

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/236

- Applicant** : Times Fame Development Limited represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lots 189 S.A, 189 S.B, 189 S.C and 189 RP in D.D. 52 and Adjoining Government Land (GL), Sheung Shui Wa Shan, New Territories
- Site Area** : About 4,800m² (includes GL of about 340m² or 7.1% of the Site)
- Land Status** : Block Government Lease (demised for agricultural use) (about 92.9% of the Site)
- Plan** : Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/17
- Zonings** : (i) “Other Specified Uses” annotated “(Port Back-up Uses)” (“OU(PBU)”) (about 4,555m² or 95% of the Site)
(ii) “Agriculture” (“AGR”) (about 245m² or 5% of the Site)
- Application** : Temporary Logistics Warehouse for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary logistics warehouse for a period of three years at the application site (the Site). The Site falls within an area largely zoned “OU(PBU)” with a minor portion on the “AGR” zone. 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. The Site is currently used as a 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 4,776m² and a maximum building height not exceeding 14m (for warehouse, rain shelters and toilet). 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 southeastern 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, with

no operation on Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 The Site is the subject of three previously approved applications (No. A/NE-FTA/21, 189 & 211) for proposed temporary container trailer park with ancillary workshop use / logistics warehouse use respectively. The last application No. A/NE-FTA/211 was submitted by the same applicant as the current application and approved by the Rural and New Town Planning Committee (the Committee) in March 2022. Compared with the last approved application No. A/NE-FTA/211, 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 8.12.2023 **(Appendix I)**
 - (b) Further Information (FI) received on 17.1.2024 **(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 Planning Statement and FI at **Appendices I** and **Ia** 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) the logistics warehouse will only be operated on the existing hard-paved portion of the Site with no mechanical manufacturing operation; the operation hours will be confined to 8:00 a.m. and 8:00 p.m. from Mondays to Saturdays excluding Sundays and public holidays; and septic tank will be built for the toilet. The applied use will not cause significant air, noise and sewerage impacts to the local residents;
- (d) the applicant undertakes to comply with relevant guidelines of Environmental Protection Department (EPD) to minimize the environmental impact to the surrounding areas;
- (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; and
- (f) the applicant was unable to comply with the time-limited approval conditions on provisions of drainage facilities and fire service installations (FSIs) of the last application No. A/NE-FTA/211. Drainage works have been completed on site subject to acceptance by Drainage Services Department (DSD) whereas most of the FSIs have been completed except for connection of water meter to be arranged by Water Supplies Department (WSD). The applicant commits to comply with all approval conditions under current application.

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

The applicant is not a “current land owner” of the Site 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 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 GL portion within the Site, TPB PG-No.31B 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. 13G) promulgated in April 2023 is relevant to the application. The Site falls largely within Category 1 areas (about 95%) under the Guidelines. Relevant extracts of the Guidelines are at **Appendix II**.

6. **Previous Applications**

- 6.1 The Site is the subject of three previously approved applications (No. A/NE-FTA/21, 189 & 211) 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, while application No. A/NE-FTA/189 and 211 were submitted by the same applicant as current one. These applications were approved with conditions by the Committee on 16.10.1998, 17.5.2019 and 4.3.2022 respectively mainly on the grounds that the proposed development was generally in line with the planning intention of “OU(PBU)” zone; compatible with the surrounding areas; and would not have significant adverse environmental, traffic and drainage impacts. The last application No. A/NE-FTA/211 was revoked on 4.12.2023 due to non-compliance with time-limited approval conditions on the provisions of drainage facilities and water supplies for firefighting and fire service installations.
- 6.2 Compared with the last approved application No. A/NE-FTA/211, 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 Application**

There is one similar application (No. A/NE-FTA/235) for proposed temporary warehouse

within the “OU(PBU)” zone in the vicinity of the Site (**Plan A-1**). The application was approved with conditions by the Committee on 27.10.2023 mainly on the grounds that the uses were generally in line with the planning intention of “OU(PBU) zone; the proposed development was not incompatible with the surrounding land uses; and occupation of GL and unauthorized structures within the Site would be addressed via application of Short Term Tenancy (STT)/Short Term Waiver (STW) under the land administration regime. Details of the similar application are summarized at **Appendix IV** and the location is shown on **Plan A-1**.

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

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 are intermixed with some warehouses, storage/open storage yards and domestic/vacant structures. To the immediate north is a vegetated hillslope with some graves within the “Green Belt” (“GB”) zone.

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 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 provided at **Appendices V** and **VII** respectively.

