

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/211

- Applicant** : Times Fame Development Limited represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lot 189 RP in D.D. 52 and Adjoining Government Land, Sheung Shui Wa Shan, New Territories
- Site Area** : About 4,800 m² (including about 340 m² of Government Land)
- Land Status** : (i) Block Government Lease (demised for agricultural use)
(about 92.9% of the Site)
(ii) Government Land (about 7.1% of the Site)
- Plan** : Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
- Zonings** : (i) “Other Specified Uses” annotated “(Port Back-up Uses)” (“OU(PBU)”) (about 4,555 m² or 95% of the Site)
(ii) “Agriculture” (“AGR”) (about 245 m² or 5% of the Site)
- Application** : Temporary Logistics Warehouse for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary logistics warehouse for a period of 3 years at the application site (the Site). The Site falls within an area largely zoned “OU(PBU)” with minor portions on the “AGR” zone on the approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16. According to the Notes of the OZP, ‘Warehouse (excluding dangerous goods godown)’ in the “OU(PBU)” zone is a Column 2 use requiring planning permission while temporary use or development of any land or building not exceeding a period of three years within “AGR” zone also requires planning permission from the Board notwithstanding that the use is not provided for under the Notes of the OZP. The Site is currently being used for logistics warehouse without any valid planning permission.
- 1.2 The Site is accessible via a local track branching off from Man Kam To Road (**Plan A-1**). According to the applicant, the logistics warehouse comprises two temporary structures with a total floor area of 4,776 m² for warehouse with a height of not exceeding 14m (Structure 1) and toilet use (Structure 2). A total of eight loading/unloading spaces (five for heavy goods vehicles and three for container vehicles) are provided at the Site (**Drawing A-1**). There are two ingress/egress points

located at the southern and south-eastern portions of the Site (**Plan A-2**). The operation hours of the Site are between 8:00 a.m. and 8:00 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of two previously approved applications (No. A/NE-FTA/21 & 189) for proposed temporary container trailer park with ancillary workshop use / logistics warehouse use respectively. The last application No. A/NE-FTA/189 was submitted by the same applicant as the current application approved by the Rural and New Town Planning Committee (the Committee) in May 2019. Compared with the last approved application No. A/NE-FTA/189, the use and development parameters of the current application remain unchanged.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 4.1.2022 **(Appendix I)**
 - (b) Further Information (FI) on 16.2.2022 **(Appendix Ia)**
(accepted and exempted from publication)

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 Ia** respectively as summarized below:

- (a) logistics warehouse use is in line with the planning intention of the “OU(PBU)” zone to meet the demand for increasing cross-boundary freight traffic and port back-up activities;
- (b) the development is not incompatible with the surrounding land uses which are mainly open storage uses, with similar approved applications for open storage uses in the adjacent areas;
- (c) it is temporary in nature and would not affect the long-term planning intention of the “OU(PBU)” zone;
- (d) it will only be operated on the existing hard-paved portion of the Site, adverse environmental impacts to the surrounding areas are not anticipated; and
- (e) there will be adequate space for manoeuvring within the Site and staff will be deployed to manage the traffic at the Site entrance in order to ensure pedestrian safety and avoid queuing of vehicles outside the Site.

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 taking reasonable steps to give notification to the owner including sending notice to the Sheung Shui District Rural Committee by registered mail and posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the government land portion within the Site, TPB PG-No.31A is not applicable.

4. **Background**

The Site is not subject to any active enforcement action.

5. **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. 13F) promulgated on 27.3.2020 is relevant to the application. The Site falls largely within Category 1 areas (about 95%) under the Guidelines. Relevant extract of the Guidelines is at **Appendix II**.

