RNTPC Paper No. A/NE-FTA/247A For Consideration by the Rural and New Town Planning <u>Committee on 6.12.2024</u>

APPLICATION FOR PERMISSION UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/247

<u>Applicant</u>	:	Standard Billion Limited represented by R-riches Property Consultants Limited	
<u>Site</u>	:	Various Lots in D.D. 89 and adjoining Government Land (GL), Man Kam To, New Territories	
<u>Site Area</u>	:	: About 16,256m ² (including GL of about 80m ² , or about 0.5% of the Site)	
<u>Lease</u>	:	 (a) New Grant Lot (for Lot 526 in D.D. 89 only) for agricultural purpose only (b) Block Government Lease (demised for agricultural use) 	
<u>Plan</u>	:	Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/18	
Zoning	:	"Agriculture" ("AGR")	
<u>Application</u>	: Proposed Temporary Warehouse (Excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of Three Years and Associated Filling of Land		

1. <u>The Proposal</u>

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years and associated filling of land at the application site (the Site). The Site falls within an area zoned "AGR" on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years and filling of land require planning permission from the Town Planning Board (the Board). The Site is currently vacant and partly vegetated (**Plans A-4a to 4d**).
- 1.2 According to the applicant, the application is submitted to facilitate the relocation of his business operation in Hung Shiu Kiu, Yuen Long being affected by government project, i.e. the Hung Shiu Kiu/Ha Tsuen New Development Area (HSK/HT NDA). The affected operation involves a site area of about 18,279m² and floor area of about 13,533m², and is currently used for warehouse with ancillary facilities. It is anticipated that land resumption would take place in 2024.
- 1.3 The Site is accessible via a local track leading to Man Kam To Road to its east (Plans A-1 and A-2). According to the submission, the proposed use consists of two 2-storey temporary structures with building height of about 16.5m and a total floor area of about 14,738m² for warehouse (excluding dangerous goods godown) for storing miscellaneous goods (e.g. packaged food and beverage, apparel and footwear, etc.) and related ancillary office and washroom uses. The remaining uncovered area (about 8,887m² or 55% of the

Site) is proposed for circulation area and parking and loading/unloading (L/UL) spaces. A total of 10 private car parking spaces and nine L/UL bays for medium goods vehicles and container vehicles are proposed within the Site. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.4 According to the traffic management measures proposed by the applicant, sufficient manoeuvring space will be provided within the Site to ensure no queueing of vehicles on public road; staff will be deployed at the ingress/egress to direct vehicle entering/exiting the Site; and traffic signs will be installed to enhance pedestrian safety. A 10m-wide vehicular access is proposed at the northeastern boundary of the Site. The operation hours are between 7:00 a.m. and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays.
- 1.5 The applicant also applies for filling of the entire site by concrete with a depth of not more than 2.5m for site formation of structures, parking and L/UL spaces and circulation area. The land filling plan submitted by the applicant is shown in **Drawing A-2**. A drainage impact assessment (DIA) report, a tree survey report, a landscape proposal and an ecological impact assessment (EcoIA) report (Appendices Ib and Ic) are submitted by the applicant to support the application. According to the submission, a minimum setback of 3m will be reserved between the Site and the streamcourse surrounding the Site. The proposed drainage system comprises an underground storage tank at the northern portion of the Site as well as U-channels, manhole and catchpits along the site boundaries. The drainage plan submitted by the applicant is shown in **Drawing A-3**. In terms of sewage treatment, the applicant proposes to provide portable toilets within the Site and deploy regular de-sludging services by a licenced collector. While all existing trees (28 nos.) within the Site are proposed to be felled, no old and valuable tree (OVT) or protected species are identified in the tree survey. Compensatory tree planting in a ratio of 1:1 in terms of quantity is proposed and the trees with continuous soil trench will be planted along the northwestern and southwestern boundary of the Site. The landscape proposal submitted by the applicant is shown in Drawing A-4. A 2.5m high solid metal fencing will be erected to minimise noise nuisance to the surrounding area.
- 1.6 In support of the application, the applicant has submitted the following documents:

