

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/249

- Applicants** : Messrs LIU Tak Sun and LIU Loi Hei (Managers of Liu Hu Pak Tso) represented by M&D Planning and Construction Consultant Limited
- Site** : Lot 183 RP (Part) in D.D. 52, Fu Tei Au, Sheung Shui, New Territories
- Site Area** : 724m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Fu Tei Au & Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/18
- Zonings** : (i) “Other Specified Uses” annotated ‘Port Back-up Uses’ (“OU(PBU)”) (about 92% of the Site)
- (ii) “Agriculture” (“AGR”) (about 8% 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 temporary cargo handling and forwarding facility for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls largely within an area zoned “OU(PBU)” with a minor portion zoned “AGR” on the OZP. According to the Notes of the OZP, ‘Cargo Handling and Forwarding Facilities’ is a Column 2 use in the “OU(PBU)” zone, which requires planning permission from the Town Planning Board (the Board). The covering Notes of the OZP stipulate that temporary use or development of any land or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Board. The Site is hard-paved, fenced off and occupied by the applied use without valid planning permission (**Plan A-4a**).
- 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’ submission, the applied use comprises three one to two-storey structures with building height (BH) of not more than 5.2m and a total floor area of about 599.43m² for storage, site office, staff rest room, pantry and toilet uses. One parking space for private car and two parking or loading/unloading (L/UL) spaces for light goods vehicle (LGV) will be provided at the Site. A 6-m wide vehicular access is provided at the southern boundary of the Site. According to the traffic management measures proposed by the applicants, staff will be deployed to manage traffic and parking

arrangements; sufficient manoeuvring space will be provided within the Site and no vehicle will queue back on the local road; and traffic signs will be installed. The operation hours are from 10:00 a.m. to 4:00 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays. The layout plan submitted by the applicants is shown in **Drawing A-1**.

- 1.3 The Site is part of the subject of two previous applications (No. A/NE-FTA/194 and 227) submitted by the same applicants for the same use, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 24.4.2020 and 8.12.2023 respectively (details in paragraph 6 below). The planning permissions were subsequently revoked on 24.7.2022 and 8.6.2024 respectively due to non-compliance with approval conditions. A comparison of the major development parameters of the current application and the last previous application is summarised as follows:

Major Development Parameters	Approved Scheme under Application No. A/NE-FTA/227 (a)	Proposed Scheme under Current Application (b)	Differences (b)-(a)
Site Area	About 1,602m ²	About 724m ² ¹	- 878m ² (-55%)
Total Floor Area	About 1,050.4m ²	About 599.43m ²	-450.97m ² (-43%)
No. of Structures	5	3	-2 (-40%)
BH	Not exceeding 5.2m (1 to 2 storeys)	Not exceeding 5.2m (1 to 2 storeys)	No change
Parking space / L/UL space	1 parking space for LGV; 3 L/UL spaces for LGV	1 parking space for private car; 2 parking or L/UL spaces for LGV	-1 (-25%)

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

- (a) Application Form with attachments received on 13.8.2024 **(Appendix I)**
- (b) Further Information (FI) received on 12.9.2024* **(Appendix Ia)**
- (c) FI received on 8.10.2024* **(Appendix Ib)**

** accepted and exempted from the publication and recounting requirements*

- 1.5 On 4.10.2024, the Committee of the Board agreed to the applicants' request to defer making a decision on the application for two months to address departmental comments.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Application Form and FIs at **Appendices I to Ib**, as summarised below:

¹ Part of the application site in the approved application No. A/NE-FTA/227 was resumed by the Government for the Kwu Tung North (KTN) and Fanling North (FLN) New Development Area (NDA), and is excluded in the current application.

- (a) the Site falls within an area zoned “OU(PBU)” and the applied use is in line with the planning intention of the “OU(PBU)” zone and compatible with the surrounding land uses;
- (b) the Site falls within Category 1 areas under the 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 in line with TPB PG-No. 13G;
- (c) the applied use can help cater for the demand for cross-boundary trade, and will optimise the use of land resources, drive economic activities and create job opportunities;
- (d) the Site is the subject of two previously approved applications for the same applied use. For application No. A/NE-FTA/194, the applicants have spent efforts in implementing the fire service installations and drainage facilities, however, as it was no longer viable to carry on the business due to the pandemic, they failed to comply with the relevant approval conditions. For application No. A/NE-FTA/227, as part of the site was resumed by the Government to facilitate the Kwu Tung North (KTN) and Fanling North (FLN) New Development Area (NDA), the applicants could not apply for Short Term Waiver (STW) according to the approved scheme and comply with the approval conditions. A fresh application is therefore submitted, and the land resumed by the Government is excluded from the current application; and
- (e) no adverse traffic, environmental and drainage impacts 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 owner”, 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. 31B) by posting site notice and sending notice to Sheung Shui District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

TPB PG-No. 13G promulgated on 14.4.2023 is relevant to this application. Majority of the Site (92%) falls within Category 1 areas under TPB PG-No. 13G². Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is currently not subject to any active planning enforcement action.

² The remaining part of the Site (8%) falls within Category 3 areas.

6. Previous Applications

- 6.1 The Site is the subject of ten previous applications (No. A/NE-FTA/29, 44, 80, 99, 108, 113, 154, 167, 194 and 227) for container trailer park, goods distribution and storage, cargo handling and forwarding facility uses, etc. which were approved by the Committee between 1999 and 2023.
- 6.2 The last two previous applications (No. A/NE-FTA/194 and 227) were submitted by the same applicants for the same use as the current application, which were approved by the Committee on 24.4.2020 and 8.12.2023 respectively mainly on the considerations that the applied use was generally in line with the then TPB PG-No. 13E / 13G and the planning intention of the “OU(PBU)” zone; and it was not incompatible with the surrounding areas. The planning permissions were subsequently revoked on 24.7.2022 and 8.6.2024 respectively due to non-compliance with approval conditions.
- 6.3 Compared with the last previous application No. A/NE-FTA/227, the current application mainly involves a reduction of site area (about -55%) and reduction in total floor area (about -43%) as detailed in paragraph 1.3 above.
- 6.4 Details of the previous applications are summarised at **Appendix III** and their locations are shown in **Plan A-1**.

7. Similar Application

There is no similar application for the same applied use with 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, fenced-off and currently occupied by the applied use without valid planning permission; and
 - (b) accessible via 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 warehouses, domestic structures, active agricultural land, vacant land and tree clusters.

9. Planning Intention

- 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 department 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 the Recommended Advisory Clauses are provided at **Appendices IV** and **V** respectively.

10.2 The following government department does not support the application:

Agriculture

10.2.1 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; and
- (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 and plant nurseries, etc.

11. Public Comments Received During Statutory Publication Period

On 20.8.2024, the application was published for public inspection. During the statutory public inspection period, two public comments from two members of the North District Council were received, indicating no comment on the application (**Appendix VI**).

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” on the OZP. 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 which is primarily to retain and safeguard good quality 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. Nevertheless, only a minor portion of the Site is located at fringe of the concerned “AGR” zone and taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.

12.2 The Site falls largely within Category 1 areas (92%) 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 Site is hard-paved, fenced-off and currently occupied by the applied use without valid planning permission. The applied use is considered not entirely incompatible with the surrounding land uses, which are intermixed with warehouses, open storages/storage yards, logistics warehouses, domestic structures, active agricultural land, vacant land and tree clusters. The Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from landscape planning perspective and considers that significant adverse impact on the landscape character and existing landscape resources arising from the applied use is not anticipated.
- 12.4 The Site is accessible from its south via a local track leading to Man Kam To Road. The Commissioner for Transport has no comment on the application from traffic engineering perspective. Other relevant departments consulted, including the Chief Engineer/Mainland North of Drainage Services Department, Director of Environmental Protection and Director of Fire Services, have no objection to or no adverse comment on the application.
- 12.5 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.
- 12.6 The Site is the subject of two previously approved applications (No. A/NE-FTA/194 and 227) submitted by the same applicants for the same use as the current application as detailed in paragraph 6.2 above. The last planning permission was revoked on 8.6.2024 due to non-compliance with approval conditions. The applicants explained that part of the application site of Application No. A/NE-FTA/227 was resumed by the Government for the KTN and FLN NDA and thus the applicants were unable to apply for STW and fulfil the approval conditions. In the current application, the land resumed by the Government is excluded. In this regard, District Lands Officer/North of Lands Department advised that the Site and the adjoining former Lot 182 RP in D.D. 52 were previously covered by STW No. 1292 issued for the purpose of container trailer park and ancillary office and storage but was cancelled on 11.4.2024 due to the Remaining Phase Development of KTN and FLN. In view of the above, sympathetic consideration may be given to the application. 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 again resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 12.7 There are two public comments received indicating no comment on the application as mentioned in paragraph 11 above.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department considers that the applied use 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 6.12.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) 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 6.6.2025;
- (b) in relation to (a) above, the implementation of the drainage proposal 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;
- (c) in relation to (b) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (d) the submission of a fire service installations 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 6.6.2025;
- (e) in relation to (d) above, the implementation of the 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 6.9.2025;
- (f) if the above planning condition (c) 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
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 13.8.2024
Appendix Ia	FI received on 21.9.2024
Appendix Ib	FI received on 8.10.2024
Appendix II	Relevant Extracts of TPB Guidelines No. 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	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2024**