6. **Previous Applications**

- 6.1 The Site is the subject of two previously approved applications (No. A/NE-FTA/21 & 189) for proposed temporary container trailer park with ancillary workshop use/logistics warehouse use respectively for a period of three years. Application No. A/NE-FTA/21 was submitted by a different applicant, whilst application No. A/NE-FTA/189 was submitted by the same applicant as current application. These applications were approved with conditions by the Committee on 16.10.1998 and 17.5.2019 respectively mainly on the grounds that the proposed development was generally in line with the planning intention of “OU(PBU)” zone; the proposed use was compatible with the surrounding areas; and would not have significant adverse environmental, traffic and drainage impacts. The last application No. A/NE-FTA/189 was revoked on 17.10.2021 due to non-compliance with time-limited approval conditions on the provision of drainage facilities and the implementation of proposals for fire service installations and water supplies for firefighting.
- 6.2 Compared with the last approved application No. A/NE-FTA/189, the use and development parameters, including the site layout, of the current application remain unchanged.
- 6.3 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

7. **Similar Applications**

- 7.1 There are six similar applications (No. A/NE-FTA/124, 155, 157, 158, 180 & 203) involving five sites for proposed temporary warehouse/warehouse developments with ancillary uses within/partly within the “OU(PBU)” zone in the vicinity of the Site (**Plan A-1**). Five applications (No. A/NE-FTA/124, 155, 157, 158 & 203) were approved with conditions by the Committee between 2013 and 2021 mainly on the grounds that the uses were generally in line with the planning intention of “OU(PBU)” zone; the proposed developments were compatible with the surrounding land uses; and the technical concerns of government departments could be addressed through the implementation of relevant approval conditions.
- 7.2 Application No. A/NE-FTA/180 for temporary warehouse and storage of clothing with ancillary facilities was rejected by the Committee in October 2017 mainly on the consideration that the applicant failed to demonstrate in the submission that the development would have no adverse traffic impacts on the surrounding areas.

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

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

8.1 The Site is:

- (a) hard-paved and currently used as a logistics warehouse; and
- (b) accessible from Man Kam To Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is a vegetated hillslope with some graves within the “Green Belt” (“GB”) zone;
- (b) to the northeast is fallow agricultural land and to the east are some open storage yards for construction materials and machinery;
- (c) to the immediate south is a local track leading to Man Kam To Road, across which is fallow agricultural land intermixed with some open storage yards and temporary domestic structures; and
- (d) to the west is vacant land with some temporary structures, warehouses and open storage yards.

9. Planning Intentions

- 9.1 The planning intention of the “OU(PBU)” zone is primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses.
- 9.2 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.

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/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Lot 189 RP in D.D. 52 (the Lot) and adjoining

government land (GL). The Lot is an Old Schedule Lot held under the Block Government Lease (demised for agriculture use) without any guaranteed right of access. The applicant should make his own arrangement for acquiring access to the Site. There is no guarantee that any adjoining government land (GL) will be allowed for vehicular access to the Site for the use;

- (b) unauthorized structures are erected on the Site and a portion of adjoining GL is occupied without approval from her office. Her office reserves the right to take necessary lease enforcement actions against the structures on private lot and land control action against the irregularities on GL as appropriate;
- (c) the Site encroaches onto an existing waterworks reserve (**Plan A-2**);
- (d) according to the development proposal, a toilet would be erected on the site. The applicant should note that any proposed toilet facility should meet the current health requirements; and
- (e) if the planning application is approved, the owner of the lot concerned shall apply to her office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area and to regularise the unauthorised structures on Site. The applications for STW and STT will be considered by government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date will be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by her office.

Traffic

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

- (a) based on the FI submitted by the applicant, there would be adequate loading / unloading and manoeuvring spaces at the Site, and the provision of traffic management measures to avoid queuing of vehicles outside the Site and ensure pedestrian safety i.e. staff deployment at the site entrance to monitor and manage traffic, she has no further comment on the application from traffic engineering point of view and considers that the traffic impact induced by the temporary development is tolerable;
- (b) the vehicular access between the Site and Man Kam To Road is not managed by her office. The applicant should seek comment from responsible party; and
- (c) should the application be approved, the applicant is required to implement the traffic management measures as proposed by the applicant to her satisfaction.

