

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/227

- Applicants** : Mr LIU Tak Sun and Mr LIU Loi Hei (Liu Hu Pak Tso) represented by M&D Planning and Surveyors Consultant Limited
- Site** : Lots 182 RP (Part) and 183 RP (Part) in D.D. 52, Fu Tei Au, Sheung Shui, New Territories
- Site Area** : 1,601.77m² (about)
- Lease** : (i) Block Government Lease (demised for agricultural use)
(ii) Covered by a Short Term Waiver (STW) No. 1292 for container trailer park and ancillary office and storage
- Plan** ⁽¹⁾ : Draft Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/17
- Zonings** ⁽¹⁾ : (i) "Other Specified Uses" annotated 'Port Back-Up Uses' ("OU(PBU)") (about 94% of the Site)
(ii) "Agriculture" ("AGR") (about 6% of the Site)
- Application** : Temporary Cargo Handling and Forwarding Facility for a Period of Three Years

1. The Proposal

- 1.1 The applicants seek planning permission for a temporary cargo handling and forwarding facility for a period of three years at the application site (the Site), which falls largely within an area zoned "OU(PBU)" with a minor portion zoned "AGR" on the OZP (**Plan A-1**). According to the Notes of the OZP, 'Cargo Handling and Forwarding Facility' is a Column 2 in the "OU(PBU)" zone, and such use within the "AGR" zone on a temporary basis not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is hard paved, fenced off, and currently used for the applied use without valid planning permission.
- 1.2 The Site is accessible from its south via a local track leading to Man Kam To Road (**Plan A-1**). According to the applicants, the applied use comprises five 1 to 2-storey temporary

⁽¹⁾ A narrow strip of the Site of about 13.2m² (i.e. 0.8% of the total site area) falls within an area shown as 'Road' on the approved Fanling North Outline Zoning Plan (OZP) No. S/FLN/4, which is regarded as minor boundary adjustment and not included in the planning assessment.

structures (building heights of about 2.6m to 5.2m) with a total floor area of about 1,050.4m² for cargo handling, storage, site office, staff rest room, pantry and toilet uses. One parking space and three loading/unloading spaces for light goods vehicles are provided within the Site. The operation hours of the development are from 10:00 a.m. to 4:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. Layout plans showing the drainage and fire service installations (FSIs) proposals submitted by the applicants are shown in **Drawings A-1 and A-2**.

1.3 The Site is the subject of nine previous applications approved by the Rural and New Town Planning Committee (the Committee) between 1999 and 2020 (see paragraph 6 below).

1.4 In support of the application, the applicants have submitted the following documents:

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|-----|---|---------------|
| (a) | Application Form with attachments received on 29.5.2023 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 30.5.2023 | (Appendix Ia) |
| (c) | Further Information (FI) received on 22.8.2023^ | (Appendix Ib) |
| (d) | FI received on 20.9.2023^ | (Appendix Ic) |
| (e) | FI received on 27.9.2023^ | (Appendix Id) |
| (f) | FI received on 6.10.2023^ | (Appendix Ie) |
| (g) | FI received on 20.10.2023^ | (Appendix If) |

^ accepted and exempted from the publication and recounting requirements

1.5 On 28.7.2023 and 13.10.2023, the Committee agreed to the applicants' request to defer making a decision on the application for two months each.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed at **Appendix I**, as summarized below:

- (a) majority of the Site falls within Category 1 area under Town Planning Board Guidelines No. 13G for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' (TPB PG-No. 13G). The applied use is considered generally in line with TPB PG-No. 13G;
- (b) the Site is the subject of a previously approved application for the same applied use. As the previous permission was revoked due to non-compliance with approval conditions, a fresh application is therefore required;
- (c) the surrounding areas are predominantly intermixed with open storage yards, warehouses and vacant land. The applied use is not incompatible with the surrounding environment;
- (d) the applied use can help cater for the demand for cross-boundary trade, and will optimize the use of land resources, drive economic activities and create job opportunities; and
- (e) no adverse traffic, environmental and drainage impacts arising from the applied use are anticipated. Besides, fire safety equipment and emergency access have been provided at the Site.