(a)	Application Form received on 18.6.2024	(Appendix I)
(b)	Planning Statement	(Appendix Ia)
(c)	Further Information (FI) received on 23.9.2024 ^	(Appendix Ib)
(d)	FI received on 15.10.2024 ^	(Appendix Ic)

^ accepted but not exempted from the publication and recounting requirements

1.7 On 16.8.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement and FIs at **Appendices Ia to Ic**, as summarised below:

(a) the area of the Site (about 16,256m²) and the total floor area (about 14,738m²) proposed under the application are similar to the applicant's original business in HSK (i.e. a total

area of about $18,279m^2$ (-11%) and a total floor area of about $13,533m^2$ (+9%)). While the total floor area is slightly larger than that of the original premises, a significant portion of the Site (about $8,887m^2$ or 55% of the Site) is uncovered and designated for manoeuvring/parking of vehicles and circulation area in support of the proposed use. Compared to the affected site in HSK, such arrangement would minimise the potential adverse traffic impact to the surrounding road networks;

- (b) the applicant desperately needs to identify a suitable site for relocation to continue its business operation as his concerned parcel of land in HSK will be resumed by the Government in 2024;
- (c) the applicant has spent effort in identifying suitable sites for relocation of his business premises. While the applicant has identified a number of alternative sites in various areas including Tuen Mun, Ma Tso Lung and Yuen Long for relocation, those sites were considered not suitable due to reasons such as land use incompatibility, environmental consideration, land ownership and relatively small site area, etc. The current Site is identified for relocation as it is relatively flat and easily accessible via Man Kam To Road;
- (d) the Site is currently vacant with no active farming activity. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the "AGR" zone;
- (e) the proposed use is not incompatible with the surrounding land uses which are temporary logistics structures, open storage yards and vacant land;
- (f) the applicant undertakes to strictly follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (COP), 'Professional Persons Environmental Consultative Committee Practices Notes' (ProPECC) (such as ProPECCs 1/94 and 1/23) and all other relevant environmental protection/pollution control ordinances at all times during the planning approval period to minimise adverse environmental impacts and nuisance on the surrounding areas; and
- (g) minimal traffic, landscape, environmental, ecological, drainage and fire safety impacts arising from the proposed use are anticipated. The applicant will reinstate the Site to an amenity area after the planning approval period.

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

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. 31B) by sending notices to the Ta Kwu Ling District Rural Committee and publishing newspaper notices. Detailed information would be deposited at the meeting for Members' inspection. For the GL portion of the Site, TPB PG-No. 31B is not applicable.

4. <u>Background</u>

The Site is not subject to any active enforcement $action^1$.

5. <u>Previous Applications</u>

- 5.1 The Site is the subject of four previous applications (No. A/NE-FTA/151, 156, 182 and 186) submitted by different applicants for different uses, which were all rejected by the Committee or the Board on review between 2015 and 2018². Their considerations are not relevant to the current application which involves different use.
- 5.2 Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

6. <u>Similar Applications</u>

- 6.1 There are three similar applications (No. A/NE-FTA/201, 220 and 238) involving two sites within/partly within the same "AGR" zone in the vicinity of the Site in the Fu Tei Au and Sha Ling area in the past five years.
- 6.2 Applications No. A/NE-FTA/201³ and 220 involving the same site for proposed cold storage for poultry and distribution centre (CSDC) were approved by the Committee in 2021 and 2023 respectively on considerations that the then Food and Health Bureau/Environmental and Ecology Bureau rendered policy supports to the applications as there was a genuine operational need for a CSDC for poultry in Hong Kong; and there was no adverse departmental comments on the applications, or relevant concerns could be addressed by approval conditions.
- 6.3 Application No. A/NE-FTA/238 for proposed temporary warehouse (excluding dangerous goods godown) was approved by the Committee in 2024 mainly on considerations that the proposed use was not entirely incompatible with the surrounding areas; and there was no adverse departmental comments on the application or relevant concerns could be addressed by approval conditions.
- 6.4 Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. <u>The Site and Its Surrounding Areas</u> (Plans A-1 to A-4d)

