

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/FLN/24

<u>Applicant</u>	: Mr. LUI Sui Lun represented by Chun Fai Consultant Co.
<u>Site</u>	: Government Land in D.D. 52, Man Kam To Road, Sheung Shui
<u>Site Area</u>	: About 870 m ²
<u>Land Status</u>	: Government Land
<u>Plan</u>	: Approved Fanling North Outline Zoning Plan (OZP) No. S/FLN/2
<u>Zoning</u>	: Area shown as 'Road'
<u>Application</u>	: Proposed Temporary Open Storage of Construction Materials with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary open storage of construction materials with ancillary office for a period of 3 years. The Site falls within an area shown as 'Road' on the approved Fanling North OZP (**Plan A-1**). According to the Notes of the OZP, any uses or developments on area shown as 'Road' requires planning permission from the Town Planning Board (the Board). The Site is partly fenced, hard-paved with concrete, and currently used for parking of goods vehicles without valid planning permission.
- 1.2 According to the applicant, the proposed development will consist of four single-storey structures (of about 2.2m to 2.4m high) with a total floor area of about 45.03m², which will be used for storage of construction materials, ancillary office, watchman house and toilet respectively (**Drawing A-1**). Whilst the former three will be accommodated within containers-converted structures, the latter one will be within a structure constructed with metal frame and sheets. The remaining open-air area will mainly be used as open storage of construction materials and circulation spaces. The operation hours will be 9:00a.m. to 6:00p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. One loading/unloading space for medium goods vehicles will be provided on-site. The Site is accessible from Man Kam To Road via a local track (**Plans A-1 and A-2**). The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application Form with Planning Statement received on 12.1.2021 **(Appendix I)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendix I**, and are briefly summarised as follows:

- (a) the development aims to meet the genuine demand for temporary storage facilities for cross-boundary trade. The Site will be used to store building/construction materials manufactured in Mainland China before being distributed to various retailers and shops in Hong Kong;
- (b) the development is compatible with the surrounding land uses. Various open storage sites can be found in the area, while a wide range of storage activities are located along Man Kam To Road. The development is in line with the Town Planning Board Guidelines No. 13F, and similar applications were approved by the Board before;
- (c) loading/unloading space for one medium goods vehicle will be provided on-site. It is estimated that five to six vehicular trips to/from the Site will be generated per day for goods delivery. On-site traffic management measures will be adopted to restrict such trips within non-peak hours. As the traffic generation will be minimal, no adverse traffic impact is envisaged due to the proposed use; and
- (d) the development will not create significant adverse drainage and environmental impact. Adequate mitigation measures on drainage and fire services aspects will be provided upon approval of the application. In addition, the Site will be shielded by sheet fencing on three sides. No adverse visual impact is thus envisaged from the proposed development.

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

The Site involves Government land only. The owner’s consent/notification’ requirements as set out in the Town Planning Board (TPB) Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No.31A) is not applicable.

4. Background

- 4.1 The Site falls within the boundary of Remaining Works Phase of the Kwu Tung North/Fanling North New Development Area (KTN/FLN NDA) development. According to Civil Engineering and Development Department (CEDD), the land resumption and clearance as well as site formation and infrastructural works for the Remaining Works Phase will commence in 2024 the earliest. The Site will

form part of the road junction connecting Man Kam To Road to the planned Fanling Bypass Western Section (**Plan A-1**) to serve the KTN/FLN NDA development.

- 4.2 The Site is currently not a subject of any active enforcement case. Should there be sufficient evidence to prove that the current use on the Site constitutes and unauthorised development under the Town Planning Ordinance, enforcement action will be taken.

5. Town Planning Board Guidelines

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 KTN/FLN NDA under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Application

There is no previous application in respect of the Site.

7. Similar Application

There is no similar application for temporary ‘open storage’ use within the same ‘Road’ area on the OZP.

8. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plan A-4)

8.1 The Site is:

- (a) partly fenced, hard-paved with concrete, and currently used for parking of goods vehicles without valid planning permission; and
- (b) accessible from Man Kam To Road via a local track.

8.2 The surrounding areas are predominantly rural in character with mainly logistic centres, storage yards, domestic structures, and vacant/unused land (**Plan A-2**):

- (a) to its north and east are a cluster of logistic centres, storage yards, domestic structures, active farmland, and vacant land;
- (b) to its south are an unused land, and a works site with works in progress and unused land, and to its further south is Ng Tung River; and
- (c) to its west are the Man Kam To Road Egretty, a piece of vacant land and Man Kam To Road, and to its further west is a vehicle repair workshop, active/fallow farmland, a few domestic structures and vacant/unused land.