Environment

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

- (a) he does not support the application since the closest domestic structures are located to the south of the Site (approximately 40 m from the Site) (**Plan A-2**) and the temporary use is expected to generate traffic of heavy vehicles;
- (b) there was no environmental complaints against the Site during the past three years;
- (c) should there be any sewerage generated from the temporary uses, proper treatment and disposal should be provided as per “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses (CoP). The applicant should be reminded of S(1) of Notes to Annex I in CoP that ‘in case of unavailability of public sewer, a septic tank and soakaway (STS) pit should be provided’. The design, construction, operation and maintenance of STS should follow PROPECC PN 5/93 and be certified by Authorised Person; and
- (d) the applicant should be reminded of his obligation to comply with environmental protection / pollution control ordinances, including but not limited to Water Pollution Control Ordinance and Noise Control Ordinance, and to follow all requirements and mitigation measures in EPD’s latest CoP. His detailed comments are appended at **Appendix VI**.

Landscape

10.1.4 Comments of the Chief Town Planner/Urban Design and Landscape (CTP/UD&L, PlanD):

- (a) she has no objection to the application from the urban design and landscape planning perspective as no significant landscape impact arising from the temporary development is anticipated; and
- (b) should the application be approved, it is considered not necessary to impose a landscape condition in the planning permission.

Agriculture and Nature Conservation

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

- (a) the agricultural activities are active in the vicinity and agricultural infrastructures such as road accesses and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the development proposal falling within the “AGR” zone is not supported from agricultural perspective; and
- (b) from nature conservation point of view, he has no adverse comment on the application. Should the application be approved, the applicant should

be reminded to perform good site practice so as not to disturb the wooded area in the “GB” zone to the north of the Site.

Drainage

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

- (a) he has no objection to the application;
- (b) given that the development parameters of the current application remain unchanged, his acceptance of the drainage proposal of the previous application remains valid. Should the application be approved, the applicant is required to implement a drainage proposal for the Site to ensure that it will not cause any adverse drainage impact to the adjacent area. Detailed comments are appended in **Appendix VI**; and
- (c) the Site is in an area where no public sewerage connection is available.

Fire Safety

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

- (a) having reviewed the FSIs proposal as submitted by the applicant in **Appendix I**, he has no in-principle objection to the application subject to FSIs and water supplies for firefighting being provided to the satisfaction of his department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans

Building Matters

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

- (a) there is no record of approval by the Building Authority for the existing buildings/structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application; and
- (b) his advisory comments are at **Appendix VI**.

Water Supply

10.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application;
- (b) the Site encroaches onto the existing water works reserve (WWR) for Dongjiang water main; and
- (c) his advisory comments are at **Appendix VI**.

District Officer's Comments

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

- he has consulted the locals regarding the application. All consultees, including the Chairman of Fung Shui Area Committee, the Chairman of Sheung Shui District Rural Committee, the Indigenous Inhabitant Representatives (IIRs) and the Resident Representative (RR) of Sheung Shui Heung indicate no comments on the application.

10.2 Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD) has no comment on the application.

11. Public Comments Received During Statutory Publication Period (Appendix V)

On 11.1.2022, the application was published for public inspection. During the statutory public inspection period, 3 public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Two individuals raise objection to the application mainly on the grounds that approval conditions were not fulfilled in the previous application; and the logistics warehouse would cause adverse traffic and environmental impacts on the surrounding areas, increase fire risk and pose threats to the villagers.

