

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

**APPLICATION NO. A/NE-FTA/190**

- Applicant** : Mr LIU Ka-sing and Mr LIU Hing-yin represented by Mr TSUI Kwok-fai
- Site** : Lots 184 RP and 187 RP (Part) in D.D. 52 and Adjoining Government Land, Sheung Shui Wa Shan, Sheung Shui, New Territories
- Site Area** : 3,291m<sup>2</sup> (about) (including about 100m<sup>2</sup> of Government land)
- Lease** : (a) Block Government Lease (demised for agricultural use)  
(about 97% of the Site)  
(b) Government land (about 3% of the Site)
- Plans** : (i) Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16  
(ii) Approved Fanling North OZP No. S/FLN/2
- Zonings** : (i) "Agriculture" ("AGR") on the approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/16  
(about 45.5% of the Site)  
(ii) "Open Space" ("O") on the approved Fanling North OZP No. S/FLN/2  
(about 16.3% of the Site)  
(iii) Area shown as 'Road' on the approved Fanling North OZP No. S/FLN/2  
(about 38.2% of the Site)
- Application** : Temporary Open Storage of Construction Materials for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary open storage of construction materials for a period of three years at the application site (the Site) (**Plan A-1a**). The Site is partly zoned "AGR" on the approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/16 and partly zoned "O" and an area shown as 'Road' on the approved Fanling North OZP No. S/FLN/2. According to the Notes of the OZPs, temporary uses or development of any land or buildings not exceeding a period of three years within "AGR" and "O" zones requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZPs. For area shown as 'Road' on the approved Fanling North OZP No. S/FLN/2, all uses or developments require planning permission from the Board. The Site is currently used for the applied use with valid planning permission until 15.7.2019.

- 1.2 According to the applicant, the Site, with an area of about 3,291m<sup>2</sup>, comprises two portions i.e. a larger portion on Lot 187 RP (part) in the east (about 2,528m<sup>2</sup>) and a smaller portion on Lot 184 RP in the west (about 663m<sup>2</sup>) with an additional 100m<sup>2</sup> of Government land at the western edge of the Site. There is a single-storey structure of about 140m<sup>2</sup> at a height of about 4m at the north-eastern part of the Site for office/rest room/first aid room/check point uses and a single-storey open-shed structure of about 145m<sup>2</sup> at a height of 4.5m adjoining it as rain shelter. An another single-storey structure of about 10m<sup>2</sup> at a height of about 3m is located in its south for latrine use (**Drawing A-1**). The Site is accessible from Man Kam To Road via a local track to its north (**Plans A-1a and A-2**). Six parking spaces for light goods vehicles and one loading/unloading space for light goods vehicle are provided at the western part of the Site. The operation hours of the Site are between 8:30 a.m. and 6:30 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays. The vehicular traffic to and from the Site would be about 10 times per day.
- 1.3 The Site and/or its adjacent area were the subject of ten previous applications. The last application No. A/NE-FTA/139 for the same temporary use and its renewal application No. A/NE-FTA/160 were submitted by the same applicants. They were approved by the Rural and New Town Planning Committee (the Committee) on 25.7.2014 and 15.7.2016 for a period of two years and three years respectively. All the approval conditions under the latest renewal application have been complied with.
- 1.4 The scheme submitted under the current application is similar to the previous renewal application No. A/NE-FTA/160 in terms of the applied use, major development parameters and site layout, except that the site area is increased by 100m<sup>2</sup> at the western part of the Site to include Government land and addition of a 4.5m high rain shelter of 145m<sup>2</sup> adjoining the temporary structure at the north-eastern part of the Site. A plan showing the site layout plan is at **Drawing A-1**.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on 21.3.2019 (**Appendix I**)
  - (b) Further Information (FI) received on 15.4.2019 (**Appendix Ia**)
  - (c) Email dated 3.5.2019 requesting for deferment of consideration of the application (**Appendix Ib**)
  - (d) FI received on 28.5.2019 (**Appendix Ic**)
  - (e) FI received on 31.5.2019 (**Appendix Id**)
- 1.6 On 17.5.2019, the Rural and New Town Planning Committee (the Committee) agreed, at the request of the applicant (**Appendix Ib**), to defer making decision on the application for two months pending the preparation of further information to address the departmental comments. The applicant submitted further information on 28 & 31.5.2019 (**Appendices Ic and Id**) and the application is re-scheduled for consideration by the Committee on 5.7.2019.

