

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/838

- Applicant** : Fancy Spot Limited represented by R-riches Planning Limited
- Site** : Lots 20 (Part), 21 (Part), 30 and 33 S.A (Part) in D.D. 84, Ping Che
- Site Area** : About 971m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP)
No. S/NE-TKL/14
- Zonings** : (i) “Agriculture” (“AGR”) (about 922.5m² or 95% of the Site)
(ii) “Industrial (Group D)” (“I(D)”) (about 48.5m² or 5% of the Site)
- Application** : Proposed Temporary Open Storage of Construction Materials and Machinery and Associated Filling of Land for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction materials and machinery and associated filling of land for a period of three years at the application site (the Site) falling within an area zoned “AGR” (about 95%) and “I(D)” (about 5%) on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Open Storage (not elsewhere specified)’ is a Column 1 use within the “I(D)” zone which is always permitted, while temporary use or development of any land or building not exceeding a period of three years and filling of land within the “AGR” zone require planning permission from the Board. The Site is fenced-off and largely vacant.
- 1.2 According to the applicant, the current application is to facilitate the relocation of the business operation affected by government project, i.e. the development of Fanling North New Development Area (FLN NDA). The affected site was reverted to the Government in April 2024.
- 1.3 The Site is accessible via a local access road leading to Ping Che Road (**Plan A-1**). According to the applicant, about 487m² or 50.2% of the Site will be used for open storage of construction materials (i.e. sand, bricks, metal rods, etc.) and machinery (i.e. excavator, electricity generators, forklift, etc.) and no structure will be erected within the Site. The maximum stacking height is 3m. No dangerous goods will be stored and no workshop activities will be carried out at the Site. The remaining area will be reserved for a

loading/unloading (L/UL) space for heavy goods vehicle (3.5m (W) x 11m (L)) and circulation space. The applicant also applies for filling of land at the entire Site with concrete of not more than 0.2m in depth for site formation for open storage area, L/UL space and circulation space (i.e. the site level will be about +10.3mPD). The applicant proposes traffic management measures including deploying staff to direct vehicles entering/exiting the Site, installing lighting and alarm systems at the ingress/egress to regulate traffic flow, and erecting signs to ensure pedestrian safety. The operation hours are between 8:00 a.m. and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout plan and land filling plan submitted by the applicant are shown in **Drawings A-1** and **A-2** respectively.

1.4 Part of the Site is the subject of a previous application No. A/NE-TKL/560 for proposed temporary open storage of construction materials, metal machineries and materials with ancillary office for a period of three years submitted by a different applicant. The application was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 26.5.2017. Details of the previous application are set out in paragraph 6.1 below. Compared with the previous application, the current application involves a larger site area (+398m² / +69.5%) and a different layout.

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

- | | |
|---|----------------------|
| (a) Application Form with attachment received on 8.4.2026 | (Appendix I) |
| (b) Further Information (FI) received on 22.5.2026* | (Appendix Ia) |
| (c) FI received on 1.6.2026* | (Appendix Ib) |

* *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 Application Form and FIs at **Appendices I to Ib**, as summarised below:

- (a) the application is submitted to facilitate the relocation of business operation for open storage of construction materials and machinery affected by FLN NDA development. The applicant has spent efforts in identifying suitable sites for relocation in Lam Tei, Lau Fau Shan, Kam Tin, Ma Tso Lung and Man Kam To areas, but they were considered not suitable due to various reasons such as land use compatibility, environmental concerns, land ownership and accessibility. The Site is suitable for relocation as it is flat, in close proximity to various border control points and is easily accessible. While the Site (about 971m²) has a slightly larger area than the affected premises (about 776m²), the increased site area will provide space for L/UL and better vehicle circulation, which better utilises resources and enhances the overall efficiency of the Site;
- (b) there are no active agricultural activities within the Site. Approval of the current application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone and would better utilise deserted land in the New Territories. No undesirable precedent would be set for the “AGR” zone. Besides, the proposed use is considered not incompatible with surrounding land uses comprising brownfield operations and temporary structures; and
- (c) adverse traffic and drainage impacts are not anticipated. The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and

Open Storage Sites' ('COP') and comply with all environmental protection/pollution control ordinances. The applicant will implement the mitigation measures listed in the Recommended Pollution Control Clauses for Construction Contracts to minimise adverse environmental impacts and nuisance to the surrounding areas. Also, the applicant will provide adequate mitigation measures and follow relevant government laws/practices to minimise all possible impacts on the nearby sensitive receivers.

