

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-FTA/253**

- Applicant** : Ms Sin Oi Hing represented by 崔國安
- Site** : Lots 360B S.A (Part), 360B RP (Part), 360C S.A (Part), 360C RP (Part), 360D S.A (Part), 360D RP (Part) and 360E (Part) in D.D. 87 and Adjoining Government Land (GL), Kong Nga Po, Sheung Shui, New Territories
- Site Area** : About 2,044 m<sup>2</sup> (including GL of about 103 m<sup>2</sup> or 5% of the Site)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/18
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Warehouse (excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

**1. The Proposal**

- 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) (**Plan A-1**). The Site falls within an area zoned “AGR” on the OZP. According to the Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years and filling of land within the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is hard-paved, fenced off and its northern portion is occupied by a largely vacant structure (**Plans A-4a and 4b**).
- 1.2 The Site is accessible from its south via a local road leading to Kong Nga Po Road (**Plan A-2**). According to the submission, the proposed use comprises three single-storey structures with building height ranging from 3m to 6m and a total floor area of about 1,013m<sup>2</sup> for warehouse and ancillary facilities (i.e. office and storeroom). The uncovered land area is only served as circulation/manoeuvring space and provision of two car parking spaces for private car and light goods vehicle (LGV) as well as one loading/unloading (L/UL) space for LGV. A 6m-wide vehicular access is provided at the southern boundary of the Site. According to the traffic management measures proposed by the applicant, staff will be deployed to manage the parking arrangement within the Site; sufficient manoeuvring space is provided within the Site and no vehicle will queue back on the local road; and traffic signs as well as flashing lights will be installed to ensure pedestrian safety. The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to

Saturdays, and no operation on Sundays and public holidays. The applicant also applies for regularisation of land filling of the entire site by not more than 0.4m in depth. The layout plan submitted by the applicant is shown in **Drawing A-1**.

1.3 In support of the application, the applicant has submitted the following documents:

- |     |   |               |
|-----|---|---------------|
| (a) | Application Form with attachments received on 10.9.2024 | (Appendix I)  |
| (b) | Supplementary Information (SI) received on 16.9.2024    | (Appendix Ia) |
| (c) | Further Information (FI) received on 16.10.2024*        | (Appendix Ib) |
| (d) | FI received on 24.10.2024*                              | (Appendix Ic) |
| (e) | FI received on 29.10.2024*                              | (Appendix Id) |

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

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and SI at **Appendices I** and **Ia**, as summarised below:

- (a) the application is only on a temporary basis and will not frustrate the long-term planning intention the “AGR” zone;
- (b) the proposed use is considered not incompatible with the surrounding areas which are intermixed with open storage yards, warehouses and logistics centres;
- (c) as the number of available sites for the proposed use has decreased due to land resumption in various districts, centralised and regularised management could meet the land use demand for storage and port back-up uses;
- (d) no adverse traffic, air and visual impacts are anticipated; and
- (e) the applicant will comply with relevant environmental protection ordinance/guidelines. Should the application be approved, the applicant is committed to submit drainage and fire service installations proposals to alleviate possible adverse impact arising from the proposed use.

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

The applicant is one of the “current land owners” and 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 posting site notice and sending a notice to Ta Kwu Ling District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For GL within the Site, the TPB PG-No. 31B is not applicable.

## **4. Background**

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

## **5. Previous Applications**

- 5.1 The Site is the subject of two previous applications (No. A/NE-FTA/195 and 207) submitted by different applicants for different uses. The northern part of the Site is the subject of Application No. A/NE-FTA/195 for proposed temporary warehouse and open storage of containers, which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 6.3.2020 mainly for reasons of being not in line with the planning intention of the “AGR” zone; not complying with the then Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E) in that the site fell within Category 3 areas and no previous planning approval was granted to the site; there were adverse departmental comments and local objections on the application; and failure to demonstrate that the development would not generate adverse traffic impact on the surrounding areas.
- 5.2 Application No. A/NE-FTA/207 for proposed temporary animal boarding establishment (dog kennel) for a period of three years was approved with conditions by the Committee on 22.4.2022. The planning permission was subsequently revoked on 22.10.2023 due to non-compliance with the approval conditions. As the application is for a different use, the planning considerations are considered not applicable to the current application.
- 5.3 Details of the previous applications are summarised at **Appendix II** and their locations are shown in **Plan A-1**.