9. **Planning Intention**

The Site falls within an area shown as 'Road' on the OZP to reflect the planned road junction connecting Man Kam To Road to the planned Fanling Bypass Western Section (**Plan A-1**) to serve the KTN/FLN NDA development.

10. **Comments from Relevant Government Departments**

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

Land Administration

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

- (a) the Site falls entirely on unleased and unallocated Government land (GL) adjoining Lot 1193 S.A in D.D.52 (**Plan A-2**);
- (b) as mentioned in the applicant's proposal, it is noted that four structures including a toilet are planned to be erected on the Site. The applicant should note that any toilet facility should meet the current health requirements or related legislations;
- (c) his office's aerial photo has revealed that (a) the subject GL site is being illegally occupied; and (b) the adjoining Lot 1193 S.A in D.D. 52 (**Plan A-2**) is erected with unauthorised structures. His office will consider taking enforcement action against the aforesaid irregularities as appropriate;
- (d) the Site is in close proximity to the Works Area (STLA No. GLA-TDN 3062) under Water Supplies Department (WSD)'s project, namely "Improvement of Water Supply to Sheung Shui and Fanling" (**Plan A-2**);
- (e) according to Chief Estate Surveyor/New Development Area, LandsD (CES/NDA, LandsD), the Site falls entirely within the project limit of the Remaining Phase of the FLN NDA; and
- (f) having regard to the existing guidelines, applications for direct grant by way of Short Term Tenancy (STT) may be considered or processed on condition that (i) the GL is incapable of reasonable separate alienation to any parties apart from the applicant; (ii) there is no designated long term use for the GL; and (iii) the GL has no general commercial interest to others due to the reason as stated (i) above. As the Site is being illegally occupied and does not meet all the aforesaid criteria, thus any application for STT will not be considered by his office in this case.

Traffic

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

- (a) he has reservation on the application from traffic engineering perspective due to insufficient information provided by the applicant in relation to the adequacy of the parking and loading/unloading spaces provision, the dimension of the vehicular access, the manoeuvring of vehicles within/to the Site, the management/control measures to ensure no queueing of vehicles outside the Site, and the provision and management of pedestrian facilities to ensure pedestrian safety; and
- (b) the applicant should note that the vehicular access between the Site and Man Kam To Road is not managed by his department. The applicant should seek comment from the responsible party.

Future Development

10.1.3 Comments of the Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD):

the Site lies within the future road junction at Man Kam To Road under the FLN NDA project. The Site shall be cleared and handed over to the FLN NDA project for construction of the road junction in mid-2024.

Environment

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

- (a) according to the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application since there are sensitive receivers in the vicinity (residential dwellings less than 10m away from the Site) and the proposed use involves the use of heavy vehicles¹ and environmental nuisance is expected (**Plan A-2**);
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by his department to minimise any potential environmental nuisances;
- (c) there is no existing or planned public sewer in the vicinity of the Site. Noting that toilet is proposed under the application, the

¹ According to the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, “heavy vehicles” include goods vehicles with permitted gross vehicle weight exceeding 5.5 tonnes and bus. One loading/unloading bay for medium goods vehicle is provided on-site. According to Road Traffic Ordinance, medium goods vehicle means a goods vehicle having a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes.

applicant shall provide his own effective sewage treatment and disposal measures to cater for any sewage arising from the operation of the development. The design and construction of septic tank and soakaway system should follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”; and

- (d) there is no environmental complaint in relation to the Site received by DEP in the past three years.

Nature Conservation

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

- (a) the Site is located right next to the Man Kam To Road Egrettry (**Plans A-2 and A-3**), which was first found in 2009 and have been used by ardeids for nesting since then. In the breeding season of 2020, this egrettry supported a peak count of 50 nests of Little Egrets and Chinese Pond Herons;
- (b) the proposed development would include four single-storey structures. As single-storey structures are present at the concerned location during the earlier breeding seasons, impact on the flight line of the breeding ardeids by proposed structures is not anticipated; and
- (c) nevertheless, given the close proximity of the Site with the egrettry, the increased human activities and traffic may have negative impacts on the breeding ardeids. Should the application be approved, the applicant shall be requested not to affect the vegetation of the egrettry and they shall be well aware that all wild birds, including their nests and eggs, are protected under the Wild Animals Protection Ordinance (Cap. 170). The installation of the four single-storey structure shall also avoid the breeding season of the ardeids (i.e. March to August inclusive).

