

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-HLH/77

<u>Applicant</u>	: Able New Development Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Various Lots in D.D. 87, Hung Lung Hang, New Territories
<u>Site Area</u>	: 23,163m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Hung Lung Hang Outline Zoning Plan (HLH) No. S/NE-HLH/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Container Storage Yard, Container Vehicle Park, Vehicle Repair Workshop, Logistics Centre, Warehouse and Open Storage of Miscellaneous Goods with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

1. The Proposals

- 1.1 The applicant seeks planning permission for proposed temporary container storage yard, container vehicle park, vehicle repair workshop, logistics centre, warehouse and open storage of miscellaneous goods 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 building 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 currently largely vacant and vegetated, and occupied by some active/fallow agricultural land in its northern portion. Its eastern and southern portions are hard-paved, fenced off, and occupied by domestic structures and structures for storage use without any valid planning permission (**Plans A-4a and 4b**).
- 1.2 According to the applicant, the application is submitted to facilitate the relocation of eight existing brownfield operations displaced/will be displaced by Fanling North New Development Area (FLN NDA) (Remaining Phase), San Tin Technopole (STT) Development (Phase 2) and public housing development at Sha Po, Yuen Long. The affected operations are for container storage, container vehicle park, vehicle repair workshop, logistics centre, warehouse and open storage of miscellaneous goods with ancillary office, which involve a total site area of 15,691m² as claimed by the applicant.

The affected land in FLN NDA has been resumed by the Government.

- 1.3 The Site is accessible from its south via a local track leading to Man Kam To Road/Ping Che Road (**Plan A-1**). According to the submission, the proposed uses consist of nine single-storey temporary structures with building height ranging from 3m to 8.23m and a total floor area of about 1,600m² for vehicle repair workshop, warehouse (excluding dangerous goods godown), logistics centre, and office uses. The remaining uncovered area (about 21,563m² or 93% of the Site) is proposed for container storage yard, container vehicle park, open storage of miscellaneous goods, 25 vehicle parking spaces (including 12 for private cars, five for light goods vehicles (LGV) and eight for container vehicles), 10 loading/unloading (L/UL) spaces (including one for LGV and nine for container vehicles) and circulation space. 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 and no vehicle will queue back on the local road; staff will be deployed to manage the traffic; no vehicle without valid licenses issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations will be allowed to be parked/stored at the Site; and traffic signs will be installed to ensure pedestrian safety. A 12m-wide vehicular access is proposed at the southern boundary of the Site. The operation hours are between 9:00 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 0.2m for site formation of structures, parking spaces and circulation area. According to the submission, a minimum setback of 3m will be reserved between the Site and Ping Yuen River, which is running along the northern and western boundaries of the Site. The proposed drainage system comprises a storage tank at the northern portion of the Site as well as U-channels and catchpits along the site boundaries. The drainage plan submitted by the applicant is shown in **Drawing A-2**. In terms of sewage treatment, the applicant proposes to provide septic tank and soakaway system to collect the sewage generated from the proposed uses. While all existing trees within the Site are proposed to be felled, no old and valuable tree (OVT) or protected species are identified within the Site according to the preliminary tree survey report submitted by the applicant (**Appendix Ib**). 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 3.10.2024 (**Appendix I**)
 - (b) Planning Statement received on 3.10.2024 (**Appendix Ia**)
 - (c) Further Information (FI) received on 19.11.2024 * (**Appendix Ib**)
- * accepted and exempted from the 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 Planning Statement and FI at **Appendices Ia and Ib**, as summarised below:

- (a) the application is submitted to facilitate the relocation of eight existing business operators displaced by FLN NDA (Remaining Phase), STT Development (Phase 2) and public

housing development at Sha Po, Yuen Long. The proposed uses are the same as the affected operations and the site area is similar to the total area of the affected operations;

