

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/759

<u>Applicant</u>	: Able New Development Limited represented by Aikon Development Consultancy Limited
<u>Site</u>	: Lots 267 (Part) and 268 (Part) in D.D. 84, Lots 481 S.A (Part) and 481 RP (Part) in D.D. 87 and adjoining Government Land (GL), Ping Che, New Territories
<u>Site Area</u>	: About 3,270m ² (including about 371m ² of GL or about 11.3% of the Site)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: (i) Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14 (about 61.5% of the Site) (ii) Approved Hung Lung Hang OZP No. S/NE-HLH/11 (about 38.5% of the Site)
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Logistics Centre for a Period of Three Years and Filling of Land and Pond

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary logistics centre for a period of three years and associated filling of land and pond at the application site (the Site) which falls within an area zoned “AGR” on the OZPs (**Plan A-1**). According to the covering Notes of the OZPs, 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 and pond within the “AGR” zone also requires planning permission. The Site is vacant and covered with grass.
- 1.2 According to the applicant, the planning application is to facilitate the relocation of the business operation involving two sites in Fanling North being affected by government project, i.e. Fanling North New Development Area (FLN NDA).¹ The affected operation involves a total site area of about 3,553m². It is anticipated that land resumption for the operation will take place by the first quarter of 2026.
- 1.3 The Site is accessible via a local track leading to Ping Che Road (**Plan A-2**). According to the applicant, the proposed use includes a three-side enclosed single-storey structure

¹ The applicant has entered a Memorandum of Understanding with the existing operator of the affected business operation. The applicant and the existing operator have agreed that upon approval of the current application by the Board, the application site will be operated by the existing operator for the proposed use during the planning approval period.

(not exceeding 10m in height) with a total floor area of about 1,400m² for logistics centre use. The proposed logistics centre will primarily provide logistics support for business operations including inventory control, storage and consolidation of goods for distribution, particularly for construction materials. The goods to be stored at the Site will be non-polluted and non-dangerous in nature. Three private car parking spaces, two visitor parking spaces, one loading/unloading (L/UL) space for light goods vehicles and two L/UL spaces for heavy goods vehicles will be provided within the Site (**Drawing A-1**). The Site will be fenced-off along the site boundary. The operation hours of the proposed use are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 The applicant also proposes to fill the entire site with soil ranging from 0.1m to 2.5m in depth, including filling of land and filling of pond of about 3,205m² and 65m² respectively, for leveling the Site for heavy vehicle access and traffic flow (**Drawing A-2**).
- 1.5 The operation of the proposed logistics centre will be predominantly scheduled at off-peak traffic hours. Besides, the applicant proposes traffic management measures such as separating pedestrian routes from vehicular routes with clear marking, using lighting systems to light up and monitor the pedestrian area and deploying personnel to direct drivers for maintaining efficient traffic flow and prevent delays or backlogs, etc. A drainage proposal is also submitted to support the application.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 28.5.2024 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 29.5.2024 (**Appendix Ia**)
 - (c) Further Information (FI) received on 5.7.2024* (**Appendix Ib**)
 - (d) FI received on 13.8.2024* (**Appendix Ic**)

** accepted and exempted from the publication and recounting requirements*
- 1.7 On 19.7.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months to address the departmental comments.

2. Justifications from the Applicant

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

- (a) a land resumption notice was issued by the Government on 11.1.2024 requiring the premises affected by the remaining phase of FLN NDA be vacated by batches from the third quarter of 2024 to the first quarter of 2026. The applicant has spent efforts in identifying suitable site for relocation of the existing business operation in Kwu Tung North (KTN) and Ping Kong but were considered not suitable due to incompatibility with the surrounding areas. The Site is close to the affected business premises, which is deemed a highly suitable alternative for relocation. The proposed site area (about 3,270m²) is similar to the affected business operation (about 3,553m²);
- (b) the Site is ideal for logistics centre use as it is close to the boundary control points at Lo Wu, Man Kam To and Heung Yuen Wai, allowing convenient access to Shenzhen and the eastern part of Guangdong. The location enables efficient support for the operation of the proposed logistics centre, facilitating seamless transportation and logistics activities;

- (c) adverse traffic, environmental and drainage impacts are not anticipated. The applicant will strictly follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (the COP) and comply with all environmental protection/pollution control ordinances during the construction and operation stages of the proposed use should the application be approved. The ponds within the Site are small ditches covered by weeds and no longer serve as water gathering purpose;
- (d) the proposed use is considered compatible with the surrounding areas which are open storage yards, warehouses, temporary structures, tree clusters, active/fallow farmlands and vegetated areas;
- (e) there are similar applications approved on the same OZP. Approval of the current application on a temporary basis would not jeopardise the long-term planning intention of the "AGR" zone; and
- (f) the applicant will apply to the Lands Department (LandsD) for Short Term Waiver (STW) and Short Term Tenancy (STT) once the planning application is approved.

