

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/STT/3

- Applicant** : Fu Hop Yick Management Limited represented by Lanbase Surveyors Limited
- Site** : Lot 774 RP in D.D. 99 and Adjoining Government Land (GL), San Tin, Yuen Long
- Site Area** : About 1,230m² (including GL of about 703m² (about 57.2%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft San Tin Technopole Outline Zoning Plan (OZP) No. S/STT/1
- Zoning** : Area shown as ‘Road’
- Application** : Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services for a period of three years at the application site (the Site) which falls within an area shown as ‘Road’ on the draft San Tin Technopole OZP No. S/STT/1 (**Plan A-1a**). According to the covering Notes of the OZP, in any area shown as ‘Road’, all uses or developments require planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The applied use comprises 11 structures, including five two-storey structures under two open covers (about 7m in height) and a separate two-storey structure all for shop use, as well as five one-storey structures (1.5m to 2.8m in height) for toilet, FS pump room, water tank and two switch rooms, with a total gross floor area (GFA) of 653.895m². Besides, one loading/unloading (L/UL) bay for light goods vehicles (LGV) and six private car parking spaces are provided (**Drawing A-1**). The Site is accessible from its south via an ingress/egress of about 6m off Tung Wing On Road leading to Castle Peak Road – San Tin (**Plan A-2**). The operation hours of the Site are from 8:00a.m. to 11:00p.m. daily including public holidays. According to the applicant, the applied use is to provide shop and services such as retail shop, fast food shop and commercial services to serve the local community.

- 1.3 The Site, in part or in whole, is the subject of 11 previous applications. When compared with the last approved application (No. A/YL-ST/592) which was submitted by the same applicant of the current application for the same use, there is no change in the development parameters and layout of the development (detailed in paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 18.4.2024 and Supplementary Information (SI) received on 24.4.2024 **(Appendix I)**
 - (b) Supplementary Planning Statement **(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, SI and Supplementary Planning Statement at **Appendices I and Ia**. They can be summarised as follows:

- (a) The Site is the subject of a previously approved planning application No. A/YL-ST/592 for the same use with the same development parameters including site area and layout. Without major change in planning circumstances, the Site should be allowed for the applied use. There are also approved planning applications for similar uses nearby in San Tin.
- (b) The applied use would provide local residents a convenient supply depot for their daily necessities and no activities associated with general merchandise operators would be allowed. The applied use is compatible with the surrounding land uses.
- (c) Most of the approval conditions under the previous planning application No. A/YL-ST/592 had been satisfactorily complied with. The applicant will continue to maintain the existing facilities and complete the fire service installations (FSIs) works on the Site. While the approval condition related to the provision of run-in/out could not be complied within the specified time limit, the related works had been completed and accepted by the Highways Department (HyD) after revocation of the planning permission. The existing run-in/out will be properly maintained by the applicant.
- (d) The applied use will not cause significant adverse traffic, environmental and ecological impacts on the surrounding area. The six car parking spaces are to serve the workers of the Site generating about 12 trips per day. There will be 1 to 2 times of goods delivery by LGV (i.e. a maximum of 4 trips) per day. Adequate vehicle manoeuvring space has been reserved within the Site in order to avoid reverse driving from the Site. Most customers will walk to the Site. There will be limited vehicular trips to the Site.

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. 31B) by publishing notices on local newspapers and sending notice to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL, the requirements as set out in TPB PG-No. 31B are not applicable.

4. **Town Planning Board Guidelines**

The Site is located in the Wetland Buffer Area (WBA) (**Plan A-1a**) in Deep Bay Area. The Town Planning Board Guidelines for ‘Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. **Background**

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

6. **Previous Applications**

6.1 The Site (in whole or in part) is the subject of 11 previous applications (No. A/YL-ST/36, 192, 262, 275, 342, 354, 424, 445, 480, 533 and 592) of which two were rejected by the Rural and New Town Planning Committee (the Committee) of the Board and the remaining nine were approved with conditions by the Committee.

6.2 The last three applications (No. A/YL-ST/480, 533 and 592) were submitted by the same applicant for the same use. Application No. A/YL-ST/480 and 533 involved a smaller site while application No. A/YL-ST/592 involved the same site, development parameters and layout as the current application. All the three applications were approved by the Committee between 2016 and 2021 each for a period of three years mainly on the considerations that the approval on a temporary basis would not frustrate the long-term planning intention; the development was not incompatible with the surrounding areas; and there were no adverse departmental comments. The planning permission for application No. A/YL-ST/480 was revoked in 2018 due to non-compliance with the approval condition relating to the implementation of FSIs proposal; while all the time-limited approval conditions for application No. A/YL-ST/553 had been complied with. For the last approved application No. A/YL-ST/592, the planning permission was revoked in 2024 due to non-compliance with the approval condition relating to the provision of run-in/out, and all other time-limited approval conditions had been complied with.

6.3 All the remaining six approved applications (No. A/YL-ST/36, 275, 342, 354, 424 and 445) and two rejected applications (No. A/YL-ST/192 and 262) were all mainly for cross-border traffic service station which are not relevant to the current application.

