

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/708

- Applicant** : JSK Assets Limited represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lots 456 RP, 459, 460, 461, 462 and 2229 RP in D.D. 83, Kwan Tei, Fanling, New Territories
- Site Area** : 6,300m² (about)
- Land Status** : (a) Lots 456 RP, 459, 460, 461 and 462 in D.D. 83
Block Government Lease (demised for agricultural use)
(b) Lot 2229 RP in D.D. 83
New Grant No. 11523 (granted for agricultural purpose only and no structure shall be erected on the lot)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zonings** : (i) "Open Storage" ("OS")
(about 6,111m² or 97% of the Site)
(ii) "Agriculture" ("AGR")⁽¹⁾
(about 189m² or 3% of the Site)
- Application** : Temporary Logistics Centre for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary logistics centre for a period of three years at the application site (the Site), which falls within an area largely zoned "OS" with a minor portion zoned "AGR" on the OZP (**Plan A-1**). According to the Notes of the OZP, 'Logistics Centre' is a Column 2 use in the "OS" zone requiring planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without planning permission.
- 1.2 The Site is accessible via Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). According to the applicant, the temporary development will include four one to two storey(s) structures (not exceeding 14m in height) and a rain shelter with a total floor area of about 4,840m² for logistics centre, office, toilet and pump room⁽²⁾. Eight loading/unloading spaces for heavy goods vehicle spaces (16m x 3.5m each) will be provided within the Site

¹ It is considered as minor boundary adjustment and not included in the planning assessment.

² The total floor area includes a logistics centre with a floor area of 4,530m², a rain shelter with a floor area of 210m², a toilet with a floor area of 16m² and an office with a floor area of 84m².

(**Drawing A-1**). Traffic mitigation measures including staff deployment at the ingress/egress of the Site to monitor the traffic condition and provision of traffic alert system are proposed. The operation hours of the Site are between 8:00a.m. and 6:00p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The proposed layout plan 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 13.9.2022 (**Appendix I**)
- (b) Supplementary Planning Statement (**Appendix Ia**)
- (c) Further Information (FI) received on 1.12.2022 (**Appendix Ib**)
- (d) FI received on 15.12.2022 (**Appendix Ic**)
- (e) FI received on 19.1.2023 (**Appendix Id**)

1.4 On 11.11.2022 and 13.1.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's requests to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement and FI at **Appendices Ia to Id** respectively, and summarized as follows:

- (a) majority of the Site falls within Category 1 areas under the Town Planning Board Guidelines No. 13F for "Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance" (TPB-PG No. 13F);
- (b) no tree felling, excavation or machinery works will be carried out, and the applicant undertakes to maintain the existing trees at the Site;
- (c) adverse traffic, environmental, sewerage and drainage impacts by the applied use are not anticipated; and
- (d) the current application is for a period of three years only, and would not jeopardize the long-term planning intention of the "OS" and "AGR" zones.

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

The applicant is not the "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. 31A) by posting notice and sending notice to the Fanling District Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is not subject to any enforcement action.

5. Town Planning Board Guidelines

Town Planning Board Guidelines No. 13F for 'Application for Open Storage and Port Back-up Uses' (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 are relevant to the application. The Site falls mainly within Category 1 area under the Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Applications

- 6.1 The Site in part is the subject of five previous applications (No. A/NE-TKL/50, 73, 102, 148 and 154) submitted by different applicants for different uses (i.e., temporary marble workshop, open storage of scrap metal, marble and steel materials for construction, and vehicle repair workshop). All applications were approved by the Committee between 1997 and 2000. Applications No. A/NE-TKL/148 and 154 were revoked on 13.7.2001 and 22.9.2001 due to non-compliance with approval conditions.
- 6.2 Details of the previous applications are summarized at **Appendix III** and the location is shown on **Plan A-1**.

7. Similar Application

There is no similar application for temporary logistics centre within the same "OS" zone in Ping Che and Ta Kwu Ling area over the past 5 years.

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

8.1 The Site is:

- (a) flat and hard-paved;
- (b) currently used for temporary logistics centre without valid planning permission; and
- (c) accessible via Sha Tau Kok Road – Lung Yeuk Tau.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north are a warehouse and storage of recycling materials;
- (b) to the further north across Ng Tung River is a residential development with ancillary garden;
- (c) to the south across Sha Tau Kok Road – Lung Yeuk Tau are car repairing workshops, open storage of construction materials, and active/fallow agricultural land; and
- (d) to the southwest is open storage of recycling materials.

9. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 below, other government 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 departments have objection to / conveyed local views on the application.

Agriculture and Nature Conservation

10.2.1 Comments of the Director of Agriculture & Fisheries and Conservation (DAFC):

- the Site falls within the “OS” and “AGR”⁽¹⁾ zones and is occupied by some structures. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from agricultural perspective; and
- no strong view on the proposed use from nature conservation perspective and advisory comments are in **Appendix V**.

10.2.2 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- he has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee, the Chairman of Lung Shan Area Committee and the Indigenous Inhabitant Representative (IIR) of Kwan Tei Tsuen object to the application mainly on the grounds that the manoeuvring space within the Site is insufficient and would lead to queuing of vehicles outside the Site; the height of the logistics centre would affect local feng shui; the applied use would increase traffic load to the nearby roads and junctions; and the logistics centre would cause noise and air pollution impacts to the surrounding areas.

11. Public Comments Received During Statutory Publication Period (Appendix VI)

On 23.9.2022, the application was published for public inspection. During the statutory public inspection period, five public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Chairman, 1st Vice Chairman

and the Vice Chairman of the Fanling District Rural Committee object to the application mainly on the grounds that the height of the logistics centre would affect feng shui in the area; increase traffic impact to the surrounding areas and affecting the safety of nearby residents; and the development would cause noise and pollution problems. The remaining comment submitted by an individual objects to the application mainly on the grounds that the approval of the application would cause adverse traffic and environmental impacts to the surrounding areas and increase fire risks, thus deteriorating the quality of life and affecting the safety of nearby residents.

12. Planning Considerations and Assessments

- 12.1 The application is for a temporary logistics centre for a period of three years at the Site mostly zoned “OS” on the OZP. The applied use is considered not in conflict with the planning intention of the “OS” zone, which is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses³.
- 12.2 The Site falls largely within Category 1 areas (about 97%) under the TPB PG-No. 13F on ‘Application for Open Storage and Port Back-up Uses’ promulgated by the Board on 27.3.2020. The following considerations in the Guidelines are relevant:
 - Category 1 areas: favourable consideration will normally be given to applications with 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 applied use is considered not incompatible with its surrounding environment comprising temporary structures, open storages, warehouse and clusters of tree groups etc. C for T considers the traffic impact induced by the applied use is tolerable from traffic engineering perspective. Other relevant departments consulted, including DEP, D of FS and CE/MN of DSD have no adverse comment on/objection to the application. It is considered that the applied use would not have significant adverse traffic, environmental, drainage and fire safety impacts on the surrounding areas.
- 12.4 The application generally complies with the TPB PG-No. 13F in that no major adverse departmental comments have been received on the application and the concerns of the relevant government departments and local residents can be addressed through implementation of approval conditions.
- 12.5 Regarding the local and public comments on the application as detailed in paragraphs 10.2.2 and 11 above, government departments’ comments and planning assessments above are relevant. Regarding the public concern on that the proposed development may affect local feng shui, it is considered that such factor is not a relevant planning consideration of the Board.

³ While DAFC does not support the development proposal falling within the “AGR” zone as the Site has potential for agriculture rehabilitation, the minor “AGR” portion of the Site is located at the present residual area between the “OS” zone and Ng Tung River. Such portion can be regarded as minor boundary adjustment and has not been included in the planning assessment.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local and public comments as detailed in paragraphs 10.2.2 and 11 above, the Planning Department has no objection to the application.
- 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 17.3.2026. 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 17.9.2023;
- (b) in relation to (a) above, the implementation of 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 17.12.2023;
- (c) in relation to (b) above, the implemented drainage facilities at the Site should be maintained at all times during the planning approval period;
- (d) the submission of proposals for water supplies for fire-fighting and fire service installations 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 17.9.2023;
- (e) in relation to (d) above, the implementation of proposals for water supplies for fire-fighting and fire service installations 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 17.12.2023;
- (f) if any of 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 conditions (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 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 applicant.

15. Attachments

Appendix I	Application Form received on 13.9.2022
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI received on 1.12.2022
Appendix Ic	FI received on 15.12.2022
Appendix Id	FI received on 19.1.2023
Appendix II	Relevant Extracts of TPB-PG No. 13F
Appendix III	Previous Applications
Appendix IV	Government's Department's General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**