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

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement at **Appendix I**. They can be summarised as follows:

- (a) all the approval conditions granted by the Board in respect of the previous renewal application (No. A/NE-FTA/160) have been complied with, and the applicants

undertake to keep the Site in good condition;

- (b) there is no change to the applied use under the current application and the site layout and major development parameters for the temporary open storage yard would remain almost unchanged. The current application takes into account the increase in total floor area up to 295m<sup>2</sup> at the northeastern part of the Site for office/rest room/first aid room/check point uses, rain shelter and washroom; and
- (c) only six parking spaces for light goods vehicles are proposed and the development is not expected to result in adverse environmental, traffic and drainage impacts on the surrounding environment.

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

The applicants are the sole “current land owner” of the Site. For the adjoining Government land, 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) is not applicable to the application. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is currently not a subject of any active enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission (No. A/NE-FTA/160) if the subject application is not approved by the Board.

### **5. Town Planning Board Guidelines**

Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13E) are also relevant to the application. The Site falls within Category 3 areas under TPB PG-No.13E promulgated on 17.10.2008. The relevant extract of the Guidelines is at **Appendix II**.

### **6. Previous Applications**

- 6.1 The Site and/or its adjacent area are the subject of ten previous planning applications (**Appendix III** and **Plan A-1b**).
- 6.2 Applications No. A/DPA/NE-FTA/11, 13, 21, 25 and A/NE-FTA/60 for container trailer/tractor park, open storage of construction materials and equipment and temporary wholesale trade centre of frozen and chilled meat were all rejected by the Committee between 1992 and 2003 mainly for the reasons of being not in line with the planning intention of the “AGR” zone, land use incompatibility, the applicants’ failure to demonstrate that there would not be adverse environmental, ecological, traffic and drainage impacts, and the setting of undesirable precedents.
- 6.3 Application No. A/NE-FTA/76 for the same applied use as the current application with a slightly larger area was rejected by the Board on review on 10.11.2006 mainly on

grounds of not in compliance with TPB Guidelines for 'Application for Open Storage and Port Back-up Uses', and the applicant's failure to demonstrate that the proposed development would not cause adverse environmental and traffic impacts on the surrounding areas. Subsequently, the applicant lodged an appeal to the Town Planning Appeal Board against the decision of the Board, which was allowed on 15.2.2008 for a temporary period of two years mainly for reasons that the adverse traffic impact could be mitigated taking into account the Transport Department's view; and the site circumstances had changed upon completion of the alteration of Ng Tung River.

- 6.4 Applications No. A/NE-FTA/103, 106, 139 and 160 for the same temporary use submitted by the same applicant(s) of this application were approved with conditions by the Committee between 2011 and 2016 for a period of two years / three years mainly on considerations that there were previous approvals for similar open storage use granted at the site, and Government departments had no adverse comments or their concern could be addressed by relevant approval conditions. For the last approved renewal application No. A/NE-FTA/160, all the approval conditions have been complied with and the planning permission is valid until 15.7.2019.
- 6.5 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.

## 7. Similar Applications

- 7.1 There was one similar application (No. A/NE-FTA/142) for proposed temporary open storage of construction materials in the vicinity of the Site (**Plan A-1b**). It was rejected by the Board on review in 2014 mainly on considerations that the proposed development was not in compliance with the TPB Guidelines for 'Application for Open Storage and Port Back-up Uses'; the development was not in line with the planning intention of "AGR" zone; the applicant failed to demonstrate that the proposed developments would not have adverse environmental impact on the surrounding area; and the setting of undesirable precedent for similar applications.
- 7.2 Details of the similar application is at **Appendix IV** and its location is shown on **Plan A-1**.

## 8. The Site and Its Surrounding Areas (Plans A-1a and A-2, aerial photo at Plan A-3 and site photos on Plans A-4a to A-4d)

- 8.1 The Site is:
- (a) currently formed, hard-paved and fenced;
  - (b) occupied by open storage of construction materials and temporary structures for the applied use; and
  - (c) accessible by a local track leading to Man Kam To Road.
- 8.2 The surrounding areas have the following characteristics:
- (a) Man Kam To Road is to the west of the Site (**Plan A-1a**);

- (b) Ng Tung River is to the southwest of the Site (**Plans A-1a and A-2**);
- (c) to the east and southeast of the Site are warehouse, vacant land, active / fallow agricultural land and domestic structures (**Plan A-2**); and
- (d) open storage, warehouse, parking of vehicles and some vacant sites are found to the north of the Site across the track (**Plan A-2**).