7.1 The Site is:

¹ The Site was the subject of number of previous planning enforcement cases against unauthorised development (UD) involving filling of land. Reinstatement Notices were issued by the Planning Authority (PA) on 30.11.2017 and 5.6.2018 respectively. Subsequent site inspections revealed that the site has been reinstated and the compliance notices were issued by PA in August 2019.

² Applications No. A/NE-FTA/151 and 156 for proposed temporary goods reshuffling yards and L/UL platform for a period of three years were rejected by the Committee/the Board on review on 24.7.2015 and 9.10.2015 respectively. Applications No. A/NE-FTA/182 and 186 both for proposed filling of land and pond for permitted agricultural use (hydroponic farm) were rejected by the Committee on 6.4.2018 and 7.9.2018 respectively.

³ The permission was revoked on 28.12.2023 due to non-compliance with approval conditions.

- (a) currently vacant and partly vegetated, covered by self-seeded plants, some trees of common and undesirable species, and a small portion at the north (i.e. partly within Lots 464, 465 in D.D. 89 and the adjoining GL) is a marsh;
- (b) generally bounded by existing natural streamcourses and ponds; and
- (c) accessible via a local track leading to Man Kam To Road to the east.
- 7.2 The surrounding areas are predominantly rural in nature and intermixed with warehouses (including the one to the southeast across Dongjiang water mains which is covered with a valid planning permission (application No. A/NE-FTA/238)), open storage/storage yards, temporary domestic structures, active/fallow agricultural land, ponds and tree clusters as well as vacant land.

8. <u>Planning Intention</u>

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. <u>Comments from Relevant Government Departments</u>

- 9.1 Apart from the government bureau/departments as set out in paragraphs 9.2 and 9.3 below, other departments consulted have no objection to or no adverse comments on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are at **Appendices IV** and **V** respectively.
- 9.2 The following government bureau supports the application:

Policy Aspect

- 9.2.1 Comments of the Secretary for Development (SDEV):
 - (a) the application is to facilitate relocation of a brownfield operation for warehouse which is currently situated at various lots in D.D. 125 in Yuen Long, which will be affected by the Second Phase development of the HSK/HT NDA;
 - (b) according to the applicant, a site search has been conducted with a view to identifying suitable site for re-establishment of the business elsewhere, and the Site under the current application is the most suitable relocation site. The Site is also of similar size as the one to be cleared by the Government; and
 - (c) subject to no adverse comments on land use compatibility and technical aspects from concerned departments, the application is supported from the

policy perspective.

9.3 The following government departments do not support the application:

Agriculture and Nature Conservation

- 9.3.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
 - (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
 - (b) agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.;
 - (c) no further comment on the application from nature conservation perspective, provided that the wetland habitat in the Site will be retained and appropriate mitigation measures/buffer will be provided to avoid impact on the wetland habitat; and subject to imposing approval conditions on the submission of a revised ecological impact assessment before commencement of any construction works or operation including site formation works and land filling, and implementation of the ecological mitigation measures identified therein before the commencement of any operation; and
 - (d) detailed comments on the submitted EcoIA (Appendix Ic) are in Appendix V.

Environment

- 9.3.2 Comments of the Director of Environmental Protection (DEP):
 - (a) does not support the application from environmental perspective as there are sensitive receivers, i.e. residential structures located in the vicinity of the Site (the nearest one to the immediate north) (Plan A-2) and the proposed use involves the use of heavy vehicles, and environmental nuisance is expected;
 - (b) no particular comment on the proposed filling of land;
 - (c) no environmental complaint was received for the Site in the past three years; and
 - (d) should the application be approved, the applicant should implement the relevant mitigation measures and follow the requirements in the latest COP and sewerage facilities shall be provided in accordance with ProPECC PN 1/23.