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. 31B) by posting site notice and sending notice to Ta Kwu Ling District Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 1 (about 5%) and Category 3 (about 95%) areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. **Background**

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

6. **Previous Application**

6.1 Part of the Site is the subject of a previous application No. A/NE-TKL/560 for proposed temporary open storage of construction materials, metal machineries and materials with ancillary office for a period of three years submitted by a different applicant. The application was rejected by the Committee on 26.5.2017 mainly on the grounds that the application did not comply with the then TPB-PG No. 13E in that there was no previous approval of open storage use granted for the Site, there were adverse departmental comments on the application, and the applicant failed to demonstrate that the proposed use would not cause adverse traffic, environmental and landscape impacts on the surrounding areas; and there was no strong justification for a departure from the planning intention of "AGR" zone.

6.2 Details of the previous application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

7. **Similar Applications**

7.1 There are 22 similar applications (No. A/NE-TKL/671, 690, 695, 707, 714, 724, 734, 743, 745, 746, 758, 761, 763, 786, 801, 805, 806, 807, 815, 821, 833 and 836) involving 16 sites for temporary open storage use for a period of three years within the "AGR" zone in

the vicinity of the Site in the past five years (**Plan A-1**). 21 of them falling within the Category 2 or Category 3 areas under TPB PG-No. 13F/13G were approved with conditions by the Committee between 2021 and 2026 mainly on the considerations that the application generally complied with the relevant TPB Guidelines; there were no major adverse departmental comments and concerns of the relevant government departments could be addressed through imposition of approval conditions; and policy support from the Secretary for Development (SDEV) was obtained as the application was to facilitate relocation of business operation affected by government project (for application No. A/NE-TKL/801 only).

7.2 The remaining application No. A/NE-TKL/690 which fell within the Category 3 areas under the then TPB PG-No.13F was rejected by the Committee on 14.1.2022 mainly on the grounds that there was no strong justification for a departure from the planning intention; and the applicant failed to demonstrate that the proposed use would not cause adverse traffic impact on the surrounding areas. The site was subsequently reclassified as Category 2 areas and covered by one of the approved similar applications (i.e. No. A/NE-TKL/743) for temporary open storage use as mentioned in paragraph 7.1 above.

7.3 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) fenced-off and largely vacant; and
- (b) accessible via a local access road leading to Ping Che Road.

8.2 The surrounding areas are of rural character comprising mainly warehouses and storage uses within the “I(D)” zone, and an open storage yard, a vehicle repair workshop, parking of vehicles, active/fallow agricultural land, vacant land and domestic structures within the “AGR” zone. An “Open Space” zone is located to the further north of the Site.

9. Planning Intention

9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9.2 According to the Explanatory Statement of the OZP, as filling of land within the “AGR” zone may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Bureau/Departments

10.1 Apart from the government bureau and departments as set out in paragraphs 10.2 to 10.4 below, other government 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 at **Appendices V and VI** respectively.

10.2 The following government bureau supports the application:

10.2.1 Comments of the SDEV:

- (a) according to the applicant, the application is to facilitate the relocation of an open storage business at formerly Lots 356 (Part) and 357 (Part) in D.D. 52 which is affected by implementation of FLN NDA;
- (b) according to the applicant, a site search was conducted with a view to identifying a suitable site for re-establishment of the affected business operation, and that the Site is considered the most suitable for the relocation. While the Site is larger than the site area of the original premises, the applicant has explained that a larger site is considered necessary for L/UL space and better vehicle circulation; and
- (c) subject to no adverse comments on land use compatibility and technical aspects from relevant departments, the application is supported from the policy perspective.