## **9. Planning Intentions**

- 9.1 The planning intention of the “AGR” zone in the Fu Tei Au and Sha Ling area 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 The planning intention of the “O” zone in Fanling North area is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

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

- 10.1 The following government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

- 10.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
  - (a) the Site comprises Lots 184 RP and 187 RP (Part) in D.D. 52 and adjoining Government land. The lots are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access. The applicants should make their own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
  - (b) the actual occupation area does not tally with the Site under application, in particular, Lot 186 RP in D.D. 52, which is sandwiched between the application lots, is also occupied and enclosed on Site (**Plan A-2**);
  - (c) the existing structures on Site were erected without approval from his office. The aforesaid structures are not acceptable under the Leases concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
  - (d) the total built-over area of the aforesaid structures do not tally with the ones mentioned in the planning application. The aforesaid structures are not acceptable under the Leases concerned and his office reserves the right to take necessary lease enforcement and land control actions against the

aforesaid structures;

- (e) the Government land (GL) adjacent to the Site is being occupied without approval from his office. Some portions of the adjoining GL were fenced off by hoardings without approval. It was not acceptable and the applicants should cease the illegal occupation and remove those hoardings at their own cost. His office reserves the right to take land control actions against the unauthorized occupation of GL; and
- (f) if the planning application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) to cover all the actual occupation area. The applications for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

### **Traffic**

#### 10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) it is noted that the proposed vehicular access to the Site is via a local track connecting with Man Kam To Road. Based on the applicants' submission (**Appendices Ia, Ic and Id**) on the provision of vehicular trip rate, vehicular access, size of vehicle, car parking / loading / unloading and manoeuvring arrangement, the applicants have demonstrated that there are sufficient internal vehicular manoeuvring space within the Site to prevent their vehicle reversing outside the premises. He therefore considers that the application can be tolerated from the traffic engineering viewpoint; and
- (b) the vehicular access to the Site is via an unnamed local track which is not under Transport Department's management. In this regard, the land status of the access leading to the Site should be checked with the other lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly.

### **Nature Conservation and Agriculture**

#### 10.1.3 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) he has no strong view against the application; and
- (b) in the previous planning application No. A/NE-FTA/160, the applicants were required to maintain the existing mitigation measures to the ecological sensitive receivers (i.e. mitigation woodland/wetland located to the immediate west of the Site maintained by AFCD) (**Plan A-2**) in the vicinity of the Site to ensure that no pollutants and rainwater should be discharged to the mitigation woodland/wetland. Should the current application be approved, the applicants should be required to maintain the same mitigation measures to the ecological sensitive receivers throughout the planning

approval period.

### **Environment**

#### 10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as the proposed use involves storage of dusty construction materials and there are domestic structures in the vicinity of the Site with the closest one is located to the east of the Site (**Plan A-2**) at a distance of less than 10m;
- (b) there was no substantiated environmental complaint received in the past three years; and
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.

### **Landscape**

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

- (a) she has no objection to the application from the landscape planning point of view;
- (b) based on aerial photo of 2017, the Site is situated in an area of rural landscape character surrounded by temporary structures and clusters of trees/ vegetation. Compared with aerial photo of 2016, no significant change is observed in the landscape character surrounding and within the Site;
- (c) according to the layout plan provided by the applicant (**Drawing A-1**), no significant change is observed between the proposed layout under current application and the existing layout of the Site. Significant adverse impact on existing landscape resources arising from this application is not anticipated;
- (d) should the application be approved, the applicants should be advised to properly maintain all existing trees and vegetation within the Site at all times during the planning approval period. Since existing tree groups and trees are found in close proximity and within the Site, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent;
- (e) the applicant should also be advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO/N for approval; and
- (f) useful information published by the Greening, Landscape & Tree Management Section, Development Bureau on general tree maintenance and tree risk management is available for reference on its website.

### **Drainage**

10.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no in-principle objection to the application from the public drainage viewpoint;
- (b) the Site is in an area where no public sewer connection is available;
- (c) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area; and
- (d) his other advisory comments are at **Appendix VI**.

