

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

**APPLICATION NO. A/NE-FTA/257**

- Applicant** : Mr. YU Chau Ming represented by 崔國安
- Site** : Lots 344 (Part) and 345 (Part) in D.D. 87 and adjoining Government Land (GL), Kong Nga Po, Sheung Shui, New Territories
- Site Area** : About 320 m<sup>2</sup> (including GL of about 65 m<sup>2</sup> or 20% 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 for Storage of Construction Materials 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 for storage of construction materials 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 covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is hard-paved, fenced-off and occupied by a temporary structure (**Plans A-4a and 4b**).
- 1.2 The Site is bounded by a local road to the east and south leading to Kong Nga Po Road (**Plan A-2**). According to the submission, the proposed use consists of a one-storey temporary structure with building height of not more than 6m and floor area of about 265m<sup>2</sup> for warehouse for storage of construction materials and ancillary office use. One parking space and one loading/unloading space for light goods vehicle will be provided within the temporary structure. A 6m-wide vehicular access will be provided at the western boundary of the Site.
- 1.3 According to the traffic management measures proposed by the applicant, staff will be deployed to manage the traffic and ensure no vehicle will queue back on the local road; a traffic sign and a flashing light will be installed at the ingress/egress to ensure pedestrian safety; a notice board will be erected to prevent illegal parking by visitors. Sufficient manoeuvring space will also be provided within the Site. The operation hours are

between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. No maintenance or other operations will be carried out within the Site at any times during the planning approval period. Portable toilet will be provided for staff and a drainage proposal will be submitted should the application be approved. 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**.

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

- |     |  |               |
|-----|--|---------------|
| (a) | Application Form with attachments received on 21.10.2024 | (Appendix I)  |
| (b) | Supplementary Information (SI) received on 25.10.2024    | (Appendix Ia) |
| (c) | Further Information (FI) received on 3.12.2024*          | (Appendix Ib) |
| (d) | FI received on 5.12.2024*                                | (Appendix Ic) |

*\* 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, SI and FIs at **Appendices I to Ic**, as summarised below:

- (a) the proposed use is considered not incompatible with the surrounding areas which comprise an intermix of open storage yards, warehouses and logistics centres;
- (b) no adverse traffic, air, visual and noise impacts are anticipated; and
- (c) 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 not subject to any active enforcement action.

## **5. Previous Application**

There is no previous application at the Site.

## **6. Similar Applications**

- 6.1 There were two similar applications (No. A/NE-FTA/195 and 253) for proposed temporary warehouse within the same “AGR” zone in the vicinity of the Site in the past five years. Application No. A/NE-FTA/195 for proposed temporary warehouse and open storage of containers was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 6.3.2020 mainly for reasons of not complying with the then Town Planning 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 to the application; and failure to demonstrate that the development would not generate adverse traffic impact on the surrounding areas.
- 6.2 Application No. A/NE-FTA/253 for proposed temporary warehouse was approved with conditions by the Committee on 8.11.2024 mainly on the considerations that the proposed use was not entirely incompatible with the surrounding areas; and the concerns of the relevant government departments could be addressed through implementation of approval conditions.
- 6.3 Details of the similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) hard-paved, fenced-off and occupied by a temporary structure; and
  - (b) bounded by a local road to the east and south leading to Kong Nga Po Road.
- 7.2 The surrounding areas comprise an intermix of open storage yards, warehouses, pigsties, temporary domestic structures, active agricultural land, vacant land and tree clusters. To the further west and north of the Site is an area zoned “Green Belt” (“GB”) generally comprising wooded slopes.

## **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 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) 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

LandsD has reservation on the 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; and

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

the GL within the Site (about 65m<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 the Land (Miscellaneous Provisions) Ordinance (Cap. 28). LandsD objects to the application since there is illegal occupation of GL which regularisation would not be considered according to the prevailing land policy. The lot owners should immediately cease the illegal occupation of GL as demanded by LandsD. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (c) if the application is approved and subject to the cessation of the illegal occupation of GL as required, the lot owners shall apply to her office for a Short Term Waiver (STW) to permit the structures erected/to be erected within the said private lots. The applications for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be on whole lot basis

and subject to such terms and conditions including the payment of back-dated waiver fee from the first date of the erection of the unauthorised structures as well as administrative fee as considered appropriate 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;

- (d) unless and until the unauthorised structure and the unlawful occupation of GL are duly rectified by the lot owners, 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
- (e) the applicant should comply with all land filling requirements imposed by relevant government departments. GL should not be disturbed unless with prior approval.

### **Agriculture**

#### 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; 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.

### **Landscape**

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

- (a) with reference to the site photos, the Site is hard paved and occupied by a temporary structure. No sensitive landscape resources are 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 2023, the Site is located in an area of miscellaneous rural fringe landscapes landscape character comprising farmlands, temporary structures, vegetated areas, scattered tree groups and woodland to the west and north within the “GB” zone. 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 Period**

On 24.10.2024, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix V**). Two comments from World Wide Fund for Nature Hong Kong and an individual object to the application mainly on the grounds that the Site involves suspected unauthorised filling of land; the Site is not the subject of any previous approval; and the proposed use is not compatible with the nearby pigsties. The remaining comment from a member of North District Council indicates no comment on the application.

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

- 11.1 The application is for proposed temporary warehouse for storage of construction materials 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 Drainage Services Department and Director of Environmental Protection have no objection to the application from public drainage and environmental planning perspectives respectively. Should the application be approved, approval conditions requiring the applicant to submit and implement a drainage proposal, and to reinstate the Site to an amenity area are recommended in paragraph 12.2 below.
- 11.3 The Site is hard-paved, fenced-off and occupied by a temporary structure. The proposed use is considered not entirely incompatible with the surrounding land uses which comprise an intermix of open storage yards, warehouses, pigsties, temporary domestic structures, active 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 bounded by a local road to the east and south leading to Kong Nga Po Road. The Commissioner for Transport has no comment on the application from traffic engineering perspective. 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 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’ and implement standard pollution control measures during filling of land or other construction works to minimise the possible environmental impacts on the surrounding areas.

- 11.5 Regarding DLO/N, LandsD's concern on the unauthorised structures erected within the Site and the illegal occupation of GL, the applicant undertakes that application for STW and Short Term Tenancy will be submitted. The applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.6 There was one similar application (No. A/NE-FTA/253) for temporary warehouse approved by the Committee in 2024 as mentioned in paragraph 6.2 above. Regarding the rejected similar application (No. A/NE-FTA/195), open storage of containers was also involved and the site fell within Category 3 areas under the then TPB PG-No. 13E while 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 this rejected application as the current application is only for warehouse use and no adverse traffic impact was anticipated. As such, approval of the current application is generally in line with the Committee's previous decisions.
- 11.7 Regarding the adverse public comments 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 20.12.2027. 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 20.6.2025;
- (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 20.9.2025;
- (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 20.6.2025;
- (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 20.9.2025;

- (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;
- (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; and
- (h) 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 21.10.2024
<b>Appendix Ia</b>	SI received on 25.10.2024
<b>Appendix Ib</b>	FI received on 3.12.2024
<b>Appendix Ic</b>	FI received on 5.12.2024
<b>Appendix II</b>	Similar 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



**Plan A-3**                      Aerial Photo  
**Plans A-4a and A-4b**    Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2024**