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

7. **Similar Applications**

7.1 During the past five years, there are three similar applications (No. A/YL-ST/559, 600 and 667) for temporary shop and services within the subject area shown as ‘Road’¹ on the draft San Tin Technopole OZP. These applications were approved by the Committee

¹ These similar applications fell within “Other Specified Uses” annotated “Service Station” zone on the then approved San Tin OZP No. S/YL-ST/8 at the time of consideration by the Committee.

between 2019 and 2024 mainly on the similar considerations as stated in paragraph 6.2 above.

7.2 Details of the similar applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) accessible from its south off Tung Wing On Road leading to Castle Peak Road – San Tin;
- (b) currently paved and occupied with temporary structures which are being used for the applied use (i.e. temporary shop and services) without valid planning permission; and
- (c) located within the WBA in Deep Bay Area.

8.2 The surrounding areas are predominantly eating place (with valid planning permissions under applications No. A/YL-ST/637, 638 and 651), retail shop (with valid planning permission under applications No. A/YL-ST/659), residential dwellings, the Construction Industry Council (CIC) San Tin Training Ground (with valid planning permission under application No. A/YL-ST/658), grassland and unused land.

9. Planning Intention

The area shown as ‘Road’ forms part of the area reserved for future Road L14 of the San Tin Technopole (the Technopole).

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

10.2 The following government department has comments on the application:

Project Interface

10.2.1 Comments from the Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD):

the Site is within the proposed boundary of the Technopole and under the Phase 1 development. According to the latest tentative development programme, it is targeted to commence the works in phases tentatively commencing from 2024 onwards after the funding approval by the Finance Committee of the Legislative Council. Therefore, the Site would be required for timely clearance and construction.

11. Public Comment Received During Statutory Publication Period

On 26.4.2024, the application was published for public comments. During the statutory publication period, one public comment was received from an individual raising concerns that the approval condition of previous approval had not been complied with, which could lead to road safety problem (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The applicant seeks planning permission for temporary shop and services use at the Site for a period of three years. The Site falls within an area shown as 'Road' on the OZP, which is reserved for the proposed Road L14 of the Technopole. According to the applicant, the applied use is to provide shop and services to serve the local community. Whilst the applied use is not in line with the planning intention of the area shown as 'Road' and the Site will be required for timely clearance and construction for relevant works under Phase 1 development of the Technopole tentatively starting from 2024, the applied use could be tolerated for a period of three years, taking into account the assessment below. Should the application be approved by the Board, relevant advisory clause will be recommended to remind the applicant that the Site may be resumed by the Government and the applied use may be terminated at any time during the planning approval period for implementation of imminent government projects.
- 12.2 The applied use is considered not incompatible with the surrounding land uses which are predominantly retail shop, eating place, residential dwellings, the CIC San Tin Training Ground, grassland and vacant land (**Plan A-2**). Chief Town Planner/Urban Design and Landscape, Planning Department has no adverse comment on the application and considers that further significant landscape impact is not anticipated from landscape planning perspective.
- 12.3 The Site falls within the WBA of the TPB PG-No. 12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of Ecological Impact Assessment. Director of Agriculture, Fisheries and Conservation has no comment on the application from nature conservation point of view.
- 12.4 Other concerned government departments, including Commissioner for Transport, Chief Engineer/Mainland North, Drainage Services Department, Director of Fire Services and Director of Environmental Protection have no objection to or no adverse comments on the application. The applied use will unlikely create adverse traffic, drainage, fire safety and environmental impacts on the surrounding areas. Technical requirements of the concerned government departments are suggested to be imposed through relevant approval conditions as recommended in paragraph 13.2 below. Besides, the applicant will be advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Environmental Protection Department to mitigate any potential environmental impacts on the surrounding areas.
- 12.5 As detailed in paragraphs 6 and 7 above, the Site was involved in three previous approvals for the same applied use and there were three approved similar applications for similar use in the past five years. The last previous application (No. A/YL-ST/592) for the same applied use submitted by the same applicant was approved with conditions by the Committee in 2021 for a period of three years. Although the planning permission was subsequently revoked in 2024 due to non-compliance of approval condition related to the

provision of run-in/out, the applicant had completed the construction works of the run-in/out which was accepted by the Chief Highway Engineer/New Territories West, HyD (CE/NTW, HyD) after revocation of the planning permission. In this regard, CE/NTW, HyD has no comment on the current application. All the other time-limited approval conditions of the last previous application had been complied with. The approval of the current application is in line with the previous decisions of the Committee. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 12.6 Regarding the public comment as stated in paragraph 11 above, the planning considerations and departmental comments 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 comment mentioned in paragraph 11 above, the Planning Department considers that the applied 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 3 years until 7.6.2027. 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 8:00 a.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 to the public road at any time during the planning approval period;
- (c) 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 7.12.2024;
- (d) in relation to (c) 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 7.3.2025;
- (e) the submission of records of the existing drainage facilities on the site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 7.9.2024;
- (f) in relation to (e) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b) or (f) 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

- (h) if any of the above planning condition (c), (d) or (e) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are attached 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 applied use is not in line with the planning intention of the area shown as 'Road' which is primarily reserved for proposed road. There is no strong planning 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 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 18.4.2024 and SI received on 24.4.2024
Appendix Ia	Supplementary Planning Statement
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comment
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos