

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

**APPLICATION NO. A/FLN/31**

- Applicant** : Ho Lam Enterprise Investment Limited  
represented by Lands Supreme Surveyors Limited
- Site** : Lots 541 (Part) and 542 (Part) in D.D. 51, Sheung Shui, New Territories
- Site Area** : About 267.45 m<sup>2</sup>  
(Site A: about 132.54 m<sup>2</sup>; Site B: about 134.91 m<sup>2</sup>)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Fanling North (FLN) Outline Zoning Plan (OZP) No. S/FLN/2 (at the time of submission)
- Draft FLN OZP No. S/FLN/3 (currently in force)  
[the zonings of the Site remain unchanged, with building height restriction (BHR) covering Site A relaxed from 5 to 8 storeys, on the current draft OZP No. S/FLN/3]
- Zonings** : Site A: “Government, Institution or Community” (“G/IC”)  
  
Site B: “Open Space” (“O”) (about 78%) and “G/IC” (about 22%)
- Application** : Renewal of Planning Approval of Temporary Shop and Services (Fast Food Shop) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning permission for a temporary shop and services (fast food shop) at the application sites (the Sites) (i.e. Sites A and B) (**Plan A-1**) for a period of 3 years. Whilst Site A entirely falls within the “G/IC” zone on the OZP, Site B mainly falls within “O” zone (about 78%), with a small portion within the “G/IC” zone (about 22%) on the same OZP. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within both “G/IC” and “O” zones, which requires planning permission from the Town Planning Board (the Board). The Sites are hard-paved with two existing temporary structures, and currently used for the applied use with a valid planning permission.

- 1.2 The Sites are the subject of one previous application for the same applied use. The previous application (No. A/FLN/20) for the same use was submitted by the same applicant and was approved with conditions for 3 years by the Rural and New Town Planning Committee (the Committee) on 13.12.2019. All approval conditions have been complied with and the planning permission is valid until 13.12.2022.
- 1.3 According to the applicant, the Sites involve a total site area of about 267.45 m<sup>2</sup> (i.e. about 132.54 m<sup>2</sup> for Site A and about 134.91 m<sup>2</sup> for Site B). There are two existing single-storey temporary structures (of about 3.3m - 3.7m high) with a total floor area of about 164.3 m<sup>2</sup> at the Sites for the applied use, providing take-away food to the local residents in the area. The layout plans of the temporary fast food shop at Sites A and B are shown in **Drawings A-1 and A-2** respectively. The Sites are accessible from Lung Sum Avenue via an existing pedestrian access branching from an unnamed local track (**Plan A-1**). No parking space is provided within the Sites. The operation hours are from 6:30 a.m. to 11:00 p.m. daily, including public holidays.
- 1.4 Compared with the last approved application (No. A/FLN/20) submitted by the same applicant, there is no change in the development proposal in terms of the applied use, total floor area, number of temporary structures, parking space and operational details. Nevertheless, Lot 539 (Portion) is excluded from Site B (**Plan A-2**), and the total site area of the current application is slightly decreased from 279.05 m<sup>2</sup> to about 267.45 m<sup>2</sup> (-11.6 m<sup>2</sup>; -4.16%) due to the reduction of the structure's canopy at Site A for engineering consideration.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with attachments received on 6.10.2022 (**Appendix I**)
  - (b) Further Information (FI) received on 21.11.2022 (**Appendix Ia**)

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

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia** respectively as summarized below:

- (a) the applied use serves the need of local people living in the vicinity by providing take-away food;
- (b) the two structures at the Sites are existing structures of only one storey. They are compatible with the surrounding environment, and would not generate any adverse noise, dust or drainage impacts;
- (c) the applicant had complied with all approval conditions in respect of drainage and fire safety issues under the previously approved application No. A/FLN/20;