- (b) the applicant has spent effort in identifying alternative sites in the New Territories (e.g. Sheung Pak Nai, Lau Fau Shan, Ma Tso Lung, Man Kam To and Lin Ma Hang) but those sites were considered not suitable or impracticable due to reasons such as land use incompatibility, environmental concerns, land ownership issue and accessibility, etc.. The Site is identified as it is relatively flat, closed to various boundary control points and easily accessible;
- (c) the proposed uses are temporary in nature and approval of the application would better utilise land resources and not frustrate the long-term planning intention of the “AGR” zone;
- (d) the Site is far away from sensitive receivers and the proposed uses are considered not incompatible with the surrounding areas which comprise various brownfield operations;
- (e) the Site falls mostly within Category 3 and partly within Category 2 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). Approval of the application is in line with TPB PG-No. 13G;
- (f) the applicant will strictly comply with all environmental protection/pollution control ordinances at all times during the planning approval period; and follow relevant mitigation measures and requirements in the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’, ‘Professional Persons Environmental Consultative Committee Practice Notes’ (ProPECC) No. 1/23 and 2/23 issued by the Environmental Protection Department to minimise adverse environmental impacts and nuisance to the surrounding area; and
- (g) adequate mitigation measures will be provided (including submission and implementation of drainage, traffic management and fire service installations proposals), and no significant nuisance to the surrounding areas is anticipated.

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

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 publishing notices in local newspapers and sending a notice to Ta Kwu Ling 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. The Site falls largely within Category 3 areas with a minor portion within Category 2 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

- 5.1 Two land parcels within the Site are subject to active planning enforcement actions (**Plan A-2**). Lot 158 in D.D. 87 is involved in a planning enforcement case against unauthorized development (UD) involving storage use (including deposit of containers) (No. E/NE-HLH/148). Enforcement Notice was issued on 28.8.2023 requiring discontinuation of the UD. The case is under review.
- 5.2 Lot 162 in D.D. 87 is involved in a planning enforcement case against UD involving storage use (including deposit of containers) (No. E/NE-HLH/149). Reinstatement Notice was issued on 4.3.2024 requiring reinstatement of the concerned land, including Lot 162 in D.D. 87. The Lot is under close monitoring.

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

- 7.1 There were 19 similar applications for temporary open storage, warehouse and vehicle park uses within the same “AGR” zone in the vicinity of the Site in the past five years (**Plan A-1**). Seven of them (No. A/NE-HLH/38, 39, 43, 44, 46, 48 and 58) were rejected by the Committee in 2020 and 2022 mainly for reasons of not complying with the previous versions of TPB PG-No. 13E/13F in that the sites fell within Category 3 areas and no previous planning approvals were granted to the sites concerned; there were adverse departmental comments and local objections; and failed to demonstrate that the developments would not generate adverse environmental and traffic impacts on the surrounding areas.
- 7.2 The remaining 12 similar applications (No. A/NE-HLH/51, 54, 55, 59, 60, 61, 64, 66, 68, 70, 71 and 76) were approved with conditions between 2021 and 2024 after the relevant sites were reclassified from Category 3 to Category 2 areas under TPB PG-No. 13F/13G. The applications generally complied with TPB PG-No. 13F/13G in that no major adverse departmental comments were received on the applications; and the concerns of the relevant government departments could be addressed through implementation of approval conditions.
- 7.3 Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) largely vacant and vegetated, with some active/fallow agricultural land found in its northern portion and some temporary structures in its eastern and southern portions. A small land parcel within the Site (i.e. Lot 162 in D.D. 87) is fenced off and formed part of an open storage yard without any valid planning permission;

- (b) situated to the immediate south of Ping Yuen River and immediate west of a cluster of open storage yards and warehouses covered by valid planning permissions (applications No. A/NE-HLH/66 and 76); and
- (c) accessible from its south via a local track leading to Man Kam To Road / Ping Che Road.

8.2 The surrounding areas are intermixed with warehouses, open storages yards, temporary structures, vacant land, vegetated area and tree clusters. To the north of the Site across Ping Yuen River is a wooded area zoned “Green Belt” (“GB”).