10.2 The following government departments 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 GL is granted to the Site;

- (b) there are unauthorized structures on the private lots. The lots owner/applicant should immediately rectify the lease breaches and LandsD reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (c) the GL within the Site (about 340m² as mentioned in the Application Form) has been illegally occupied without any permission. Any occupation of GL without Government's prior approval is an offence under Cap. 28. LandsD reserves the rights to take necessary land control action against the illegal occupation of GL without further notice; and
- (d) if the planning application is approved, the lot owners shall apply to LandsD for a STW and STT to permit the structures erected within the said private lots and the occupation of the GL. The applications for STW and STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and STT, if approved, will be subject to such terms and conditions including the payment of waiver fee/rent and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structures will be considered.

Environment

10.2.2 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 were no environmental complaints against the Site during the past three years;
- (c) should there be any sewerage generated from the proposed 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 Professional Persons Environmental Consultative Committee Practice Note PN 1/23 and be certified by Authorized 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 VII**.

Agriculture and Nature Conservation

10.2.3 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 proposed development falling within the “AGR” zone is not supported from agricultural perspective; and
- (b) from nature conservation perspective, 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.

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

On 15.12.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received. One individual indicates no comment on the application. Another individual raises objection to the application mainly on the grounds that the applicant failed to comply with the approval conditions of the previous application. The continuation of the applied use will have adverse impact on the local community.

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 (about 5%) (**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 applied use 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 applied use 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 or 5%), the approval of the application on a temporary basis for a period of three years could be tolerated.

12.2 Major portion of the Site falls within Category 1 areas (about 95%) under the TPB PG-No. 13G. 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 applied use is considered not incompatible with the surrounding land uses comprising mainly warehouses, open storage yards and some temporary structures. Chief Town Planner/Urban Design and Landscape (CTP/UD&L, PlanD) considers that significant adverse landscape impact arising from the temporary use is not anticipated. In this regard, she has no objection to the application from the landscape planning perspective. Commissioner for Transport has no comment on the application as the development parameters remain unchanged from the last approved application. While DEP does not support the application as there are sensitive receivers, i.e. domestic structures, in the vicinity of the Site (**Plan A-2**), he advises that there were no environmental complaints received in the past three years. 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 Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD), Chief Engineer/Construction, WSD (CE/C, WSD), Chief Engineer/Mainland North, DSD (CE/MN, DSD) and Director of Fire Services (D of FS) have no adverse comment on or no objection to the application.
- 12.4 The application generally complies with the TPB PG-No. 13G 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 three previously approved applications (No. A/NE-FTA/21, 189 & 211) in 1998, 2019 and 2022 respectively. The last application No. A/NE-FTA/211 was revoked on 4.12.2023 due to non-compliance with approval conditions related to the provisions of drainage facilities and FSIs. According to the FI submitted by the applicant, the applicant has shown effort in complying with the outstanding approval conditions, and implementation of the drainage facilities and FSIs were under way. The applicant also undertakes to comply with relevant guidelines to minimize the environmental impact on the surrounding areas. Relevant government departments including EPD, DSD and Fire Services Department (FSD) have no objection to the application. Should the Committee decide to approve the application, the applicant will be advised that should it 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 is one similar application (No. A/NE-FTA/235) for proposed temporary warehouse within the “OU(PBU)” zone in the vicinity of the Site (**Plan A-1**). The application was approved with conditions by the Committee on 27.10.2023 mainly on the grounds that the uses were generally in line with the planning intention of “OU(PBU) zone; the proposed development was not incompatible with the surrounding land uses; 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 the approved similar application. The applicant will also be advised to address issues on occupation of GL and

unauthorized structures within the Site via the application of STT/STW under the land administration regime.

- 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 26.1.2027. The following conditions of approval with 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 submission of proposal for 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 26.7.2024
- (d) 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 26.10.2024;
- (e) the submission of proposals for 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 26.7.2024;
- (f) the provision of water supplies for fire-fighting and fire service installations 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 26.10.2024;
- (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; and
- (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 VII**.

- 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

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| Appendix I | Application Form with Attachments received on 8.12.2023 |
| Appendix Ia | FI received on 17.1.2024 |
| Appendix II | Relevant Extract of TPB Guidelines No. TPB PG-No. 13G for Application for Open Storage and Port Back-up Uses |
| Appendix III | Previous Applications |
| Appendix IV | Similar Application |
| Appendix V | Government Departments' General Comments |
| Appendix VI | Public Comments |
| Appendix VII | 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-4c | Site Photos |

**PLANNING DEPARTMENT
JANUARY 2024**