- (d) the Sites fall within the boundary of Remaining Works Phase of the Kwu Tung North (KTN)/FLN New Development Area (NDA) development, which is not likely to be developed until around 2023/2024. The applied use is considered the best use of the Sites, otherwise the existing sites/structures would remain vacant and cannot serve the local residents. The applicant would cease the applied use upon government's request to facilitate the implementation of the NDA development; and
- (e) the applicant is handing the licence with Food and Environmental Hygiene Department (FEHD) and will liaise with Lands Department (LandsD) to rectify/regularize the lease issues.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent / Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No.31A) by taking reasonable steps to give notification to the owner including posting notice at the Sites and the noticeboard of Sheung Shui District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

### **5. Background**

- 5.1 At the time of the submission of the application, Site A falls within an area zoned “G/IC” with a BHR of 5 storeys, and Site B mainly falls within “O” zone, with a small portion within the “G/IC” zone, on the approved OZP No. S/FLN/2. Subsequently, on 21.10.2022, the draft OZP No. S/FLN/3, covering the Sites, was gazetted under section 5 of the Town Planning Ordinance (the Ordinance). On the draft OZP No. S/FLN/3 currently in force, there is no change in the zoning of both Sites A and B, except that the BHR of the “G/IC” zone, where Site A is located, is relaxed from 5 storeys to 8 storeys (**Plan A-1**).
- 5.2 The Sites also fall within the boundary of Remaining Phase of the KTN/FLN NDA development. According to Civil Engineering and Development Department (CEDD), the site formation and infrastructural works for the Remaining Phase will commence in mid-2024 tentatively.
- 5.3 The Sites are currently not a subject of any active enforcement case.

## 6. **Previous Application**

- 6.1 The Sites involve one previous application No. A/FLN/20 for the same applied use, which was approved by the Committee on 13.12.2019, mainly on the considerations that approval of the application on a temporary basis for 3 years would not frustrate the long-term planning intention of the “G/IC” and “O” zones and adversely affect the implementation for the Remaining Phase of the KTN/FLN NDA development; the development was small in scale and not incompatible with the surrounding land uses; and no adverse departmental comments on the application were received.
- 6.2 The applicant has complied with all the approval conditions for the application No. A/FLN/20. The planning permission is valid until 13.12.2022. Details of the application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

## 7. **Similar Application**

There is one similar application No. A/FLN/22 for proposed temporary shop and services and place of entertainment uses within the same “G/IC” and “O” zones on the OZP. The application was rejected on review by the Board in 2021, mainly on the considerations that the proposed uses were excessive in scale and the applicant failed to demonstrate that the proposed development would not result in adverse traffic impacts on the surrounding areas. Details of the similar application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

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

- 8.1 The Sites are:
- (a) currently used for the applied use with a valid planning permission; and
  - (b) accessible from Lung Sum Avenue via an existing pedestrian access branching from an unnamed local track.
- 8.2 The surrounding areas are predominantly rural in character intermixed with active/fallow agricultural land, domestic structures and unused land:
- (a) to the north are drainage maintenance access and Ng Tung River;
  - (b) to the east are a few domestic dwellings/structures and vacant land;
  - (c) to the south are vacant land and temporary structures; and
  - (d) to the west are some domestic dwellings/structures and vacant land.

## 9. Planning Intentions

- 9.1 The long-term planning intention of the “G/IC” zone is primarily for the provision of government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the government, organizations providing social services to meet community needs, and other institutional establishments.
- 9.2 The long-term planning intention of the “O” zone 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 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.
- 10.2 The following government departments have concerns/reservation on the application.

### Land Administration

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

- (a) he has reservation on the planning application since there are unauthorized building works (UBW) on the private lots which are already subject to lease enforcement actions according to case priority. The lots owner should rectify/regularize the lease breaches as demanded by LandsD. The UBW and breach of lease conditions had not been rectified since the last s.16 application approved in Oct 2019. There is no valid short term waiver (STW) application being processed by his office; and
- (b) his advisory comments are at **Appendix V**.

### Future Development

10.2.2 Comments of the Project Manager/North, CEDD (PM/N, CEDD):

the Sites fall within the KTN/FLN NDA Remaining Phase. The site formation and construction works are scheduled to commence in mid-2024 tentatively.