9. Planning Intention

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government bureau/departments as set out in paragraphs 10.2 and 10.3 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices IV** and **V** respectively.
- 10.2 The following government bureau supports the application:

Policy Aspect

10.2.1 Comments of the Secretary for Development (SDEV):

- (a) the application is submitted on behalf of eight business operators whose operations will be displaced by various government development projects (i.e. FLN NDA, STT and public housing development at Sha Po). The applicant seeks planning permission for a temporary container storage yard, container vehicle park, vehicle repair workshop, logistics centre, warehouse and open storage with ancillary facilities for a period of three years to facilitate relocation of the affected operations;
- (b) according to the applicant, he has undergone a site search process and the Site, with similar scale to the affected operations, is considered suitable for relocation. The proposed development is considered not incompatible with the surrounding area, and will not result in any adverse impacts on traffic, environmental, landscape, drainage and fire safety perspectives;

- (c) facilitating relocation of affected brownfield operations is crucial to the smooth clearance for and implementation of the above government projects. From the perspective of ensuring timely development of the government projects and delivery of the housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy, she supports the application; and
- (d) it should however be noted that the Site falls within the boundary of the Planning and Engineering Study of the New Territories North New Town of which the development proposal is targeted to be released later in 2024. The Site may be required for other uses in the future while she has no objection to the proposed temporary use of the Site for a period of three years only under the current planning application.

10.3 The following government departments do not support or have comments on the application:

Agriculture and Nature Conservation

10.3.1 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 and plant nurseries, etc.; and
- (c) the Site is partly wooded. Ping Yuen River is located to the immediate north of the Site. It is noted from paragraph 5.21 of the planning statement (**Appendix Ia**) that no OVT or protected species have been identified at the Site. It is also noted from recent site visit that common trees are recorded within the Site. As such, he has no comment on the application from nature conservation perspective.

Landscape

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

- (a) with reference to paragraph 5.21 of the Planning Statement (**Appendix Ia**), it is stated that “no OVT or protected species has been identified at the Site” and “all existing trees will be affected and it is not proposed to retain any of the existing trees at the Site”. In the FI (**Appendix Ib**), it is stated that the existing trees within the Site are common species with no protected/rare species. No information on existing trees (e.g. approximate number of trees to be felled, and number of mature tree/Tree of Particular Interest (TPI), if any) and mitigation measures are provided. Noting that the Site for the proposed uses involves about 2.3ha with dense vegetation, and is located in close proximity to the “GB” zone to its north, the proposed uses would alter the landscape character and degrade the landscape quality of the area.

11. Public Comments Received During Statutory Publication Periods

On 15.10.2024, the application was published for public inspection. During the statutory public inspection period, five public comments were received (**Appendix VI**). Four comments from World Wide Fund for Nature Hong Kong, Kadoorie Farm & Botanic Garden Corporation, The Conservancy Association and an individual object to the application on the grounds that the proposed uses are not in line with the planning intention of “AGR” zone; there are active agricultural land within and in close proximity of the Site; the Site has potential for agricultural rehabilitation; the proposed uses with associated filling of land and felling of trees will induce adverse drainage and environmental impacts on the surrounding areas and the nearby Ping Yuen River; no tree information and proposed treatment/mitigation measures are submitted; the Site is not the subject of any previously approved application; and the application is not in line with TPB PG-No. 13G. The remaining comment from a member of North District Council indicates no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary container storage yard, container vehicle park, vehicle repair workshop, logistics centre, warehouse and open storage of miscellaneous goods with ancillary facilities for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. The proposed uses are 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, noting that the application is submitted to facilitate the relocation of eight existing brownfield operations affected by FLN NDA (Remaining Phase), STT Development (Phase 2) and public housing development at Sha Po, Yuen Long, and the Site is the most suitable relocation site as identified by the applicant, SDEV supports the application from the perspective of ensuring timely development of the government projects and delivery of the housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy. Taking into account the planning assessments below and with the policy support given by SDEV, sympathetic consideration could be given to the proposed uses on a temporary basis for a period of three years.
- 12.2 The application involves filling of the entire site by concrete with a depth of not more than 0.2m. 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 has no objection to the application from public drainage perspective, while the Director of Environmental Protection has no objection to the application. Should the application be approved, approval conditions requiring the applicant to submit a revised drainage impact assessment and implement the proposed flood mitigation measures and drainage facilities are recommended in paragraph 13.2 below.
- 12.3 The Site falls largely within Category 3 areas with a minor portion within Category 2 areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three years, subject to no 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, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). Having considered that the open storage and port back-up uses have a role to play in Hong Kong's economy and provide considerable employment opportunities, and the operators/uses affected by resumption and clearance operations of the Government to make way for developments may face difficulties in finding a replacement site, sympathetic consideration could be given to those applications meeting the following criteria: (i) policy support is given by the relevant bureau(x) to the application for relocation of the affected uses/operations to the concerned sites; and (ii) no adverse departmental comments and local objections, or the concern could be addressed by approval conditions.