10.3 The following government departments have adverse comments on or do not support the application:

Land Administration

10.3.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) he has adverse comments on the application;
- (b) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contain the restriction that no structures are allowed to be erected without the prior approval of the Government. According to the vehicular access plan in the submission, the vehicular access is required to pass through other private lots, the applicant shall make their own arrangement;
- (c) the following irregularity covered by the planning application has been detected by his office:

unauthorised structures within Lot 33 S.A in D.D. 84 covered by the planning application

there is an unauthorised structure on the said private lot. The lot owner(s) should immediately rectify/regularise the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (d) the following irregularity not covered by the planning application have been detected by his office:

unauthorised structure(s) within Lots 20 and 21 both in D.D. 84 (Part) not covered by the planning application

there are unauthorised structures on the portion of the said private lots not covered by the planning application. The lot owner(s) should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (e) the lot owner(s)/applicant shall either (i) remove the unauthorised structures not covered by the planning application immediately; or (ii) include the unauthorised structures in the planning application for the further consideration by the relevant departments and, subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as aforesaid required, apply to his office for a Short Term Waiver (STW) to permit the proposed structure(s). The application(s) for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it/they will be approved. The STW(s), if approved, will be on whole lot basis and subject to such terms and conditions including the payment of back-dated waiver fee from the first date the structures were erected and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner(s)/applicant for any breach of the lease conditions, including the breach(es) already in existence or to be detected at any point of time in future. Besides, given the proposed use is temporary in nature, only erection of temporary structures will be considered;
- (f) unless and until the unauthorised structures are duly rectified by the lot owner(s)/applicant or entirely included in the planning application, his office has adverse comment on the application which must be brought to the attention of the Board when they consider the application; and
- (g) his advisory comments are at **Appendix VI**.

Agriculture and Nature Conservation

10.3.2 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

Agriculture

- (a) the application is not supported from the agricultural perspective;
- (b) the Site falls within the “AGR” and “I(D)” zones and is generally vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. The Site possesses potential for agricultural rehabilitation; and

Nature Conservation

- (c) he has no comment on the application from nature conservation perspective.

Environment

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

- (a) he is unable to lend support to the application from the environmental perspective since heavy vehicle is involved and residential dwelling is identified within 100m from the site boundary;
- (b) for the proposed filling of land, he has no comment from the environmental perspective subject to implementation of relevant mitigation measures listed in the Recommended Pollution Control Clauses for Construction Contracts;
- (c) no environmental complaint against the Site was received in the past three years; and
- (d) his advisory comments are at **Appendix VI**.

10.4 The following government department provides views on the application:

Traffic

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

- (a) she has no comment on the application;
- (b) considering the road safety and road management, it is suggested to impose the approval conditions on the submission, implementation and maintenance of traffic management measures; and
- (c) her advisory comments are at **Appendix VI**.