## **6. Similar Application**

There is no similar application within the same “AGR” zone.

## **7. The Site and Its Surrounding Areas (Plans A-1 to A-4b)**

- 7.1 The Site is:
- (a) hard-paved, fenced off and its northern portion is occupied by a largely vacant structure; and
  - (b) accessible via a local road to the south leading to Kong Nga Po Road.
- 7.2 The surrounding areas are intermixed with warehouse, open storages/storage yards (including two sites to the north across a watercourse with valid planning permissions (applications No. A/NE-FTA/246 and 251)), pigsties, temporary domestic structure, fallow agricultural land, vacant land and tree clusters.

## **8. Planning Intention**

- 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 within the “AGR” zone may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

## **9. Comments from Relevant Government Departments**

- 9.1 Apart from the government departments as set out in paragraph 9.2 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 III** and **IV** respectively.
- 9.2 The following government departments do not support or have concern on the application:

### **Land Administration**

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

- (a) the Site comprises Old Schedule Agricultural Lot 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) the following irregularities covered by the subject planning application have been detected by her office:
  - (i) Unauthorised structures within the said private lots covered by the planning application

she has reservation on the planning application since there are unauthorised structures on the private lots which are already subject to lease enforcement actions according to case priority. The lot owner should rectify the lease breaches as demanded by LandsD;

- (ii) Unlawful occupation of GL adjoining the said private lots covered by the planning application

the GL within the Site (about 114m<sup>2</sup> as mentioned in the Application Form) has been fenced off and illegally occupied without any permission. Any occupation of GL without Government’s prior approval is an offence under Cap. 28. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (iii) signs reveal that the Site has been used for “applied use”. The approach of unauthorised use before application (先違規後申請) should not be encouraged;
- (c) the following irregularities not covered by the subject planning application have been detected by her office:

- (i) Unauthorised structures within/extended from the said private lots not covered by the planning application

there are unauthorised structures within and extended from the said private lots not covered by the subject planning application. The lot owners should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (ii) Unlawful occupation of GL not covered by the planning application

the GL adjoining the said private lots has been fenced off and illegally occupied by unauthorised structures without permission. The GL being illegally occupied is not included in the application. Please clarify the extent of the Site with the applicant. Any occupation of GL without Government's prior approval is an offence under Cap. 28. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (d) the lot owners shall either (i) remove the unauthorised structures and cease the illegal occupation of the GL not covered by the subject planning application immediately; or (ii) include the unauthorised structures and the adjoining GL being illegally occupied in the subject planning application for the further consideration by the relevant departments; and subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as aforesaid required, apply to her office for Short Term Waiver (STW) and Short Term Tenancy (STT) to permit the structures erected/to be erected and the occupation of the GL. The applications for STW and STT have to be submitted by all lot owners and will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW and STT, if approved, will be on whole lot basis and subject to such terms and conditions including the payment of back-dated waiver fee/rent from the first date of the structures were erected and occupation of GL and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owners for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered;
- (e) unless and until all the unauthorised structures and the unlawful occupation of GL are duly rectified by the lot owners or entirely included in the subject planning application, her office has objection to the application and it must be brought to the attention of the Board when the application is being considered; and
- (f) the applicant should comply with all land filling requirements imposed by relevant Government departments. GL should not be disturbed unless with prior approval.

### **Agriculture and Nature Conservation**

#### 9.2.2 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 and plant nurseries, etc.; and
- (c) the Site is largely paved with a watercourse located to its north. While she has no comment on the application from nature conservation perspective, the applicant is reminded to avoid impact to the watercourse during construction and operation phases of the proposed use should the application be approved.