10. Public Comments Received During Statutory Publication Periods

- 10.1 On 25.6.2024, 4.10.2024 and 1.11.2024, the application was published for public inspection. During the statutory public inspection periods, a total of 19 public comments were received (**Appendix VI**).
- 10.2Sixteen comments from Designing Hong Kong Limited, the Conservancy Association, World Wide Fund for Nature Hong Kong, Kadoorie Farm & Botanic Garden Corporation, representatives of 袁焕宇祖全體後人 and 打鼓嶺沙嶺村居民福利會 (involving 56 signatures) and four individuals object to the application mainly on the grounds that the application is not in line with the planning intention of the "AGR" zone; the Site is close to a large, continuous, active and quality farming area to its southwest (the nearest farmland is about 60m away); the proposed filling of land is excessive and would create irreversible adverse impact and pose flooding risks on the surroundings; the Site is located within the "Sandy Ridge Wetland Mosaic" which has high ecological value; there will be a direct loss of agricultural land, resulting in adverse ecological impact on Greater painted-snipe and other wetland-associated species, and disrupting the ecological connectivity of the habitats; the proposed use will induce adverse environmental and visual impact to the surroundings; no technical assessments including sewerage impact assessment and DIA are submitted in support of the application; the submitted EcoIA and associated ecological surveys and habitat map are incomprehensive and inadequate; heavy vehicle traffic would induce road safety problem and adverse impact on the Dongjiang water mains; approval of the application would set an undesirable precedent for similar application in this area; the Site was subject to land formation, vegetation clearance and several previously rejected applications; approval of the application would encourage "destroy first, develop later' and unauthorized development; no information is submitted on reinstatement of the Site upon expiry of the planning permission; such mega construction project should be accommodated in multi-storey warehouses; and the applicant is not authorised by the land owners to submit the application.
- 10.3 The remaining three comments from a member of North District Council indicate no comment on the application.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years and associated filling of land at the Site zoned "AGR" on the OZP. The proposed use is not in line with the planning intention of the "AGR" zone, which is primarily to retain fallow 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 application from agricultural perspective as the Site possesses potential for agricultural rehabilitation and agricultural activities are active in the vicinity. Nevertheless, noting that the application is submitted to facilitate relocation of a brownfield operation for warehouse which is currently situated in Yuen Long, which will be affected by the Second Phase development of HSK/HT NDA and according to the applicant, a site search has been conducted with a view to identifying suitable site for re-establishment of the business elsewhere, the Site under the current application is the most suitable relocation site, and the Site is also of similar size as the one to be cleared by the Government, SDEV supports the application from the policy perspective subject to no adverse comments on land use compatibility and technical aspects from concerned departments. Taking into account the planning assessment below and with the policy support given by SDEV, sympathetic consideration could be given to the proposed use on a temporary basis for a period of three years.

