

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/213

- Applicants** : Mr. LIU Ka Sing and Mr. LIU Hing Yin represented by Mr. TSUI Kwok On
- Site** : Lots 184 RP and 187 RP (Part) in D.D. 52 and Adjoining Government Land, Sheung Shui Wa Shan, Sheung Shui, New Territories
- Site Area** : 3,291m² (about) (including about 100m² of Government Land (GL))
- Lease** : (a) Block Government Lease (demised for agricultural use)
(about 97% of the Site)
(b) GL (about 3% of the Site)
- Plans** : (i) Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
(ii) Approved Fanling North OZP No. S/FLN/2
- Zonings** : (i) “Agriculture” (“AGR”) on the approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/16
(about 45.5% of the Site)
(ii) Area shown as ‘Road’ on the approved Fanling North OZP No. S/FLN/2
(about 38.2% of the Site)
(iii) “Open Space” (“O”) on the approved Fanling North OZP No. S/FLN/2
(about 16.3% of the Site)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Materials for a Period of 3 Years until 5.7.2025

1. The Proposal

- 1.1 The applicants seek renewal of planning permission to continue using the application site (the Site) for a temporary open storage of construction materials for a further period of three years until 5.7.2025 (**Plan A-1a**). The Site is partly zoned “AGR” on the approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/16 and partly zoned “O” and within an area shown as ‘Road’ on the approved Fanling North OZP No. S/FLN/2. According to the covering Notes of the OZPs, temporary use or development of any land or buildings not exceeding a period of three years within “AGR” and “O” zones requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZPs. For area shown as ‘Road’ on the approved Fanling North OZP No. S/FLN/2, all uses or developments require planning permission from the Board. The Site is partly vacant and partly used for the applied use with a valid planning permission until 5.7.2022.

- 1.2 The Site comprises two portions, i.e. a larger portion in the east (about 2,526m²) and a smaller portion in the west (about 665m²) with an additional 100m² of GL at the western edge of the Site (**Plan A-2**). There is a single-storey structure of about 10m² at a height of 3m for latrine use (**Drawing A-1**). The current development proposal is the same as the previous approval in terms of applied use and site area, except for a reduction in the number of structures and total floor area, as detailed in paragraph 6.3 below. The Site is accessible from Man Kam To Road via a local track to its north (**Plan A-1a**). Six parking spaces for light goods vehicles and one loading/unloading space for light goods vehicle are provided at the western part of the Site. The operation hours of the Site are between 8:30 a.m. and 6:30 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays.
- 1.3 The Site is the subject of seven previous applications (see paragraph 6 below). The last application No. A/NE-FTA/190 for the same applied use was submitted by the same applicants as the current application, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 5.7.2019. The applicants have complied with all the approval conditions.
- 1.4 In support of the application, the applicants have submitted the following documents:
 - (a) Application form with attachments received on 11.5.2022 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 23.5.2022 (**Appendix Ia**)
 - (c) Further Information (FI) received on 9.6.2022 (**Appendix Ib**)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in Part 7 of the Application Form and FI at **Appendices I and Ib** respectively, and are summarized below:

- (a) all the approval conditions granted by the Board in respect of the previously approved application (No. A/NE-FTA/190) have been complied with;
- (b) there is no change to the applied use under the current application, except that there is a reduction in the number of structures and total floor area due to compliance with approval conditions relating to the submission and implementation of fire service installations (FSIs); and
- (c) the Site would be surrendered unconditionally upon government's request to facilitate the implementation of Fanling North New Development Area Remaining Phase (FLN NDA RP), even during the planning approval period.

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

The applicants are the sole "current land owner" of the Site. For the adjoining Government land, 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) is not applicable to the application. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

- 4.1 Town Planning Board Guidelines No. 34D (TPB PG-No. 34D) on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.
- 4.2 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 are relevant to the application. The Site falls partly (about 45.5%) within Category 3 areas and partly (54.5%) within FLN NDA under the revised Guidelines. The relevant extracts of the Guidelines are at **Appendix III**.

5. Background

The Site is not subject to any active planning enforcement case.

6. Previous Applications

- 6.1 The Site is the subject of six previous planning applications for temporary open storage (No. A/NE-FTA/76, 103, 106, 139, 160 and 190) and one previous application for a proposed temporary wholesale trade (frozen and chilled meat wholesale centre) (No. A/NE-FTA/60) uses. All these applications, except for Application No. A/NE-FTA/60, were approved with conditions by the Committee or the Appeal Board between 2008 and 2019 mainly in consideration that there were previous approvals for similar open storage use granted at the Site and government departments had no adverse comments or their concerns could be addressed by relevant approval conditions.
- 6.2 Application No. A/NE-FTA/60 for a proposed temporary wholesale trade centre of frozen and chilled meat was rejected by the Committee in 2003 mainly on the grounds of being not in line with the planning intention of the "AGR" zone and the applicant failed to demonstrate that there would not be adverse environmental, ecological, traffic impacts to the surrounding environment.
- 6.3 Compared with the last Application No. A/NE-FTA/190 submitted by the same applicants, the current application has a reduction in number of structures (i.e. from 3 to 1) and total floor area (i.e. from 295m² to 10m²). The planning permission is valid until 5.7.2022 and all the approval conditions have been complied with.
- 6.4 Details of the previous applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1b**.

7. Similar Application

There is no similar application in the vicinity of the Site within the same "AGR" and "O" zones over the past five years.

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

8.1 The Site is:

- (a) currently formed, hard-paved and fenced;
- (b) partly vacant and partly used for the applied use with a valid planning permission under Application No. A/NE-FTA/190; and
- (c) accessible by a local track leading to Man Kam To Road.

8.2 The surrounding areas are dominated by open storages/storage yards, logistics centres, warehouses, domestic structures, fallow agricultural land and vacant land.

