RNTPC Paper No. A/HSK/229 For Consideration by the Rural and New Town Planning Committee on 10.7.2020

APPLICATION FOR RENEWAL OF PLANNING APPROVAL FOR TEMPORARY USE UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/229

<u>Applicant</u>	: Profit Richest Investment Ltd. represented by Metro Planning and Development Company Limited	
<u>Site</u>	: Lots 1801 RP (Part), 1803 (Part), 1804 (Part), 1805, 1806 S.A (Part), 1806 S.B (Part), 1829 (Part), 1830 (Part), 1831 (Part), 1832 (Part), 1833 (Part) and 1836 (Part) in D.D.125, Ha Tsuen, Yuen Long	
<u>Site Area</u>	$: 7,065m^2 (about)$	
Lease	Block Government Lease (demised for agricultural use)	
<u>Plan</u>	: Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2	
<u>Zoning</u>	: "Government, Institution or Community" ("G/IC") (47.0%);	
	"Residential (Group A)4" ("R(A)4")(17.5%); [restricted to a maximum plot ratio of 5 and maximum building height of 120mPD]	
	"Open Space" ("O")(2.2%); and	
	an area shown as 'Road' (about 33.3%)	
<u>Application</u>	: Renewal of Planning Approval for Temporary Logistics Centre for a Period of 3 Years	

1. The Proposal

1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary logistics centre for a further period of 3 years (Plan A-1a). The Site is mainly zoned "G/IC" (47.0%) and "R(A)4" (17.5%) and shown as 'Road' (33.3%) with minor encroachment onto the "O" zone (2.2%) on the approved HSK and HT OZP. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years within the zones 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. In any area shown as 'Road' on the OZP, all uses or developments require planning permission from the Site is currently used for the applied use with a valid planning permission under application No. A/HSK/11 (Plans A-4a to 4d).

- 24.8.2020. All the approval conditions have been complied with. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the development parameters and site layout remain unchanged.
- 1.3 The Site is accessible from Ping Ha Road via local track and the ingress/egress points are located at the northern part of the Site (**Plan A-2** and **Drawing A1**). According to the applicant, the Site is sub-divided into 3 separate logistics centres with individual ingress/egress. The proposed vehicular access plan, layout plan, landscape and tree preservation plan, drainage plan and fire service installations (FSIs) plan are at **Drawings A-1 to A-5**.
- 1.4 The development parameters of the current application and the last approved application are the same and are summarised in the following table:

Major Development Parameters	Last Approved Application (A/HSK/11) (Valid till 24.8.2020)	Current Application (A/HSK/229) (b)
	(a)	
Applied Use	Temporary Logistics Centre	e for a Period of 3 Years
Site Area	7,065m ²	
Total Floor Area	about 4,9	908m ²
No. of Structures	12	
	(1 to 2 storeys (3m to 11m l guard room, site office, e pump room uses, toilet	electricity meter room,
No. of Parking Spaces	Nil	
No. of Loading/	4 for medium/heav	y goods vehicles
Unloading Bay	(11m x 3.5	m each)
Operation Hours	7:00a.m. to 11:00p.m., Mono operation on Sundays	•

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

(a)	Application Form received on 13.5.2020 with plans	(Appendix I)
(b)	Supplementary Information received on 19.5.2020 confirming no change in layout and providing the proposal and certificates of the FSIs	(Appendix Ia)
(c)	Further Information (FI) received on 26.6.2020	(Appendix Ib)

1.2

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The Site is subject to a number of previous planning permissions. The current application is a renewal application. The applied use, layout and development parameters of the current application are the same as the last planning permission. All the approval conditons under the previous planning permission have been complied with.
- (b) The proposed development conforms with the Town Planning Board Guidelines TPB PG-No. 13F since it is subject to previous planning permissions.
- (c) The proposed development is temporary in nature and would not jeopardize the long term planning intention of the area.
- (d) The proposed development is not incompatible with the surrounding environment including open storage use and port back-up activities. The planning circumstance pertaining to the Site is similar to those nearby open storage yards and port back-up uses approved by the Board. Similar preferential treatment should be granted to the current application.
- (e) There is shortage of land for port back-up purpose in Ha Tsuen.
- (f) There are insignificant environmental and noise impacts since the applied use is housed within enclosed structures. Insignificant drainage impact because surface U-channel has been provided at the Site.

3. <u>Compliance with the "Owner's Consent/Notification" Requirements</u>

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 relevant rural committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

- 4.1 On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site falls within Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to the application. The relevant assessment criteria are at **Appendix III**.

