

RNTPC Paper No. A/YL-ST/556
For Consideration by
the Rural and New Town
Planning Committee
on 20.9.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/556

- Applicant** : Fu Hop Yick Management Limited represented by Lanbase Surveyors Limited
- Site** : Lots 180 RP and 182 S.C RP in D.D. 102 and Adjoining Government Land (GL), San Tin, Yuen Long
- Site Area** : About 336 m² (including GL of about 7 m²)
- Lease** : Block Government Lease (demised for agricultural use) (no structures are allowed to be erected without prior approval of the Government)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services for a period of 3 years (**Plan A-1**). According to the Notes for the “V” zone of the OZP, ‘Shop and Services’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a vacant 3-storey temporary structure, and is not the subject of any previous applications.
- 1.2 According to the applicant, the application is to provide shop and services uses such as retail shop, fast food shop and commercial service to serve the local community. As shown on the layout plan at **Drawing A-1** and **Plan A-2**, the Site is accessible from the east off Castle Peak Road – San Tin. The major development parameters are summarised as follows:

Site Area	About 336m ²
Total GFA	About 429m ²
No. of Structure	1 structure (shop and services)

No. of Storeys	3
Covered area	143 m ² (about 42% of the Site)
Building Height	Not exceeding 9m
No. of Light Goods Vehicle Loading/unloading Space	1
Operation Hours	8:00a.m. to 11:00p.m. daily

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

- (a) Application form received on 25.7.2019 **(Appendix I)**
- (b) Planning Statement **(Appendix Ia)**
- (c) Further Information received on 3.9.2019 providing response to departmental comments (*accepted and exempted from publication and recounting requirements*) **(Appendix Ib)**

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in section 5 of the Planning Statement at **Appendix Ia**. They can be summarised as follows:

- (a) The proposed shop and services use would provide local residents a convenient supply depot in support of their daily necessities. The proposed use does not contravene the planning intention and is compatible with the surrounding land uses which include commercial activities such as public car parks and open storages.
- (b) Planning applications for similar uses had been approved in “V” zone in the past years including two cases approved in 2016 and 2018.
- (c) The area is lack of local shops and services providing daily necessities to serve the local community. The proposed development can meet this demand.
- (d) No adverse ecological, environmental and traffic impact is envisaged.

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

The applicant is not a “current land owner” of the private lots within the Site 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 site notice and sending notice to San Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. The remaining of the Site is GL, and

the “owner’s consent/notification” requirements are not applicable.

4. **Background**

The Site is not the subject of any planning enforcement action.

5. **Previous Application**

The Site is not subject of any previous application.

6. **Similar Applications**

6.1 There are 5 similar applications (Nos. A/YL-ST/412, 458, 488, 505 and 521) covering 4 application sites within the same “V” zone on the OZP of which 4 were approved and 1 was rejected by the Rural and New Town Planning Committee (the Committee) (**Plan A-1**).

6.2 Applications Nos. A/YL-ST/412, 458, 488 and 521 for temporary shop and services uses were approved by the Committee between 2012 and 2018 for periods of 3 years, mainly on the considerations that the proposed developments were considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone. However, apart from the last planning permission, all were revoked between 2013 and 2017.

6.3 Application No. A/YL-ST/505 for temporary shop and services (convenience store and currency exchange shop) use was rejected by the Committee on 14.7.2017 for the reasons that the proposed development was not in line with the planning intention of the “V” zone and the applicant failed to demonstrate that the proposed development will not have any adverse impact on pedestrian traffic in the area.

6.4 Details of these applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently vacant with a temporary structure; and
- (b) accessible from the east off Castle Peak Road – San Tin.

7.2 The surrounding areas are predominated by vehicle parks, residential dwellings and storage yards. Some of the storage yards and vehicle parks are suspected unauthorized development (UD) subject to enforcement action by the Planning Authority:

- (a) to its north are unused and vacant land, and a Highways Department Maintenance Centre;
- (b) to its west and northwest across Castle Peak Road – San Tin are car parks, post office, storage yard, toilet/refuse collection point, Small House under construction, and vacant and unused land;
- (c) to its southwest are vehicle parks, vehicle repair workshop, metalware shop, storage yard, residential dwellings/shops and vacant land; and
- (d) to its east across San Tin Highway are warehouse, and vacant and unused land.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The private land of Lot Nos. 180 RP and 182 S.C RP in D.D. 102 are covered by Short Term Waiver (STW) No. 4463 to permit structures

for the purpose of 'Public Vehicle Park (excluding Container Vehicle)'.

- (c) The GL of the Site is covered by Short Term Tenancy (STT) No. 2989 for the purpose of 'Public Vehicle Park (excluding Container Vehicle)'.
- (d) The Site is accessible from Castle Peak Road - San Tin through GL. This office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the application, the STT/STW holders will need to apply to this office for modification of the STT/STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lesser at its sole discretion and there is no guarantee that such applications will be approved. If such applications are approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.
- (g) According to his record, there is no Small House application being processed/approved at the Site.