12. Planning Consideration and Assessments

12.1 The application is for a temporary logistics warehouse for a period of 3 years at the Site largely zoned "OU(PBU)" (about 95%) with minor portion on the "AGR" zone (**Plan A-1**). The temporary logistics warehouse is considered generally in line with the planning intention of the "OU(PBU)" zone which is primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses. For the minor portion on the "AGR" zone, the development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good 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. DAFC does not support the development proposal falling within the "AGR" zone as the Site has potential for agricultural rehabilitation. Nevertheless, given its temporary nature and only a very small portion falling within the "AGR" zone (i.e. 245m² / 15%), it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the "AGR" zone.

12.2 The Site falls largely within Category 1 areas (about 95%) under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:

- Category 1 areas: considered suitable for open storage and port-backup uses. Favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be

submitted if the proposed uses may cause significant environmental and traffic concerns.

- 12.3 The temporary development is considered not incompatible with the surrounding land uses comprising mainly warehouses, open storage yards and some temporary structures. CTP/UD&L, PlanD considers that significant adverse landscape impact arising from the development is not anticipated. In this regard, she has no objection to the application from the landscape planning perspective and. Having reviewed the FI submitted by the applicant and noting that the applicant undertakes to implement relevant traffic/pedestrian management measures, C for T has no further comment on the application from traffic engineering point of view and considers that the traffic impact induced by the development is tolerable. While DEP does not support the application as there are sensitive receivers, i.e. temporary domestic structures, in the vicinity of the Site (**Plan A-2**), relevant approval conditions restricting the operation hours and no operation on Sundays and public holidays during the planning approval period are recommended to address the concerns of DEP. Moreover, the applicant would be advised to follow the environmental mitigation measures set out in the CoP. Other concerned government departments, including CBS/NTW, BD and CE/C of WSD, have no adverse comment on or no objection to the application.
- 12.4 The application generally complies with the TPB PG-No. 13F in that no major adverse departmental comments have been received on the application and the concerns of the relevant Government departments can be addressed through implementation of approval conditions.
- 12.5 The Site is the subject of 2 previous applications (No. A/NE-FTA/21 & 189) for proposed temporary container trailer park with ancillary workshop use / logistics warehouse use respectively approved in 1998 and 2019 respectively. The last application No. A/NE-FTA/189 was revoked on 17.10.2021 due to non-compliance with approval conditions related to the provision of drainage facilities and the implementation of FSIs proposal. In the current submission, the applicant has submitted the drainage and FSIs proposals in support of the application. The relevant government departments including DSD and FSD have no objection to the application. Should the Committee decide to approve the application, shorter compliance periods on the approval conditions are proposed to closely monitor the progress of compliance. Moreover, the applicant will be advised that should they fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 12.6 There are 6 similar applications involving five sites for proposed temporary warehouse/warehouse developments with ancillary uses within/partly within the “OU(PBU)” zone in the vicinity of the Site (**Plan A-1**). Five of which were approved with conditions by the Committee between 2013 and 2021 mainly on the grounds that the uses were generally in line with the planning intention of “OU(PBU)” zone; and the technical concerns of government departments could be addressed through the implementation of relevant approval conditions. The planning circumstances of the current application are similar to those approved similar applications.
- 12.7 Regarding the public comments on the application as detailed in paragraph 11 above, government departments’ comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments as detailed in paragraph 11, the Planning Department 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 4.3.2025. The following conditions of approval with shorter compliance periods and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m. from Mondays to Saturdays, 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) the provision of drainage facilities 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 4.9.2022;
- (d) the submission of proposals for water supplies for fire-fighting and fire service installations within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.6.2022;
- (e) the provision of water supplies for fire-fighting and fire service installations 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 4.9.2022;
- (f) the implementation 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 4.9.2022; and
- (g) if any of the above planning conditions (a) or (b) 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;
- (h) if any of the above planning conditions (c), (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.

Advisory Clauses

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

- 13.3 There is no strong reason to recommend rejection of the application.

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 4.1.2022
Appendix Ia	FI received on 16.2.2022
Appendix II	Relevant Extract of TPB Guidelines No. TPB PG-No. 13F for Application for Open Storage and Port Back-up Uses
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**