9. Planning Intentions

- 9.1 The planning intention of the “AGR” zone on the Fu Tei Au and Sha Ling OZP 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 The planning intention of the “O” zone on the Fanling North OZP is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices V and VI respectively.**

10.2 The following government departments have concerns / objection to the application.

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

- (a) does not support the application as the applied use involves storage of dusty construction materials and there are domestic structures in the vicinity of the Site with the closest one being located to the immediate east of the Site (**Plan A-2**) at a distance of less than 10m;
- (b) there was no substantiated environmental complaint received over the past three years; and
- (c) should the application be approved, the applicants are advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.

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

The Site falls within FLN NDA Remaining Phase, which shall be cleared and handed over for implementation of the site formation and construction works in mid-2024 according to the current programme.

11. Public Comments Received During Statutory Publication Period

On 24.5.2022, the application was published for public inspection. During the statutory inspection period, a total of three public comments were received (**Appendix VII**) from a member of North District Council and two individuals. Among them, one indicates no comments on the application and the remaining two are objecting comments/ expressing concerns mainly on the grounds of adverse traffic and environmental impacts arising from the applied use.

12. Planning Considerations and Assessment

- 12.1 The application is for renewal of a planning permission for a temporary open storage of construction materials for a further period of three years at the Site partly zoned “AGR” and “O” and partly within an area shown ‘Road’ on the OZPs. While the applied use is not in line with the planning intention of the “AGR” zone, DAFC has no strong view on the application from agricultural point of view as the Site has low potential for agricultural rehabilitation. For the part falling within “O” zone, DLCS has no comment on the application.
- 12.2 The “AGR” portion of the Site falls within Category 3 area under the TPB PG-No. 13F promulgated by the Board on 27.3.2020. The Site also falls within the FLN NDA. The applied use is generally in line with the Guidelines in that the Site is subject to previous approvals for the same applied use on the Site; there are no major adverse departmental comments / no local objection have been received on the application; and the concerns of relevant department could be addressed through the implementation of approval conditions as set out in paragraph 13.2 below. The majority of the Site will be required for the land resumption and clearance, site formation and infrastructural works for the remaining phase of FLN NDA in mid-2024 according to the current programme. According to the applicants, the Site would be surrendered unconditionally upon government’s request to facilitate the implementation of the remaining phase of FLN NDA, even during the planning approval period. In view of this, PM(N), CEDD has no comment on the renewal application. Should the application be approved, an advisory clause stating that the Site may be reverted to government at any time during the planning approval period for the implementation of government projects will be included.
- 12.3 The Site is hard-paved and situated in a rural inland plain surrounded by temporary structures for open storages/storage yards, logistics centre, warehouses and domestic dwellings with tree clusters/ vegetation. The applied use is not incompatible with its surrounding environment and significant adverse impact on existing landscape resources arising from the application is not anticipated. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective.

- 12.4 DEP does not support the application as there are domestic structures located in the vicinity of the Site (the closest one being located at a distance of less than 10m) and environmental nuisance may be created. Nevertheless, there was no substantiated environmental complaint received for the Site in the past three years. To address DEP's concern, relevant approval conditions including restricting the operation hours, no operation on Sundays and public holidays, and prohibiting repairing, dismantling or workshop activities at the Site are recommended. The applicants would also be advised to follow the environmental mitigation measures set out in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'. Other government departments consulted, including C for T, D of FS and CE/MN of DSD, have no comment on or no objection to the application.
- 12.5 The Site is involved in six previously approved applications for temporary open storage use (No. A/NE-FTA/76, 103, 106, 139, 160 and 190) (see paragraph 6 above). The last application for the same use submitted by the same applicants as the current application was approved in 2019 and all the approval conditions have been complied with. The renewal application generally complies with the TPB PG-34D in that there has been no material change in planning circumstances since the approval of the previous application; there are no major adverse departmental comments against the renewal application; all the approval conditions have been complied with; and the approval period sought is not unreasonable.
- 12.6 Regarding the public comments as detailed in paragraph 11 above, relevant government departments' comments and planning assessments are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and taking into account the public comments mentioned in paragraph 11, the Planning Department considers that the applied use under application could be tolerated for a 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 for a further period of 3 years and **be renewed from 5.7.2022 until 5.7.2025**. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:30 p.m. and 8:30 a.m. on Mondays to Saturdays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (c) no medium/heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicants, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) 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;

- (e) the maintenance of peripheral fencing on Site at all times during the planning approval period;
- (f) the existing mitigation measures to the ecological sensitive receivers in the vicinity of the Site should be maintained properly at all times during the planning approval period;
- (g) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (h) the existing drainage facilities should be properly maintained at all times during the planning approval period;
- (i) the submission of a record of the existing drainage facilities on the Site within 3 months from the date of renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.9.2022;
- (j) if any of the above planning conditions (a) to (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
- (k) if the above planning condition (i) 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 attached at **Appendix VI**.

13.3 There is no strong planning 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 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 applicants.

15. Attachments

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| Appendix I | Application form with attachments received on 11.5.2022 |
| Appendix Ia | SI received on 23.5.2022 |
| Appendix Ib | FI received on 9.6.2022 |
| Appendix II | Relevant Assessment Criteria in TPB PG-No. 34D |
| Appendix III | Relevant Extracts of TPB PG-No. 13F |
| Appendix IV | Previous Applications |
| Appendix V | Government Departments' General Comments |
| Appendix VI | Recommended Advisory Clauses |
| Appendix VII | Public Comments |
| Drawing A-1 | Layout Plan |
| Plan A-1a | Location Plan |
| Plan A-1b | Previous Applications Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a to 4b | Site Photos |

**PLANNING DEPARTMENT
JUNE 2022**