Drainage

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

- (a) he has no objection to the proposed development from public drainage viewpoint; and
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.

Building Matters

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

- (a) before any new building works are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained unless they are exempted building works or commenced under the simplified requirement under the Minor Works Control System. Otherwise, they are unauthorized building works (UBW). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the Buildings Ordinance (BO); and
- (b) for UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's 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.

Fire Safety

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

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

District Officer's Comments

10.1.9 Comments of the District Officer/North, Home Affairs Department (DO/N, HAD):

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

10.2 The following Government departments have no objection to/adverse comment on the application:

- (a) Chief Estate Surveyor/New Development Area, LandsD (CES/NDA, LandsD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) Director of Electrical and Mechanical Services (DEMS); and
- (f) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 19.1.2021, the application was published for public inspection. During the three-week statutory publication period, a total of four public comment (**Appendix III**) were received from the Chairman of the North District Council and three individuals. All the four public comments object to the application mainly on the grounds that the application would worsen the traffic condition and congestion issue at Man Kam To Road area; it does not comply with TPB PG-No. 13F as there is no previous approval for open storage granted for the Site; the application would cause environmental pollution and increase fire risk, which would result in adverse impacts to the safety and quality of life of villagers; and the Site which is a piece of Government land should be open for bidding for short term use.

12. Planning Considerations and Assessment

- 12.1 The application is for proposed temporary open storage of construction materials with ancillary office use at the Site within the 'Road' area for a period of 3 years (**Plan A-1**). The Site, which is entirely Government land, falls within an area shown as 'Road' on the OZP to reflect the planned road junction connecting Man Kam To Road to the planned Fanling Bypass Western Section to serve the KTN/FLN NDA development. The Site falls within the boundary of Remaining Works Phase of the KTN/FLN NDA development and would only be cleared and handed over to the FLN NDA project for construction of the road junction in mid-2024. Approval of the application for 3 years up to 12.3.2024 on a temporary basis would not adversely affect the implementation of the 'Road' section. PM/N of CEDD and CES/NDA of LandsD therefore have no adverse comments on the application. However, it should be noted that DLO/N of LandsD states that no application for STT will be considered by his office as the Site is being illegally occupied and the application does not meet the criteria listed out in LandsD's existing guidelines.
- 12.2 According to the applicant, the proposed development is intended to meet the demand for temporary storage for cross-boundary trade. The development comprising four single-storey structures with a total floor area of 45.03m² is considered not incompatible with the surrounding areas which are predominantly rural in character with mainly logistic centres, storage yards, domestic structures, and vacant/unused land (**Plan A-2**). However, C for T has reservation on the application as the applicant fails to provide sufficient traffic-related information in relation to the adequacy of the parking and loading/unloading spaces provision,

the dimension of the vehicular access, the manoeuvring of vehicles within/to the Site, the management/control measures to ensure no queueing of vehicles outside the Site, and the provision and management of pedestrian facilities to ensure pedestrian safety. In addition, DEP does not support the application as there are sensitive uses nearby and environmental nuisance is expected. Other Relevant Government departments consulted, including CE/MN of DSD, DAFC and CTP/UD&L of PlanD have no adverse comment on/no objection to the application from drainage, nature conservation and landscape perspectives.

- 12.3 The Site falls within the KTN/FLN NDA. For applications in NDAs, the following considerations under the TPB PG-No. 13F are relevant to the consideration of the proposed storage/open storage use:

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. Applications will normally be rejected unless under exceptional circumstances.

- 12.4 The proposed open storage use is not in line with the TPB PG-No.13F in that the Site is not subject to any previous approval for open storage use and there are local objections to the proposed development. New open storage use is generally not encouraged to infiltrate into the NDA.
- 12.5 Regarding the four objecting public comments received during the statutory publication period, the departmental comments and planning considerations and assessment above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the application does not comply with the Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' in that there is no previous approval for open storage granted for the Site; and there are local objections to the application; and
 - (b) the applicant fails to demonstrate that the proposed development would not cause adverse traffic impacts to the surrounding areas.

- 13.2 Alternatively, 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 12.3.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (d) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of a 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 12.9.2021;
- (g) in relation to (f) 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 12.12.2021;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installation 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 12.9.2021;
- (j) in relation to (i) above, the implementation of the fire service installation 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 12.12.2021;
- (k) if any of the above planning condition (a), (b), (c), (d), (e) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and

- (l) if any of the above planning condition (f), (g), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis

15. Attachments

Appendix I	Application Form with Planning Statement received on 12.1.2021
Appendix II	Extract of the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**