5. <u>Background</u>

The Site is currently covered by a valid planning permission No. A/HSK/11 for temporary logistics centre. As such, the use is not subject to planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

6. <u>Previous Applications</u>

- 6.1 The Site is related to 18 previous applications (No. A/YL-HT/7, 82, 341, 348, 394, 427, 509, 554, 648, 666, 700, 773, 818, 872, 910, 922 and 978 and A/HSK/11) for temporary open storage, logistics centre and workshop uses. Except for application No. A/YL-HT/648, all other applications were approved with conditions by the Committee between 1996 and 2017 mainly on grounds that the temporary use would not jeopardize the long-term planning intention; the development was generally compatible with the surrounding land uses; and the technical concerns could be addressed by appropriate approval conditions. However, 11 of them were subsequently revoked due to non-compliance with the time-specific approval conditions are at **Appendix IV** and their locations are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-HT/648 for temporary open storage of metal wares and machineries was rejected by the Committee on 23.10.2009 on grounds that the development would be subject to fire risks and drainage impacts and the application involved several previously revoked planning permissions.
- 6.3 The last application (No. A/HSK/11) submitted by the same applicant for the same use as the current application was approved with conditions by the Committee on 25.8.2017 for a period of 3 years with validity up to 24.8.2020. All the approval conditions have been complied with. All the layout and development parameters of the current application are the same as the last planning application. The current application is a renewal application.

7. <u>Similar Application</u>

There is one similar application for temporary storage of construction materials and containers, logistics centre and ancillary workshop use within the same "G/IC", "R(A)4" and "O" zones on the approved HSK & HT OZP which was approved with conditions by the Committee in 2018 on similar considerations as mentioned in para. 6.1 above. Details of the above application is summarized at **Appendix V** and its location is shown on **Plan A-1a**.

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

- 8.1 The Site is:
 - (a) being used for the applied use with a valid planning permission; and
 - (b) accessible from Ping Ha Road via local track.

- 8.2 The surrounding areas have the following characteristics:
 - (a) to its immediate north and east are a van track leading to the Site and storage of construction materials and containers, logistics centre and ancillary workshop use under a valid planning permission (Application No. A/HSK/105) (Plan A-1a) while to its further north is an open storage of containers under a valid planning permission (Application No. A/HSK/187);
 - (b) to its southeast is a warehouse for construction machinery and materials under a valid planning permission (Application No. A/HSK/183);
 - (c) to its immediate south is an open storage of construction materials while to its further south are two open storage of recyclable materials with one of them under a valid planning permission (Application No. A/HSK/30) and some parking of vehicles; and
 - (d) to its west are a storage area, open storage of construction machinery and a vehicle repair workshop while further west is Ping Ha Road.

9. <u>Planning Intentions</u>

- 9.1 The planning intention of the "G/IC" zone is primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organization providing social services to meet community needs, and other institutional establishment.
- 9.2 On the other hand, the planning intention of the "R(A)4" zone is primarily for high-density residential developments. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purpose-designed non-domestic building up to five storeys.

10. Comments from Relevant Government Departments

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

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) The Site comprises Old Schedule 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 which are covered by Short Term Waivers (STWs) are listed below:

Lot No(s). in D.D.125	STW No.	Purposes
1831	4363	
1803, 1804, 1805 and 1832	4598	Temporary Logistics Centre
1836	4647	Temporary Storage of Construction Materials and Containers, Logistics Centre and Ancillary Workshop

(c) Should the application be approved, the STW holders will need to apply to his office for modification of the STW conditions where appropriate and 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. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. 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.

<u>Traffic</u>

- 10.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):
 - (a) He has no adverse comment on the application from traffic engineering point of view.
 - (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
 - (c) The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.
- 10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):
 - (a) The access arrangement should be commented by 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

- 10.1.4 Comments of the Director of Environmental Protection (DEP):
 - (a) There was no environmental complaint pertaining to the Site received in the past 3 years.
 - (b) Should the application be approved, the applicant is advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' ('COP').

<u>Drainage</u>

- 10.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
 - (a) He has no objection in principle to the development from a drainage point of view.
 - (b) The application is a renewal of planning approval of the previous application No. A/HSK/11. According to the applicant's submission, the existing drainage facilities would be maintained.
 - (c) Should the application be approved, a condition should be stipulated requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
 - (d) The applicant is reminded that the required condition record should include coloured photos showing the current condition of the drainage facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catch pits, sand traps, manholes, terminal catch pits/manholes and the downstream discharge path as indicated on the submitted drainage proposal.

Building Matters

- 10.1.6 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) If the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
 - (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) 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.
- (f) 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.

Fire Safety

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

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Long Term Development

- 10.1.8 Comments of Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD):
 - (a) He has no objection to the temporary use for 3 years, 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 NDA. According to the Planning and Engineering Study for the HSK/HT NDA and the latest plan, to ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The lot(s) concerned falls within a site under Stage 3 works in the latest programme of the HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that clearance of the Site will not be arranged before the first population intake of the HSK/HT NDA expected in 2024.
- 10.1.9 Comments of the Director of Leisure and Cultural Services (DLCS):
 - (a) The Site is zoned "G/IC", "R(A)4" and "O" and an area shown as 'Road' 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.