11. Public Comments Received During Statutory Publication Period

On 17.4.2026, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix VII**). One comment from the Kadoorie Farm and Botanic Garden objects to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; and there is a previously rejected application at the Site. One comment from an individual expresses concern that the Site is close to recreational facilities; and whether there is any enforcement action taken near the Site. The remaining comment from a member of the North District Council indicates no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of construction materials and machinery and associated filling of land for a period of three years at the Site falling within an area zoned “AGR” (about 95%) and “I(D)” (about 5%) on the OZP. The proposed use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from the agricultural perspective as the Site possesses potential for agricultural rehabilitation. According to the applicant, the Site is considered suitable for relocation of the business operation affected by FLN NDA development. In this regard, SDEV advises that the application is to facilitate the relocation of an open storage affected by implementation of FLN NDA, and subject to no adverse comments on land use compatibility and technical aspects from relevant departments, the application is supported from the policy perspective. Taking into account the planning assessments below and the policy support rendered by SDEV, there is no objection to the proposed use with associated filling of land on a temporary basis of three years.
- 12.2 The application involves filling of land at the entire Site with concrete of not more than 0.2m in depth for site formation for open storage area, L/UL space and circulation space. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department has no objection to the application from public drainage perspective, while DEP has no comment on the proposed filling of land from environmental perspective subject to the implementation of relevant mitigation measures listed in the Recommended Pollution Control Clauses for Construction Contracts. In this regard, the applicant advises that relevant mitigation measures will be implemented. As part of the Site is zoned “AGR”, an approval condition requiring the reinstatement of the “AGR” portion of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application.
- 12.3 The Site is located in an area of rural character comprising mainly warehouses, storage uses, an open storage yard, a vehicle repair workshop, parking of vehicles, active/fallow agricultural land, vacant land and domestic structures. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application from landscape planning perspective, and advises that the proposed use is considered not entirely incompatible with the surrounding environment and significant adverse landscape impact arising from the application is not anticipated.
- 12.4 The Site falls within the Category 1 (about 5%) and Category 3 (about 95%) areas under the TPB PG-No. 13G. The application generally complies with TPB PG-No. 13G in that policy support is rendered by SDEV to the application for relocation of brownfield operation affected by government project, and relevant government departments consulted have no objection to or no adverse comment on the application. DEP is unable to lend support to the application as the proposed use involves the use of heavy vehicles and domestic structures within 100m from the site boundary is identified. In this regard, the applicant commits to comply with the relevant environmental ordinances/guidelines. Should the application be approved, the applicant will be advised to follow the environmental mitigation measures as set out in the ‘COP’ to minimise any potential environmental nuisance. While the C for T has no comment on the application, she recommends imposing approval conditions on the submission, implementation and maintenance of traffic management measures, taking into account road safety and road management. To address the technical requirements of other concerned departments, relevant approval conditions are recommended in paragraph 13.2 below. Regarding DLO/N, LandsD’s concern on the unauthorised structures erected

within/outside the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.

- 12.5 Part of the Site is the subject of a previously rejected application submitted by a different applicant for open storage use as detailed in paragraph 6.1 above. The planning considerations of the rejected application are not applicable to the current application as the current application is to facilitate the relocation of business operation affected by FLN NDA, which generally complies with TPB PG-No. 13G as discussed in paragraph 12.4 above. There are also 21 similar approved applications for temporary open storage use within the “AGR” zone in the vicinity of the Site in the past five years as mentioned in paragraph 7.1 above. The planning circumstances of the current application are largely similar to those of the approved similar applications. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 Regarding the public comments as detailed in paragraph 11 above, comments from the government bureau and departments and planning assessments above are relevant. For the concern on the Site in proximity to the recreational facilities, the applicant commits to provide adequate mitigation measures and follow relevant government laws/practices to minimise all possible impacts on the nearby sensitive receivers

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, PlanD has no objection to the application.
- 13.2 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 5.6.2029. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) the submission of a 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 5.12.2026;
- (b) in relation to (a) above, the implementation of the 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 5.3.2027;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the compliance with fire safety requirements 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 5.3.2027;
- (e) the submission of traffic management measures within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 5.12.2026;
- (f) in relation to (e) above, the implementation of the traffic management measures

within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 5.3.2027;

- (g) in relation to (f) above, the implemented traffic management measures shall be maintained at all times during the planning approval period;
- (h) if any of the above planning condition (c) 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;
- (i) if any of the above planning condition (a), (b), (d), (e) or (f) 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; and
- (j) upon expiry of the planning permission, the reinstatement of the “AGR” portion of the Site, including the removal of fill materials and hard paving, and grassing of the Site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The Recommended Advisory Clauses are at **Appendix VI**.

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

the proposed use with associated filling of land is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, 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 the 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	Application Form with Attachments received on 8.4.2026
Appendix Ia	FI received on 22.5.2026
Appendix Ib	FI received on 1.6.2026
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous Application

Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2026**