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. 31B) by notifying all the current land owners. Detailed information would be deposited at the meeting for Members' inspection. For the GL portion, the "Owner's Consent/Notification" requirements are not applicable.

4. Background

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

5. Town Planning Board Guidelines

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) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 3 areas under the Guidelines. Relevant extracts of the Guidelines are at **Appendix II**.

6. Previous Application

The Site is not subject to any previous application.

7. Similar Application

- 7.1 There was one similar application (No. A/NE-TKL/687) for proposed temporary logistics centre with ancillary parking of container vehicles and office in the "AGR" zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area in the past five years. It was approved with conditions by the Committee on 24.12.2021 mainly on the considerations

that it generally complied with the then TPB PG-No. 13F in that policy support was given by the Secretary for Development (SDEV) as the application was to facilitate relocation of a business operation affected by the KTN NDA; the proposed temporary use was considered not entirely incompatible with the landscape character in the surrounding areas; and no major adverse comment received from concerned government departments.

- 7.2 Details of the similar application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

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

- 8.1 The Site is:

- (a) vacant and covered with grass;
- (b) containing three dried ponds covered with grass. A shallow dried ditch covered with grass is located at the north; and
- (c) accessible via a local track leading to Ping Che Road.

- 8.2 The surrounding areas are generally of rural character comprising mainly temporary structures, storage/open storage yards, domestic structures, tree clusters, vegetated areas, active/fallow agricultural land and graves. A watercourse runs on the west of the Site.

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 OZPs, as filling of land and filling of pond within the “AGR” zone 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 Bureau/Departments

- 10.1 Apart from the government bureau/departments as set out in paragraphs 10.2 and 10.3 respectively 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 at **Appendices IV** and **V** respectively.

10.2 The following government bureau supports the application:

Policy Support

10.2.1 Comments of the SDEV:

- (a) on the understanding that there is no adverse comment from technical departments, and that the Site is not subject to any unauthorised development, she has the following comments on the application:
 - (i) the current application is submitted by Able New Development Limited, who has agreed to lease the Site to Lai Hin Trading Company Limited, an existing operator of a logistics centre whose operation will be displaced by the government-led FLN NDA project. The applicant seeks planning permission for a temporary logistics centre for a period of three years to facilitate relocation of the aforementioned affected operation;
 - (ii) according to the applicant, he has undergone a site search process and the Site, with similar scale to the affected operation in FLN NDA, is considered the most suitable relocation site. The proposed use is compatible with the surrounding area, and will not result in any adverse traffic, landscape, visual, environmental and drainage impacts;
 - (iii) the land freed up by the displaced operation will, together with other cleared land, be redeveloped into the FLN NDA capable of providing about 36,000 housing units by phases. Facilitating relocation of affected brownfield operations is crucial to the smooth clearance for and implementation of the NDA project. From the perspective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of the displaced brownfield operations still meeting the need of the economy, she supports the application; and
 - (iv) it should 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 will likely be required for other uses 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 have adverse comments on or do not support the application:

Land Administration

10.3.1 Comments of the District Lands Officer/North, LandsD (DLO/N, LandsD):

- (a) she has adverse comment on the application;

- (b) 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;
- (c) no consent is given for inclusion of GL (about 371m² mentioned in the Application Form) in the Site. The applicant should be reminded that any occupation of GL without Government's prior approval is an offence. For direct grant of STT of the adjoining GL to the applicant for temporary uses, prior policy support from the relevant Bureau has to be obtained;
- (d) if the planning application is approved, the lot owners should apply to this office for a STW and/or STT to permit the structure to be erected within the private lots and the occupation of the GL. The application(s) for STW and/or STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and/or STT, if approved, will be subject to such terms and conditions including the payment of waiver fee/rent and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure will be considered.

Agriculture, Fisheries and Nature Conservation

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

- (a) he does not support the application from agricultural perspective;
- (b) the Site falls within the "AGR" zone and is generally abandoned. 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. The Site possesses potential for agricultural rehabilitation;
- (c) it is noted that the ponds at the Site are existing dried ponds and no aquaculture activity is practiced. Nonetheless, filling of existing ponds should be avoided as far as practicable from fisheries perspective; and
- (d) he has no major comments on the application from nature conservation perspective based on the understanding that no existing wetland habitat is recorded within the Site. However, as the Site is adjacent to Ping Yuen River, measures should be implemented to avoid pollution and disturbance to the Ping Yuen River nearby.