District Officer's Comments

- 10.1.10 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):
 - (a) He has no comment on the application.
 - (b) His office has not received any comment from the locals on the application.
- 10.2 The following Government departments have no comment on the application:
 - (a) Commissioner of Police (C of P);
 - (b) Director of Agriculture, Fisheries and Conservation (DAFC); and
 - (c) Chief Engineer/Development(2), Water Supplies Department (CE/Dev(2), WSD).

11. Public Comments Received During Statutory Publication Period

On 22.5.2020, 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 urged that the planned developments in the HSK/HT NDA should be implemented according to specified timelines instead of approving temporary developments (Appendix VI).

12. Planning Considerations and Assessment

- 12.1 The application is for renewal of planning approval for temporary logistics centre for a period of 3 years at a site mainly zoned "G/IC" and "R(A)4" and within an area shown as 'Road' with minor encroachment onto the "O" zone on the approved HSK and HT OZP. The planning intentions of the "G/IC" and "R(A)4" zones are primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory and for high-density residential developments respectively. Whilst the applied use is not in line with the planning intentions, the implementation programme for this part of NDA is still being formulated, and PM/W of CEDD and DLCS have no objection to 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.
- 12.2 The Site is located in an area which is predominantly occupied by logistics centre, open storage, warehouse and vehicle park uses. The applied use is not incompatible with the major surrounding land uses (**Plan A-2**).
- 12.3 The current application is a renewal application of the last approved application (No. A/HSK/11) for three more years. There has been no major change in planning circumstances of the Site and the surrounding areas since the previous temporary approval, and the approval of the application on a temporary basis would not jeopardize the implementation of the zoned uses. Compared with the last approved

application No. A/HSK/11, the current application is submitted by the same applicant and all the approval conditions under previous application were complied with. In view of the above, the renewal application is considered generally in line with the TPB PG-No. 34C.

12.4 The Site falls within the HSK/HT NDA. For applications in NDAs, the following considerations under the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or 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 open storage and port back-up uses.

- 12.5 The applied use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and previous planning approvals have been given. All approval conditions under the previous application were complied with and the applicant also submitted FSIs plan and certificate for this renewal application (**Appendix Ia**). As such, sympathetic consideration may be given to the application.
- 12.6 There is no adverse comment from concerned Government departments. In addition, there is no environmental complaint pertaining to the Site in the past three years. Furthermore, relevant approval conditions have been recommended in paragraph 13.2 to address 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 be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.7 The Committee has approved 4 previous applications for temporary logistics centre use at the Site (Plan A-1b) and one similar logistics centre use within the subject "G/IC", "R(A)4" and "O" zones on the OZP (Plan A-1a). Approval of the current application is in line with the Committee's previous decisions.
- 12.8 There is one public comment received on the application during statutory publication period as summarised in paragraph 11. The planning considerations and assessments in the above paragraphs are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the renewal of planning approval for temporary logistics centre <u>could be tolerated</u> for a further period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis of 3 years from <u>25.8.2020 until</u> <u>24.8.2023</u>. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no cutting, dismantling, cleansing, repairing, compaction, vehicle repair and 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 queue back to or reverse onto/from the public road at any time during the planning approval period;
- (e) the existing landscape planting on the Site shall be maintained at all times during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the existing fire services installations shall be maintained in efficient working order at all times during the planning approval period;
- (h) the submission of a condition record of existing drainage facilities within 3 months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by <u>25.11.2020</u>;
- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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
- (j) if the above planning condition (h) 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.

[Conditions (a), (b), (c), (d) and (f) are all the same as the previous Application No. A/HSK/11 while the previous conditions on submission and implementation of tree preservation and landscape proposal are replaced by condition (e) as the existing landscape planting will be maintained; the previous conditions on submission and provision of fire service installations are replaced by condition (g), as the latest fire certificates in **Appendix Ia** have been accepted by D of FS]

Advisory clauses

The recommended advisory clauses are at Appendix VII.

13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the temporary logistics centre is not in line with the planning intentions of the "G/IC" and "R(A)4" zones which are intended primarily for provision of Government, institution or community facilities serving the needs of the local residents and/or wider district, region or territory and high-density residential developments respectively. There is no strong planning justification to deviate from the planning intentions, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I Appendix Ia	Application Form received on 13.5.2020 with plans Supplementary Information received on 19.5.2020 confirming no change in layout and providing the proposal and certificates of the FSIs
Appendix Ib	FI received on 26.6.2020 confirming no workshop activity on the Site
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Relevant extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C)
Appendix IV Appendix V	Previous applications covering the Site Similar application within the same "G/IC", "R(A)4" and "O" zones on the Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2

Appendix VI	Public Comment
Appendix VII	Advisory clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree preservation Plan
Drawing A-4	Proposed Drainage Plan
Drawing A-5	Fire Service Installations 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 4d	Site Photos

PLANNING DEPARTMENT JULY 2020