

RNTPC Paper No. A/YL-ST/605
For Consideration by
the Rural and New Town
Planning Committee
on 28.1.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/605

<u>Applicant</u>	: Fu Hop Yick Management Limited represented by Lanbase Surveyors Limited
<u>Site</u>	: Lots 180 RP and 182 S.C RP in D.D. 102 and Adjoining Government Land (GL), San Tin, Yuen Long
<u>Site Area</u>	: About 650 m ² (including GL of about 316 m ²)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: 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 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 vacant with temporary structures.
- 1.2 The southern and southeastern part of the Site is the subject of a previous Application No. A/YL-ST/556 (**Plans A-1 and A-2**) submitted by the current applicant for temporary shop and services use which was approved by the Rural and New Town Planning Committee (the Committee) on 20.9.2019 for a period of 3 years until 20.9.2022. All the approval conditions had been complied with.
- 1.3 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 A-2** and **Plan A-2**, the Site is accessible from the west off Castle Peak Road – San Tin. The proposed shop and services development comprises two 3-storey metal structures (not more than 9m) with a total gross floor area (GFA) of about 1,002m² to accommodate the proposed use, one loading and unloading (L/UL) bay for light

goods vehicle (LGV) for goods delivery as shown in **Drawing A-1**. The operation hours are from 8:00am to 11:00pm daily, including public holidays.

- 1.4 As compared to the last approved application No. A/YL-ST/556, there is no change to the applied use, building height and operation hours. The current proposal is on a larger site with an increase of site area by 314 m² (from about 336 m² to 650 m²), GFA by about 573m² (from about 429 m² to about 1,002 m²) and number of structure (from 1 to 2) for the shop and services use at the Site.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 30.11.2021 including supplementary information clarifying the site area with revised Executive Summary **(Appendix I)**
 - (b) Planning Statement **(Appendix Ia)**
 - (c) Further Information (FI) received on 18.1.2022 and 20.1.2022 providing responses to address departmental comments with swept path analysis and replacement pages of the Planning Statement **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement and FI at **Appendices Ia and Ib**. They can be summarised as follows:

- (a) The application is to provide shop and services uses such as retail shop, fast food shop and commercial service to serve the local community. The applied 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) The Site is subject to a previously approved application and planning applications for similar uses had been approved in “V” zone in the past years.
- (c) There will be limited vehicular trip of only 1 to 2 times of goods delivery by LGV per day. Adequate manoeuvring space will be reserved within the Site to avoid any reverse driving out from the Site. The local community will access the Site by walking and no adverse traffic impact is anticipated.
- (d) The Site is paved for many years and far away from the fish ponds/wetlands in Deep Bay Area. No adverse ecological and environmental impact is envisaged.
- (e) Approval conditions have been complied with. The applicant will provide proper maintenance on the existing FSIs and drainage facilities and provide enhancement works if required.

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. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the “Owner’s Consent/Notification” requirements are not applicable.

4. **Background**

The Site is not subject to active planning enforcement action.

5. **Previous Application**

5.1 The southern and southeastern part of the Site is the subject of a previous Application No. A/YL-ST/556 (**Plan A-1**) submitted by the current applicant for the same temporary shop and services use under the current application. The application was approved by the Committee on 20.9.2019 for a period of 3 years until 20.9.2022 mainly on the consideration that the development would not frustrate the long term planning intention of the “V” zone, not incompatible with the surrounding land uses and no objection or no adverse comment from concerned departments the development. The approval conditions on submission and implementation/maintenance of the FSIs proposal, the drainage proposal and completed drainage facilities have been complied with.

5.2 Details of the application are summarised in **Appendix II**.

6. **Similar Applications**

6.1 There are four similar applications (Nos. A/YL-ST/505, 521, 574 and 585) within the same “V” zone on the OZP of which three were approved and one was rejected by the Committee (**Plan A-1**).

6.2 Applications Nos. A/YL-ST/521, 574 and 585, which were submitted by other applicants, all for temporary shop and services uses including retail shops, convenience store and real estate and travel service agency, were approved by the Committee between 2018 and 2021 for a period of 3 years respectively, 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, the planning permission for Application No. A/YL-ST/521 was revoked in 2020 due to non-compliance with approval conditions on implementation of FSIs proposal.