## 11. **Public Comment Received During Statutory Publication Period (Appendix VI)**

The application was published for public inspection. During the statutory public inspection period, 1 public comment was received from the Chairman of Sheung Shui District Rural Committee who raises no comment on the application.

## 12. **Planning Considerations and Assessments**

- 12.1 The application is for renewal of a planning approval for temporary shop and services (fast food shop) at the Sites for a period of 3 years. Whilst Site A entirely falls within the “G/IC” zone on the OZP, Site B mainly falls within “O” zone (about 78%), with a small portion within the “G/IC” zone (about 22%) on the same OZP (**Plan A-1**). The applied use is not entirely in line with the planning intention of “G/IC” and “O” zones, which are primarily for the provision of government, institution or community facilities, and for the provision of outdoor open-air public space for active and/or passive recreational uses respectively. The Sites also fall within the Remaining Phase of the KTN/FLN NDA development, with scheduled land resumption and site formation works commencing in mid-2024 tentatively. PM/N of CEDD has no adverse comment on the application from KTN/FLN NDA project interface point of view. As such, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “G/IC” and “O” zones.
- 12.2 In view of its small scale, the applied use is considered not incompatible with the surrounding land uses which are mainly an area for domestic dwellings/structures, vacant and unused land (**Plan A-2**). Although DLO/N of LandsD has reservation on the application for the reason of presence of UBW on the Sites subject to lease enforcement actions, the applicant indicates that he will liaise with LandsD to rectify/regularize the lease breaches (**Appendix Ia**). Relevant departments consulted including C for T, DEP, DAFC, CE/MN of DSD and CTP/UD&L of PlanD have no objection to/no adverse comment on the application from traffic, environmental, nature conservation, drainage and landscape aspects. It is anticipated that the applied use would not have significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. Since the construction works of KTN/FLN NDA Remaining Phase will commence in mid-2024 tentatively, should the application be approved, an advisory clause stating that the Sites may be reverted to government at any time during the planning approval period for the implementation of government projects will be included in the planning approval (**Appendix V**).
- 12.3 The Sites are the subject of one previously approved application No. A/FLN/20 for the same applied use submitted by the same applicant (**Plan A-1**), which was approved on the considerations as stated in paragraph 6.1 above. The considerations of approving the previous application are applicable to the current application, and approval of the current application is in line with the Committee’s previous decision.

### 13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, 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 3 years and be renewed from 14.12.2022 until 13.12.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval Conditions

- (a) no operation between 11:00 p.m. and 6:30 a.m., as proposed by the applicant, is allowed on the Sites during the planning approval period;
- (b) the existing drainage facilities on-site should be maintained at all times during the planning approval period;
- (c) the existing fire service installations implemented on the Sites should be maintained in efficient working order at all times during planning approval period; and
- (d) if any of the above planning conditions (a), (b) or (c) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

*[The previous conditions on the submission and implementation of drainage facilities and FSIs under the last approved application No. A/FLN/20 are replaced by conditions (b) and (c) above respectively, as the implementation of drainage facilities and FSIs have been accepted by DSD and D of FS.]*

#### 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 development is not in line with the planning intentions of the "G/IC" and "O" zones, which are primarily for the provision of government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory, and 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 respectively. No strong planning justification has been given in the submission to justify a departure from the planning intentions, 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 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 reasons for rejection should be given to the applicant.

#### **15. Attachments**

<b>Appendix I</b>	Application form with attachments received on 6.10.2022
<b>Appendix Ia</b>	FI received on 21.11.2022
<b>Appendix II</b>	Relevant extracts of TPB PG-No. 34D
<b>Appendix III</b>	Previous and Similar Applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comment
<b>Drawing A-1</b>	Layout plan for Structure A
<b>Drawing A-2</b>	Layout plan for Structure B
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a to 4c</b>	Site photos

**PLANNING DEPARTMENT  
NOVEMBER 2022**