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

The applicants are one of the “current land owners”. In respect of the other “current land owners”, the applicants have complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent / Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No.31A) by posting site notice and sending notice to the Sheung Shui District Rural Committee by registered mail. Detailed information will be deposited at the meeting for Members’ inspection.

4. Background

The Site is not the subject of any active enforcement cases.

5. Town Planning Board Guidelines

The TPB PG-No. 13G promulgated by the Board on 14.4.2023 is relevant to the application. Majority of the Site falls within Category 1 area under TPB PG-No. 13G. Relevant extracts of the Guidelines are at **Appendix II**.

6. Previous Applications

- 6.1 The Site is the subject of nine previous applications (No. A/NE-FTA/29, 44, 80, 99, 108, 113, 154, 167 and 194) for container trailer park/goods distribution and storage/cargo handling and forwarding facility uses, etc. which were approved by the Committee between 1999 and 2020. Details of the previous applications are summarized at **Appendix III** and their locations are shown in **Plan A-1**.
- 6.2 The last application (No. A/NE-FTA/194) submitted by the same applicants for the same applied use was approved by the Committee on 24.4.2020 mainly on considerations that the applied use was generally in line with the then TPB PG-No. 13E and the planning intention of the “OU(PBU)” zone; and it was not incompatible with the surrounding areas. The planning permission was revoked on 24.7.2022 due to non-compliance with the approval conditions regarding the provision of drainage facilities and the submission/implementation of proposals for fire service installations and water supplies for firefighting.
- 6.3 Compared with the last approved application, the use and development parameters of the current application remain the same, except that it involves a reduced site area from 1,893m² to 1,601.77m² (i.e. -291.23m² (about -15.4%)).

7. Similar Application

There is no similar application for the same applied use within the same “OU(PBU)” and “AGR” zones in the vicinity of the Site in the Fu Tei Au and Sha Ling area in the past five years.

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

- 8.1 The Site is:

- (a) hard paved and fenced off;
 - (b) currently used for the applied use without valid planning permission; and
 - (c) accessible from a local track to its south leading to Man Kam To Road.
- 8.2 The surrounding areas are intermixed with warehouses, open storages/storage yards, logistics centre, temporary domestic structures, active/fallow agricultural land and vacant land, and to the immediate north is clusters of tree groups and woodland within the “Green Belt” (“GB”) zone. To the south is an abandoned meander of Ng Tung River.

9. Planning Intentions

- 9.1 The planning intention of the “OU(PBU)” zone is intended 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 intended 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 Apart from the government departments as set out in paragraph 10.2 below, other 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 at **Appendices IV and V** respectively.
- 10.2 The following government departments do not support/have comments on the application:

Land Administration

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

- (a) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via Government land (GL) is granted to the Site; and
- (b) the application lots are covered by STW No. 1292 for the purpose of container trailer park and ancillary office and storage. Site inspection revealed that the built-over area and height of the existing structures on Site do not tally with the proposal submitted in the planning application and are in breach of the restriction imposed under the STW. The STW holder/lot owner(s) concerned should immediately rectify the breaches. His office reserves the right to take necessary enforcement action against the breaches without separate notice.

Agriculture and Nature Conservation

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

- (a) part of the Site falls within the “AGR” zone and is generally occupied by structures. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are 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 applied use is not supported from an agricultural perspective; and
- (b) the Site is located to the north of an abandoned meander (**Plan A-2**) with vegetation is currently maintained by AFCD for ecological purposes under the “Main Drainage Channel for Fanling, Sheung Shui and Hinterland project”.