6.3 Application No. A/YL-ST/505 submitted by another applicant 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**.

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

7.1 The Site is:

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

7.2 The surrounding areas are predominated by vehicle parks, residential dwellings and workshop:

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

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised 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)'. No permission is given for occupation of the remaining GL (about 276 m² subject to verification) included in the Site.
- (d) According to his record, there is no Small House application being processed/approved at the Site.
- (e) 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. Also, the applicant has to either exclude the GL without STT from the Site or apply for a formal approval prior to actual occupation of the concerned GL. Besides, given the applied use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lesser at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

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 a local access which is not managed by Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance

responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

- (b) The applicant should seek the relevant land owner(s) on the right of using the vehicular access.
- (c) Having considered the FI submitted by the applicant, he has no adverse comment on the application from the traffic engineering point of view.
- (d) Should the application be approved, a condition should be incorporated that no vehicle is allowed to queue back to or reverse onto/from public road 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 approved by TD;
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – San Tin.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water running from the Site to the nearby public roads or exclusive road drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

There was no environmental complaint related to the site in the past 3 years. The applicant is advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise potential environmental impacts on the surrounding areas.

Landscaping

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

As the Site falls within “V” zone, which is a non-landscape sensitive zoning, no significant landscape impact arising from the development is anticipated. In this connection, it is considered not necessary to impose a landscape condition should the application be approved by the Board.

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 FSIs being provided to his satisfaction.
- (b) FSIs are anticipated to be required in consideration of the design/nature of the proposal. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of the proposed FSI 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.

Drainage

9.1.7 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 make a drainage submission to demonstrate how rain water falling onto or flowing to the Site will be collected, conveyed and discharged. The drainage proposal submitted by the applicant is not acceptable. The applicant should re-submit the proposal to address his comments as detailed in **Appendix V**. The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on the Site.

Building Matters

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

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BA, they are unauthorised building works (UBW) under 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 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 BO.
- (c) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of BA should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (d) His detailed comments are at **Appendix V**.

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

- (a) Commissioner of Police;
- (b) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Project Manager (West), Civil Engineering and Development Department (CEDD);
- (e) Chief Engineer/Construction, Water Supplies Department;
- (f) Head of the Geotechnical Engineering Office, CEDD
- (g) Director of Food and Environmental Hygiene;
- (h) Director of Electrical and Mechanical Services; and
- (i) District Officer/Yuen Long.

10. Public Comments Received During Statutory Publication Period

On 7.12.2021, the application was published for public comments. During the first three weeks of the statutory publication period which ended on 28.12.2021, two public comments were received from a local resident and an individual raising objection to or concerns on the grounds that the development will result in environmental pollution, fire risk and affect the living environment and safety of the villagers; and the applied use has been in operation for a long time (**Appendix IV**).

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services for a period of 3 years. The planning intention of the "V" zone is to designate both existing recognised 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. Commercial, community and recreational uses may be permitted on application to the Board. The proposed use is not entirely in line

with the planning intention of the “V” zone. However, according to DLO/YL, LandsD, 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.

- 11.2 The proposed development is considered not incompatible with the surrounding uses which are predominated by vehicle parks, roads, residential dwellings and workshops. The proposed use could meet some of the local demand on shop and services use in the vicinity. The proposed development with two 3-storey structure for shop and services use at the Site is also not considered to be out of keeping with the surrounding area.
- 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. Technical requirements of C for T, D of FS and CE/MN of DSD are imposed through approval conditions in paragraphs 13.2 below. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to mitigate any potential environmental impacts on the surrounding areas.
- 11.4 There was one previously approved application for the same use at the Site as detailed in paragraph 6 above. During the past five years, the Committee has approved three applications (Nos. A/YL-ST/521, 574 and 585) for similar shop and services uses (mainly for retail shops and convenience 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 Regarding the two public comments raising objection/concerns on the proposed development as detailed in paragraph 10 above, the planning considerations and departmental comments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, 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 28.1.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (b) 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 28.7.2022;
- (c) in relation to (b) 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 28.10.2022;
- (d) 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 28.7.2022;
- (e) in relation to (d) 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 28.10.2022;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) if any of the above planning conditions (a) 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 conditions (b), (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**.

- 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 recognised 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 and supplementary information received on 30.11.2021
Appendix Ia	Planning Statement
Appendix Ib	FI received on 18.1.2022 and 20.1.2022
Appendix II	Previous s.16 applications
Appendix III	Similar s.16 applications
Appendix IV	Public comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**