### **Building Matters**

10.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) there is no record of submission of the proposed building/structure to the Building Authority for approval;
- (b) if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
- (c) before any new building works (including temporary buildings/structures and containers etc.) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An authorized person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
- (d) in connection with (c) above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)Rs) respectively;
- (e) if the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage; and
- (f) formal submission under BO is required for any proposed new works, including any temporary structures. Detailed comments under the BO will be provided at the building plan submission stage.



### **Fire Safety**

#### 10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting be provided to the satisfaction of his department;
- (b) in consideration of the nature of the open storage use, the approval condition on the provision of fire extinguisher(s) within 6 weeks from the date of planning approval shall be added;
- (c) to address the approval condition in (b) above, the applicants should be advised to submit certificate(s) under Regulation 9(1) of the Fire Service (Installations and Equipment) Regulations (Chapter 95B) to his department for compliance of condition;
- (d) in such circumstances, the applicants are required to submit the relevant layout plans to his department incorporated with the proposed FSIs for approval. In preparing the submission, the applicants should note the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
  - (ii) the location of the proposed FSIs and the access for emergency vehicles should be clearly marked on the layout plans; and
  - (iii) attached good practice guidelines for open storage should be adhered to; and
- (e) the applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

### **Project Interface**

#### 10.1.9 Comments of the Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD):

- (a) the Site falls within the project boundary of the remaining phase of the Fanling North New Development Area (FLN NDA), which is anticipated to commence in 2024; and
- (b) he has no comment on the application from project interface point of view.

### **Open Space Development**

#### 10.1.10 Comments of the Director of Leisure and Cultural Services (DLCS):

- she has no comment on the application and advises that the subject local open space has no definite implementation programme in the meantime.

### **District Officer's Comments**

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

- (a) he has consulted the locals regarding the application;
- (b) the Chairman of the Sheung Shui District Rural Committee (SSDRC), the incumbent North District Council (NDC) member of the subject constituency cum Indigenous Inhabitant Representative (IIR) of Sheung Shui Heung, the remaining two IIRs and Resident Representative (RR) of Sheung Shui Heung, and the IIR and RR of Wa Shan Tsuen have no comment on the application; and
- (c) the incumbent NDC member of the subject constituency comments that the vehicular access to the Site is a non-standardized village track (**Plan A-2**), traffic of heavy vehicles along this track would affect the daily life of the villagers.

10.2 The following Government departments have no comment on / no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

## **11. Public Comments Received During Statutory Publication Period**

On 29.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from the Chairman of SSDRC indicating no comment on the application (**Appendix V**).

## **12. Planning Considerations and Assessment**

12.1 The Site falls within Category 3 area under the TPB Guidelines No. 13E on 'Application for Open Storage and Port Back-up Uses' promulgated by the Board on 17.10.2008. The following considerations in the Guidelines are relevant:

Category 3 areas: applications falling within Category 3 areas would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments / proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 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.

- 12.2 The temporary open storage use is not in line with the planning intentions of the “AGR” zone. Nevertheless, given that the Site is already hard paved and agricultural activity in its vicinity is inactive, and the Site has been approved for similar uses of open storage of construction materials on a temporary basis previously, DAFC has no strong view on the application from the agricultural development point of view but states that the applicants should maintain the same mitigation measures to protect the ecological sensitive receivers (i.e. mitigation woodland/wetland located in the immediate west of the Site maintained by AFCD) (**Plan A-2**) under the previously approved application No. A/NE-FTA/160 to ensure that no pollutants and rainwater should be discharged to the mitigation woodland/wetland. For the part of the Site zoned “O” on the OZP, which is being planned as a local open space under the Fanling North NDA, DLCS has no comment on the temporary use under application and advises that there is no definite implementation programme for the subject local open space in the meantime. In addition, CEDD advises that the Site falls within the project boundary of the remaining phase of the Fanling North NDA which is anticipated to commence in 2024. In this regard, it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the planning intentions of the “AGR” and “O” zones as well as the implementation of the FLN NDA.
- 12.3 The Site is hard paved and situated in a rural landscape character surrounded by temporary structures and clusters of trees/ vegetation. CTP/UD&L of PlanD has no objection to the application as significant adverse landscape impact arising from the use is not anticipated. DEP does not support the application as there are domestic structures in the vicinity of the Site (**Plan A-2**) and environmental nuisance nearby may be created. Nevertheless, there is no environmental complaint for the Site in the past three years. To address DEP’s concern, relevant approval conditions including restricting the operation hours, no operation on Sundays and public holidays, and prohibiting vehicle repairing, dismantling or workshop activities at the Site are recommended. The applicants would also be advised to follow the environmental mitigation measures set out in the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’. Other Government departments consulted, including C for T, D of FS and CE/MN of DSD, have either no comment on or no objection to the application.
- 12.4 The application generally complies with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13E) in that there are previous approvals for the same use on the Site, there are no major adverse departmental comments / no local objection have been received on the application, or the concern of relevant department could be addressed through the implementation of approval conditions.
- 12.5 The Site and/or its adjacent area are involved in ten previous applications for various temporary uses (**Plan A-1b and Appendix III**). The last four applications (No. A/NE-FTA/103, 106, 139 and 160) for the same temporary use submitted by the same applicant(s) of this application were approved with conditions by the Committee between 2011 and 2016 for a period of two years / three years mainly on considerations that there were previous approvals for similar open storage use granted at the site, and Government departments had no adverse comments or their concern could be addressed by relevant approval conditions. For the last approved application No. A/NE-FTA/160, all the approval conditions have been complied with and the planning permission is valid until 15.7.2019.

