) and “OU(LF)” (about 37.6%) zones with minor encroachment onto the “V” zone (about 4.4%) on the OZP (**Plan A-1**). 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 residential as well as the general public, whereas the planning intention of the “OU(LF)” zone primarily for the development of modern logistics facilities to complement the development of Hong Kong as a Regional Distribution Centre and Logistics Hub. The proposed ‘warehouse’ use is always permitted under the “OU(LF)” zone but ‘shop and services’ use is not entirely in line with the planning intention of the zone. Whilst the proposed use is not in line with the planning intention of “O” zone, the implementation programme for this part of NDA is still being formulated, and PM(W) of CEDD has no objection to and DLCS has no comment on 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 Site is mainly surrounded by open storage yards, workshops and warehouses (**Plan A-2**). The applied use is not incompatible with the surrounding land uses.
- 11.3 Relevant Government departments, including C for T, CE/MN, DSD and D of FS, have no objection to or no adverse comment on the application, except DEP. DEP does not support the application because there are sensitive users in the vicinity of the Site (the nearest residential dwelling being about 48m away) (**Plan A-2**) and the development involves use of heavy vehicles. Environmental nuisance is expected. To address the concerns on the possible environmental nuisances or the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and any unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling Environmental aspects of Temporary Uses and Open Storage Sites” in order to minimize the potential environmental impact.
- 11.4 There is no previous application at the Site and no similar application for warehouse or shop and services use within the same “O” and “OU(LF)” zones.
- 11.5 There is one public comment raising objection to the application during the statutory publication period as summarized 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 comment mentioned in paragraph 10, the Planning Department considers that the proposed temporary warehouse for storage of food provision and electronic goods and shop and services (shop for selling food provisions) 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 **28.1.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the implementation of the accepted 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 **28.10.2022**;
- (b) in relation to (a) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) 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 **28.7.2022**;
- (d) in relation to (c) 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 **28.10.2022**;
- (e) if the above planning condition (b) 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
- (f) if any of the above planning conditions (a), (c) or (d) 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 reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intentions of the "O" and "OU(LF)" zones which are primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residential as well as the general public, and for the development of modern logistics facilities to complement the development of Hong Kong as a Regional Distribution Centre and Logistics Hub. There is no strong planning justification in the submission for a departure 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 annex and plans received on 6.12.2021
Appendix Ia	SI received on 9.12.2021
Appendix Ib	FI received on 6.1.2022
Appendix II	Public Comment
Appendix III	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan with Similar Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**