### **Landscape**

#### 9.2.3 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD):

- (a) with reference to the site photos, the Site is hard paved and occupied by a temporary structure with no significant tree/vegetation is observed within the Site. Significant adverse impact on the existing landscape resources within the Site is not anticipated; and
- (b) based on the aerial photo of 2022, the Site is located in an area of miscellaneous rural fringe landscapes landscape character comprising temporary structures, vegetated areas, scattered tree groups and woodland within the “Green Belt” zone to the east. There is concern that approval of the application may further alter the landscape character and degrade the landscape quality of the “AGR” zone.

## **10. Public Comments Received During Statutory Publication Periods**

On 25.6.2024 and 13.9.2024, the application was published for public inspection. During the statutory public inspection periods, two public comments were received (**Appendix V**). An individual objects to the application mainly on the grounds that the previous application at the Site was revoked due to non-compliance with approval conditions, and the proposed use with associated filling of land would result in cumulative adverse impact on the area. A Member of North District Council indicates no comment on the application.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years and associated filling of land at the Site which falls within an area 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 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. Nonetheless, taking into account the planning assessments below, the proposed use on a temporary basis of three years could be tolerated.

- 11.2 The proposed use involves regularisation of land filling of the entire site by not more than 0.4m in depth. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department has no objection to the application from public drainage perspective, while the Director of Environmental Protection has no adverse comment on the application. Should the application be approved, approval conditions requiring the applicant to submit and implement a drainage proposal, and reinstate the Site to an amenity area are recommended in paragraph 12.2 below.
- 11.3 The Site is hard-paved, fenced off and its northern portion is occupied by a largely vacant structure. The proposed use is considered not entirely incompatible with the surrounding land uses intermixed with warehouse, open storages/storage yards, pigsties, temporary domestic structure, fallow agricultural land, vacant land and tree clusters. While CTP/UD&L, PlanD considers that approval of the application may further alter the landscape character and degrade the landscape quality of the “AGR” zone, she considers that significant adverse impact on the existing landscape resources within the Site is not anticipated.
- 11.4 The Site is accessible via a local track leading to Kong Nga Po Road. Other relevant government 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. Should the planning application be approved, the applicant will also be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimise the possible environmental impacts on the surrounding areas.
- 11.5 Regarding DLO/N, LandsD’s comments on the presence of unauthorised structures and unlawful occupation of GL within and adjoining the Site, the applicant undertakes that applications for STW and STT will be submitted should the application be approved by the Committee. The applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.6 Part of the Site is the subject of a previous application (No. A/NE-FTA/195) for proposed temporary warehouse and open storage of containers which was rejected by the Committee in 2020 mainly on the grounds that it fell within Category 3 areas under the then TPB PG-No. 13E and the applicant failed to demonstrate no adverse traffic impact from the proposed use. Nonetheless, the planning circumstances of the current application are considered different from the rejected application as the current application is only for warehouse use and no adverse traffic impact was anticipated.
- 11.7 Regarding the adverse public comment mentioned in paragraph 10 above, the government department’s comments and the planning assessments above are relevant.

## **12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the proposed use could be tolerated 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 8.11.2027. 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 8.5.2025;
- (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 8.8.2025;
- (c) in relation to (b) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (d) the implementation of the 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 8.8.2025;
- (e) 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 8.5.2025;
- (f) in relation to (e) 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 8.8.2025;
- (g) 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;
- (h) if any of the above planning condition (a), (b), (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; and
- (i) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

### **Advisory Clauses**

The recommended advisory clauses are at **Appendix IV**.



- 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such 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**

<b>Appendix I</b>	Application Form with attachment received on 10.9.2024
<b>Appendix Ia</b>	SI received on 16.9.2024
<b>Appendix Ib</b>	FI received on 16.10.2024
<b>Appendix Ic</b>	FI received on 24.10.2024
<b>Appendix Id</b>	FI received on 29.10.2024
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2024**