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The Site is connected to public road network via a section of GL covered by STT which is not managed by Transport Department (TD). The applicant should seek the relevant land authority on the right of using the vehicular access. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, the following condition should be incorporated:

No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement of the Site from Castle Peak Road – San Tin should be commented by TD;
- (b) If the proposed run-in is agreed by TD, the applicant should provide the run in/out at Castle Peak Road – San Tin in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – San Tin. The relevant departments will provide their comments, if any.
- (d) Adequate drainage measures should be provided at the site access to prevent surface water running from the Site to the nearby public roads and or exclusive road drains.

9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

- (a) The Site falls within the area of influence (AOI) for the proposed Northern Link (NOL), which is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the alignment of the proposed NOL are still under review, those areas within the AOI may be required to be vacated at the time for the construction of the NOL and nuisance, such as noise and vibration of the proposed NOL.
- (b) He has no objection in principle to the application from the development point of view of the NOL, provided the applicant is satisfied with the surrounding condition of nuisance taking into account the future construction, operation and maintenance of the NOL.

Nature Conservation

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

He has no comment on the application from nature conservation point of view as the Site is paved and disturbed.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.

- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (d) 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)R) respectively.
- (e) If the Site does not abut on 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)R at the building plan submission stage.

Drainage

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

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) The applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations and charts should be included. (For preparation of the drainage proposal, the guideline on preparation of the drainage proposal is available in DSD homepage at http://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_guideline/Drainage_Submission.pdf). The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
- (c) After completion of the required drainage works, the applicant shall provide DSD a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan for reference. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (d) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (e) No public sewerage maintained by CE/MN, DSD is currently available for the connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (f) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (g) The applicant should consult DLO/YL, LandsD regarding all the proposed drainage works outside the site boundary in order to ensure the unobstructed discharge from the Site in future.
- (h) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proper maintenance during occupancy of the Site.

Landscaping

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

In consideration that there is existing planting outside the Site along San Tin Highway, which act as a landscape buffer to the adjacent road, landscape condition in the planning permission is not recommended, should the application be approved by the Board.

Others

9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) Proper licence / permit issued by his Department is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.
- (b) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

9.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) There is a high pressure underground town gas transmission pipeline (running along San Tin Highway) in the vicinity of the Site.
- (b) The project proponent/consultant/works contractor shall therefore liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of the proposed development.
- (c) The project proponent/consultant/works contractor is required to observe the Electrical and Mechanical Services Department's requirements on the "Avoidance of Damage to Gas Pipes 2nd Edition" for reference. The webpage address is: [https://www.emsd.gov.hk/filemanager/en/content_286/CoP_gas_pipes_2nd_\(Eng\).pdf](https://www.emsd.gov.hk/filemanager/en/content_286/CoP_gas_pipes_2nd_(Eng).pdf).

District Officer's Comments

9.1.12 Comments of the District Officer/Yuen Long (DO/YL):

He has no comment on the application and the local comments should be submitted to the Board directly, if any.

9.2 The following Government departments have no objection to or comment on the application:

- (a) Director of Environment Protection (DEP);
- (b) Commissioner of Police (C of P);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (e) Head of the Geotechnical Engineering Office (H(GEO)), CEDD.

10. Public Comments Received During Statutory Publication Period

On 2.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 23.8.2019, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 3 years. The Site falls within “V” zone which is to reflect the existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The proposed use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL, LandsD advises that there is no Small House application being processed/approved at the Site. Approval of the application on a temporary basis for a period of 3 years would not frustrate the long term planning intention of the “V” zone as there are no committed development programme for the Site.
- 11.2 The proposed development is not incompatible with the surrounding uses which are predominated by vehicle parks, roads, residential dwellings and storage yards. The proposed use could meet some of the local demand on shop and services use in the vicinity.
- 11.3 Concerned Government departments, including DEP, C for T, D of FS, CTP/UD&L of PlanD, DAFC and CE/MN of DSD have no objection to or no adverse comment on environmental, traffic, fire safety, landscape, nature

conservation and drainage aspects respectively. To mitigate potential impacts on the surrounding areas and address technical concerns, approval conditions restricting the operation hours, prohibiting vehicular access, and requiring the submission and implementation of drainage and FSIs proposals, and the maintenance of the implemented drainage facilities are recommended in paragraphs 12.2 (a) to (g) below, should the application be approved. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

- 11.4 The Committee has approved 4 applications (Nos. A/YL-ST/412, 458, 488 and 521) for similar shop and services uses (mainly for convenient store/real estate agency) within the same “V” zone mainly on the considerations that the proposed developments were not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There is no public comment on the application received during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years up to 20.9.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 11:00p.m. and 8:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (c) the submission of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.3.2020;
- (d) in relation to (c) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.6.2020;

- (e) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.3.2020;
- (f) in relation to (e) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.6.2020;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) if any of the above planning conditions (a), (b) 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; and
- (i) if any of the above planning conditions (c), (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.

Advisory Clauses

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

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

the proposed shop and services use is not in line with the planning intention of the "V" zone, which is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within "V" zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

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

14. Attachments

Appendix I	Application Form received on 25.7.2019
Appendix Ia	Planning Statement
Appendix Ib	Further Information received on 3.9.2019 responding to departmental comments
Appendix II	Similar s.16 applications within the same “V” zone on the San Tin Outline Zoning Plan No. S/YL-ST/8
Appendix III	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2019**