

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/467

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

Site Area : About 9,680m²

Land Status : Block Government Lease (demised for agricultural use)

Plan : Approved Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/2

Zonings : “Open Space” (“O”) (about 58.1%);

“Other Specified Uses” annotated ‘Logistics Facility’ (“OU(LF)”) (about 37.5%); and
[Restricted to a maximum plot ratio (PR) of 5 and a maximum building height (BH) of 110mPD]

“Village Type Development” (“V”) (about 4.4%)
[Restricted to a maximum BH of 3 storeys (8.23m)]

Application : Temporary Warehouse for Storage of Food Provision and Electronic 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 temporary warehouse for storage of food provision and electronic goods for a period of three years (**Plan A-1**). The Site straddles over “O” (about 58.1%) and “OU(LF)” (about 37.5%) zones with minor encroachment onto the “V” zone (about 4.4%)¹ on the 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. Nevertheless, the covering Notes of the OZP stipulate that temporary use or development of any land or building not exceeding a period of three years requires permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission.

¹ Regarded as minor boundary adjustment allowed under the covering Notes of the OZP.

- 1.2 The Site is accessible from a local track leading from Tin Ha Road and the ingress/egress point is at the northeast corner of the Site (**Drawing A-2 and Plan A-2**). As shown on the proposed layout plan at **Drawing A-2**, there will be one 2-storey temporary structure (not exceeding 12m high with a floor area of not exceeding 13,108m²) for warehouse use. There will also be eight other temporary structures with a total floor area of not exceeding 716m² and BHs ranging from 1 to 2 storeys (from 3m to 12m) for various ancillary facilities including site offices, staff room, rain shelter, water tank and pump room, guardroom and toilet uses. Two loading/unloading (L/UL) bays for medium goods vehicle (MGV) and heavy goods vehicle (HGV), one L/UL bay for container trailer and 10 private car parking spaces are also provided. According to the applicant, the operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays. The applied development is intended for storage of electronic goods and food provision such as rice, edible oil, canned food, brand new mobile phones and tablets. The location plan with proposed vehicular access, proposed layout plan, as-built drainage plan and fire service installations (FSIs) plan submitted by the applicant are shown on **Drawings A-1 to A-4** respectively.
- 1.3 The Site is the subject of a previous application for temporary warehouse use approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2022 (details at paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 12.6.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 19.6.2023 (**Appendix Ia**)
 - (c) Further Information (FI) received on 27.6.2023 (**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 Application Form and FI at **Appendices I and Ib**. They can be summarised as follows:

- (a) The Site has been occupied by the applied use for some time and is subject to a previous planning permission for similar uses. The applied development is temporary in nature and would not jeopardise the long-term planning intention of the current zonings.
- (b) No open storage use will be carried out at the Site. The applied use conforms to the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G)².
- (c) Approvals have been given by the Board to similar applications for warehouse use in the surrounding area of the Site. Preferential consideration should be given to the current application.
- (d) There will be insignificant environmental and noise impacts since the applied use is housed within enclosed structures and no operation will be held during sensitive hours. Insignificant drainage impact and minimal traffic impact are expected.

² TPB PG-No. 13G is not applicable to the applied warehouse use.

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 post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any active planning enforcement action.

5. Previous Application

The Site is the subject of one previous application (No. A/HSK/351) 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 three years approved with conditions by the Committee on 28.1.2022 on the considerations that approval of the application on a temporary basis of three years would not jeopardise the long-term development of the site; the applied use was not incompatible with the surrounding land uses; and relevant Government departments had no objection to or no adverse comment on the application. However, the planning permission was subsequently revoked on 29.7.2023 due to non-compliance with time-limited approval conditions regarding the submission and implementation of FSIs proposal. Compared with the last approved application, the current application is submitted by the same applicant at the same site with similar layout but with the exclusion of shop and services use.