- 12.4 The Site, bounded on one side by Ping Yuen River and immediately adjoining a cluster of brownfield operations within the Category 2 areas under TPB PG-No. 13G, is situated in an area of rural character intermixed with warehouses, open storages yards, temporary structures, vacant land, vegetated area and tree clusters (**Plan A-2**). The proposed uses are considered not entirely incompatible with the surrounding land uses. Though CTP/UD&L, PlanD considers that approval of the application would alter the landscape character and degrade the landscape quality of the area due to the removal of dense vegetation at the Site and its close proximity to the "GB" zone to the north, the Site is generally covered with trees of common species with no OVT or protected species identified therein and the Site, being physically separated from the concerned "GB" zone by Ping Yuen River, could be considered as an extension of the existing brownfield operations to the immediate east. Should the application be approved, an approval condition requiring the applicant to reinstate the Site to an amenity area is recommended in paragraph 13.2 below.
- 12.5 The Site is accessible via a local track leading to Man Kam To Road / Ping Che Road (**Plan A-2**). The Commissioner for Transport has no comment on the application from traffic engineering perspective. To minimise any possible impact on Ping Yuen River, the applicant will be advised to strictly follow the requirements of the Professional Persons Environmental Consultative Committee Practice Notes (ProPECC) No. 2/23 and properly maintain the drainage system. Other relevant 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 13.2 below.
- 12.6 The application is generally in line with TPB PG-No. 13G in that policy support is rendered by SDEV to the application for relocation of the affected uses to the Site, there is no major adverse departmental comments on the application and their concerns can be addressed through imposition of approval conditions.
- 12.7 There were 12 similar applications for temporary open storage, warehouse and vehicle park uses approved by the Committee between 2021 and 2024 as mentioned in paragraph 7.2 above. Those applications generally complied with TPB PG-No. 13F/13G and the planning circumstances of the current application are similar to those of the approved

applications. As such, approval of the current application is in line with the Committee's previous decisions.

- 12.8 Regarding the adverse public comments mentioned in paragraph 11 above, the government bureau's/departments' comments and the planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the proposed uses 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 22.11.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) 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 22.5.2025;
- (b) in relation to (a) 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 22.8.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall 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 22.8.2025;
- (e) in relation to (d) above, the implemented traffic management measures shall be maintained at all times during the planning approval period;
- (f) the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 3.1.2025;
- (g) 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 22.5.2025;
- (h) in relation to (g) 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 22.8.2025;

- (i) if any of the above planning condition (c) or (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;
- (j) if any of the above planning condition (a), (b), (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
- (k) 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 V**.

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

the proposed uses with associated filling of land are 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 3.10.2024
Appendix Ia	Planning Statement received on 3.10.2024
Appendix Ib	FI received on 19.11.2024
Appendix II	Relevant Extracts of TPB Guidelines No. TPB PG-No. 13G
Appendix III	Similar s.16 Applications within the "AGR" zone in the vicinity of the Site in the Hung Lung Hang Area
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Plan A-1	Location Plan

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

PLANNING DEPARTMENT
NOVEBMER 2024