- 12.6 There is one similar application (No. A/NE-FTA/142) for proposed temporary open storage of construction materials in the vicinity of the Site in the last ten years (**Plan A-1a**). It was rejected by the Board on review in 2014 mainly on considerations that the proposed development was not in compliance with the TPB PG-No. 13E; the development was not in line with the planning intention of “AGR” zone; the applicant failed to demonstrate that the proposed developments would not have adverse environmental impact on the surrounding area; and the setting of undesirable precedent for similar applications. The circumstances of the subject application are different from the rejected similar application.
- 12.7 There is no adverse public comment received on the application during the public inspection period.

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

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the proposed temporary use under application could be tolerated for a period of 3 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 3 years until 5.7.2022. The following conditions of approval and advisory clauses are suggested for Members' reference:

#### Approval Conditions

- (a) no operation between 6:30 p.m. and 8:30 a.m. on Mondays to Saturdays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (c) no medium/heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicants, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (e) the maintenance of peripheral fencing on Site at all times during the planning approval period;
- (f) the maintenance of all existing trees within the Site at all times during the planning approval period;
- (g) the existing mitigation measures to the ecological sensitive receivers in the vicinity of the Site should be maintained properly at all times during the planning approval period;

- (h) the submission of a drainage proposal within 6 months from date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 5.1.2020;
- (i) in relation to (h) 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 5.4.2020;
- (j) 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 16.8.2019;
- (k) the submission of proposals for fire service installations and water supplies for fire-fighting 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 5.1.2020;
- (l) in relation to (k) above, the implementation of proposals for fire service installations and water supplies for fire-fighting 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 5.4.2020;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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;
- (n) if any of the above planning conditions (h), (i), (j), (k) or (l) 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
- (o) upon expiry of the planning permission, the reinstatement of the “AGR” portion of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection is suggested for Members’ reference:

- (a) the application is not in line with the planning intention of the “AGR” zone for the area which is primarily intended to retain and safeguard good 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. The application is also not in line with the planning intention of the “O” zone for the area which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. There is no strong planning justifications in the submission for a departure from such planning intentions, even on a temporary basis; and
- (b) the application does not comply with the Town Planning Board Guidelines No. 13E in that there are adverse departmental comments on the application; and the

applicants have failed to demonstrate that the development would not have adverse environmental impact on the surrounding area.

#### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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**

<b>Appendix I</b>	Application form with attachments received on 21.3.2019
<b>Appendix Ia</b>	Further information received on 15.4.2019
<b>Appendix Ib</b>	Email dated 3.5.2019 requesting for deferment of consideration of the application
<b>Appendix Ic</b>	Further information received on 28.5.2019
<b>Appendix Id</b>	Further information received on 31.5.2019
<b>Appendix II</b>	Relevant extract of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar s.16 Applications in the vicinity of the Site within/partly within "AGR" zone in the Fu Tei Au and Sha Ling area
<b>Appendix V</b>	Public Comment
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Master Layout Plan
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Planning Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4d</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2019**