6. Similar Application

There is a similar application (No. A/HSK/424) for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities within/straddling the same “O” and “V” zones on the OZP. The application was approved with conditions by the Committee on 13.1.2022 for a period of three years on the considerations that approval of the application would not jeopardise the long-term development of the site; the applied use was not incompatible with the surrounding land uses; and no adverse comment generally from concerned government departments. Details of the similar application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

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

7.2 The surrounding areas have the following characteristics:

- (a) to its north is a warehouse;

- (b) to its immediate east is a warehouse under valid planning permission; to its southeast is an open storage yard of construction materials which is a suspected unauthorized development (UD);
- (c) to its south are warehouse, vehicle service and some open storage yards which are all suspected UD's and a residential dwelling (about 48m away); to its southwest are two warehouses and an open storage yard of construction machineries; and
- (d) to its west and northwest are a warehouse and an open storage yard of construction machineries.

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 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.
- 9.2 The following government department does not support the application:

Environment

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (the closest dwelling being about 48m away towards the south) (**Plan A-2**) and the applied use involves the use of heavy vehicles. Environmental nuisance is expected; and
- (b) no environmental complaint pertaining to the Site was received in the past three years.

10. Public Comment Received During Statutory Publication Period

On 23.6.2023, 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 objecting to the application on the reasons that the development would pose fire and environmental hazards and the previous approval conditions have not been fulfilled (**Appendix V**).

11. Planning Considerations and Assessment

- 11.1 The application is for temporary warehouse for storage of food provision and electronic goods for a period of three years at the Site straddling over “O” and “OU(LF)” zones on the OZP (**Plan A-1**). The applied use requires planning permission only in the “O” zone. Whilst the applied use is not in line with the planning intention of the “O” zone, the Project Manager (West), Civil Engineering and Development Department and the Director of Leisure and Cultural Services have no objection to/ adverse comment on the application. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site. Notwithstanding this, 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 applied use is considered not incompatible with the surrounding land uses which are predominantly warehouses and open storage yards with some of them covered by valid planning permissions (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned government departments, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the closest dwelling is about 48m away towards the south) (**Plan A-2**), and the applied use involves the use of heavy vehicles and thus environmental nuisance is expected. In this regard, it is noted that no environmental complaint pertaining to the Site has been received in the past three years. To address the concerns on the possible environmental nuisances, should the application be approved, the applicant will be advised to follow the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas. To address the technical requirements of other concerned departments, relevant approval conditions are recommended in paragraph 12.2 below.
- 11.4 The Site is involved in a previous approved application (No. A/HSK/351) for warehouse and shop and services uses. Although the planning permission was revoked on 29.7.2023 due to non-compliance with time-limited approval conditions regarding the submission and implementation of FSIs proposal, the applicant has submitted a revised FSIs proposal in the current application and the Director of Fire Services has no in-principle objection to the application. In this regard, sympathetic consideration may be given to the application. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of planning permission, sympathetic consideration would not be given to any further applications.
- 11.5 Apart from the previously approved application, the Committee had approved another similar application at a site straddling the same “O” and “V” zones in 2022. Approval of the current application is in line with the previous decision of the Committee.
- 11.6 There is one public comment raising objection to the application received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 above 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 temporary warehouse for storage of food provision and electronic goods could be tolerated for a period of three 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 three years until **11.8.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. to 7:00 a.m., as proposed by the applicant, is allowed on the Site during the 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) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 **11.11.2023**;
- (e) the submission of a revised 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 **11.2.2024**;
- (f) in relation to (e) above, the implementation of the revised 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 **11.5.2024**;
- (g) if any of the above planning condition (a), (b) or (c) 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
- (h) if any of the above planning condition (d), (e) or (f) 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 attachments received on 12.6.2023
Appendix Ia	SI received on 19.6.2023
Appendix Ib	FI received on 27.6.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Location Plan with Proposed Vehicular Access
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	Fire Service Installations Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2023**