Environment

10.3.3 Comments of the Director of Environment Protection (DEP):

- (a) according to the COP, the application should not be supported as there are residential structures in the vicinity of the Site (the nearest domestic

structures about 30m to the north) (**Plan A-2**) and the use of heavy vehicles is involved;

- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the COP to minimise any potential environmental nuisances;
- (c) as for the proposed filling of land and pond, he has no objection from environmental perspective. The applicant is reminded to observe the Water Pollution Control Ordinance and follow the mitigation measures as required under Environment, Transport and Works Bureau Technical Circular (Works) (ETWB TC(Works)) No. 5/2005 “Protection of natural streams/rivers from adverse impacts arising from construction works” for the land and pond filling works during construction phase; and
- (d) no environmental complaint has been received in the past three years.

11. Public Comments Received During Statutory Publication Period

On 4.6.2024, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix VI**). A member of the North District Council indicates no comment on the application. An individual objects to the application mainly on the grounds that the proposed use would further encourage the encroachment of brownfield uses onto agricultural land and impact the natural environment; the Site is not subject to previous approval and is located near water courses. The Conservancy Association objects to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; there is no information to demonstrate how to reinstate the Site; and potential adverse drainage impact and disturbance to the natural stream. The Kadoorie Farm & Botanic Garden Corporation objects to the application as the proposed use is not in line with the planning intention of the “AGR” zone; and suggests the Board to investigate whether there is ongoing enforcement case at the Site and consider whether there is any adverse drainage impact.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary logistics centre for a period of three years and filling of land and pond at the Site within the “AGR” zone on the OZPs. 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 the agricultural perspective as the Site possesses potential for agricultural rehabilitation. According to the applicant, the application is to facilitate the relocation of the business operation in Fanling North affected by the FLN NDA. The site area is similar to the affected business premises in Fanling North. From the perspective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of the displaced brownfield operations still meeting the need of the economy, SDEV supports the application. Taking into account the planning assessments below and with the policy support given by SDEV, sympathetic consideration could be given to the proposed use on a temporary basis of three years.

- 12.2 The application involves filling of land (about 3,205m²) and pond (about 65m²) with soil ranging from 0.1m to 2.5m for levelling the Site for heavy vehicles access and traffic flow. Filling of land and pond within the “AGR” zone require planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department has no objection to the application while DEP has no objection to the proposed filling of land and pond from the environmental perspective. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 12.3 The Site is situated in an area of rural character comprising mainly temporary structures, storage/open storage yards, domestic structures, tree clusters, vegetated areas, fallow/active agricultural land and graves. The Chief Town Planner/ Urban Design and Landscape of Planning Department has no objection to the application and considers that significant adverse impact on the landscape character and existing landscape resources within the Site is not anticipated.
- 12.4 The Site is accessible via a local track leading to Ping Che Road. The Commissioner for Transport has no comment on the application from traffic engineering perspective. While DEP considers that the application should not be supported as the proposed use involves the use of heavy vehicles and environmental nuisance on the sensitive receivers (i.e. residential structures) in the vicinity of the Site is expected, the applicant would be advised to follow the environmental mitigation measures set out in the COP. Other relevant government departments consulted, including the Director of Fire Services and Chief Engineer/Construction of Water Services Department have no objection to/no adverse comment on the application. Regarding DLO/N, LandsD’s comment on inclusion of GL in the Site, the applicant advises that he will rectify the matter by submitting STT/STW to LandsD. The applicant will be advised to liaise with LandsD to deal with the land issue separately under the land administration regime in the Recommended Advisory Clauses at **Appendix V**.
- 12.5 The Site falls within Category 3 areas under TPB PG-No. 13G. The following considerations in the Guidelines are relevant:
- 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.
- 12.6 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 operation to the Site, and 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.

- 12.7 There was one similar application No. A/NE-TKL/687 for proposed temporary logistics centre with ancillary parking of container vehicles and office with filling of land. The application was approved with conditions by the Committee on 24.12.2021 mainly on the considerations that it generally complied with the then TPB PG-No. 13F with policy support from SDEV. The planning circumstances of the current application are similar to the approved application. As such, approval of the current application is considered in line with the Committee's previous decision.
- 12.8 Regarding the public comments on the application as detailed in paragraph 11 above, government bureau and departments' comments and 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 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 4.10.2027. 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 4.4.2025;
- (b) in relation to (a) above, the provision 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 4.7.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall 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 4.4.2025;
- (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 4.7.2025;
- (f) the implementation of 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 4.7.2025;
- (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 V**.

- 13.3 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 and pond 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. It is also intended 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 the 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 28.5.2024
Appendix Ia	SI received on 29.5.2024
Appendix Ib	FI received on 5.7.2024
Appendix Ic	FI received on 13.8.2024
Appendix II	Relevant Extracts of TPB-PG No. 13G
Appendix III	Similar Application
Appendix IV	Government's Department's General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Filling of Land Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2024**