11. Public Comments Received During Statutory Publication Period

On 6.6.2023, the application was published for public inspection. During the statutory public inspection period, two comments were received (**Appendix VI**) including one from the Chairman of Sheung Shui District Rural Committee indicating no comment on the application and one individual objecting to the application on the ground that the applicants failed to comply with all the approval conditions under the previously approved application (No. A/NE-FTA/194).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary cargo handling and forwarding facility for a period of three years at the Site largely zoned “OU(PBU)” with a minor portion zoned “AGR”. While the applied use is considered generally in line with the planning intention of the “OU(PBU)” zone, such use is not in line with the planning intention of the “AGR” zone (see paragraph 9 above). DAFC does not support the application as the “AGR” portion of the Site possesses potential for agricultural rehabilitation. Nevertheless, only a minor portion of the Site is located at the fringe of the concerned “AGR” zone and taking into account the planning assessment below, the applied use on a temporary basis of three years could be tolerated.
- 12.2 The Site falls largely within Category 1 area (about 94%) under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 1 areas: 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 applied use is located in an area of rural inland plains landscape character surrounded by warehouses, open storages/storage yards, logistics centre, temporary domestic structures, active/fallow agricultural land and vacant land. The applied use is considered not incompatible with the surrounding environment. Chief Town Planner/Urban Design & Landscape, Planning Department has no objection to the application from landscape

planning perspective as significant adverse landscape impact arising from the development is not anticipated. Regarding DLO/N of LandsD's comments that the built-over area and height of the existing structures on Site do not tally with the proposal submitted in the planning application and are in breach of the restriction imposed under STW No. 1292, the applicants indicate that they will apply for modification of the conditions of the concerned STW. Other relevant departments consulted, including C for T, DEP, CE/MN of DSD and D of FS, etc. have no adverse comment on or no objection to the application.

- 12.4 The application generally complies with TPB PG-No. 13G in that the Site falls largely within Category 1 areas and favourable consideration will normally be given with no major adverse departmental comments and the local concern on the non-compliance of approval conditions in previous application can be addressed by close monitoring as discussed in paragraph 12.5 below.
- 12.5 The Site is the subject of nine previous applications for temporary container trailer/goods distribution and storage/cargo handling and forwarding facility uses, which were all approved by the Committee between 1999 and 2020. The last planning permission was revoked on 24.7.2022 due to non-compliance with the approval conditions relating to the provision of drainage facilities and the submission/implementation of proposals for fire service installations and water supplies for firefighting. In support of the current application, the applicants have submitted a drainage proposal with relevant assessment report and photo records, and a FSIs plan. D of FS considers the FSIs proposal acceptable while CE/MN of DSD advises that conditions should be included to request the applicants to submit and implement a drainage proposal for the Site. Should the Committee decide to approve the application, the applicants will be advised that should they fail to comply with any of the approval conditions resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 12.6 There is no similar application for the same applied use within the same "OU(PBU)" and "AGR" zones in the vicinity of the Site in the Fu Tei Au and Sha Ling area in the past five years.
- 12.7 Regarding the public comments received on the application as detailed in paragraph 11 above, government departments' comments and planning assessment 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 mentioned in paragraph 11, the Planning Department considers that the temporary use under the application could be tolerated for a period of three 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 period of three years until 8.12.2026. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 4:00 p.m. and 10:00 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) 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 8.6.2024;
- (d) in relation to (c) above, the provision of drainage facilities 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 8.9.2024;
- (e) in relation to (d) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (f) the implementation of the accepted fire service installations 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 8.9.2024;
- (g) if any of the above planning condition (a), (b) or (e) 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
- (h) if any of the above planning condition (c), (d) 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 V**.

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 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 applicants.

15. Attachments

Appendix I	Application Form with Attachment received on 29.5.2023
Appendix Ia	SI received on 30.5.2023
Appendix Ib	FI received on 22.8.2023
Appendix Ic	FI received on 20.9.2023
Appendix Id	FI received on 27.9.2023
Appendix Ie	FI received on 6.10.2023

Appendix I	FI, received on 20.10.2023
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Drainage Layout Plan
Drawing A-2	FSIs Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2023**