- 11.2 The application involves filling of the entire site by concrete with a depth of not more than 2.5m for site formation, parking and L/UL spaces and circulation area. Filling of land within the "AGR" zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department has no objection to the application from public drainage viewpoint, while DEP has no particular comment on the proposed filling of land from environmental perspective. Should the application be approved, approval conditions requiring the applicant to submit a revised DIA and implement the proposed flood mitigation measures and drainage facilities are recommended in paragraph 12.2 below.
- 11.3 The Site is currently vacant and partly covered with vegetation. While DAFC advises that a small portion at the northern part of the Site is a marsh and there are records of aquatic fauna, dragonflies, butterflies and birds within and in the vicinity of the Site, he has no further comment on the application from nature conservation perspective, provided that should the application be approved, the wetland habitat in the Site will be retained and appropriate mitigation measures/buffer will be provided to avoid impact on the wetland habitat. Therefore, approval conditions requiring the submission of a revised EcoIA before commencement of any construction works or operation including site formation works and land filling, and implementation of the ecological mitigation measures identified therein before the commencement of any operation are recommended in in paragraph 12.2 below.
- 11.4 The proposed use is considered not entirely incompatible with the surrounding areas, which are predominantly rural in character and intermixed with warehouses, open storage/storage yards, temporary domestic structures, active/fallow agricultural land, ponds and tree clusters as well as vacant land. To the south is the site of an approved similar application (No. A/NE-FTA/238) involving temporary warehouse use. CTP/UD&L, PlanD considers that noticeable change to the existing rural landscape character is anticipated. In this regard, the applicant proposes to plant 28 nos. of new trees along the northwestern and southwestern boundary of the Site to provide compensatory tree planting in a ratio of 1:1 in terms of quantity (**Drawing A-4**). Besides, should the application be approved, an approval condition requiring the applicant to reinstate the Site to an amenity area is recommended in paragraph 12.2 below.
- 11.5 The Site is accessible via a local track leading to Man Kam To Road to its east. The Commissioner for Transport has no comment on the application from traffic engineering perspective. DEP does not support the application as the proposed use involves the use of heavy vehicles and environmental nuisance on the sensitive receivers (i.e. domestic structures) in the vicinity of the Site is expected (**Plan A-2**). In this regard, the applicant will be advised to implement the relevant mitigation measures and follow the requirements in the latest COP and sewerage facilities shall be provided in accordance with ProPECC PN 1/23. Other concerned departments consulted, including the Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below.
- 11.6 There are three similar applications involving two sites for proposed temporary

warehouse and CSDC with filling of land in the vicinity of the Site, which were all approved with conditions by the Committee in 2021 and 2024 mainly on considerations that policy support was given by relevant bureau and concerns of departments could be addressed through imposition of approval conditions. The planning circumstances of the current application are similar to those of the approved applications. As such, approval of the current application is considered in line with the Committee's previous decisions.

11.7 Regarding the adverse public comments mentioned in paragraph 10 above, the government bureau's/departments' comments and the planning assessment above are generally relevant. For the public comment expressing that the applicant had not been authorised by the land owner(s) to submit the application, the applicant has complied with the requirements as set out in TPB PG-No. 31B by demonstrating that reasonable steps have been taken to give the necessary notification as mentioned in paragraph 3 above.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account public comments in paragraph 10 above, the Planning Department considers that the proposed use <u>could be tolerated</u> for a period of three years.
- 12.2 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 <u>6.12.2027</u>. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a revised ecological impact assessment before the commencement of any construction works including site formation works and land filling to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board;
- (b) in relation to (a) above, the implementation of the ecological mitigation measures identified therein before the commencement of any operation to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board;
- (c) the submission of a revised drainage impact assessment 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 <u>6.6.2025</u>;
- (d) in relation to (c) above, the implementation of the flood mitigation measures and 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 6.9.2025;
- (e) in relation to (d) above, the implemented drainage facilities should be maintained at all times during the planning approval period;

- (f) the submission of a fire services 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 <u>6.6.2025;</u>
- (g) in relation to (f) above, the implementation of the fire services 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 <u>6.9.2025</u>;
- (h) the implementation of traffic management measures, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by <u>6.9.2025;</u>
- (i) if the above planning condition (a) is not complied with before the commencement of any construction works including site formation works and land filling, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if the above planning condition (b) is not complied with before the commencement of any operation, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (k) if the above planning condition (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;
- (l) if any of the above planning condition (c), (d), (f), (g) or (h) 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; and
- (m) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at Appendix V.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use with associated filling of land is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.

- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form received on 18.6.2024
Appendix Ia	Planning Statement
Appendix Ib	FI received on 23.9.2024
Appendix Ic	FI received on 15.10.2024
Appendix II	Previous Applications
Appendix III	Similar Applications within the "AGR" zone in the vicinity of the
	Site in the Fu Tei Au and Sha Ling Area
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Drawing A-3	Drainage Proposal
Drawing A-4	Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4d	Site Photos

PLANNING DEPARTMENT DECEMBER 2024