

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

APPLICATION NO. A/TM-LTYYY/273-1

- Applicant** : Join Smart Limited represented by Llewelyn-Davies Hong Kong Limited
- Site** : Lots 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 S.A, 246 S.B, 247, 367 and 368 RP in D.D. 130 and adjoining government land, Lam Tei, Tuen Mun
- Site Area** : About 14,553m² (including about 775m² government land (i.e. about 5.33%))
- Lease** : (a) Lot 368 RP in D.D. 130: held under Tai Po New Grant No. 5324 (lease conditions not found)
(b) Remaining lots: Block Government Lease (demised for agricultural purposes)
- Plan** : Draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTYYY/9
- Zoning** : “Residential (Group E)” (“R(E)”) [Restricted to a maximum plot ratio of 1.0, a maximum site coverage of 40% and a maximum building height of 4 storeys over single-storey car park (15m)]
- Application** : Proposed Class B Amendment – Category 19 (under TPB PG-No. 36A)

Proposed Extension of Time for commencement of the proposed residential development (flat) for a period of 4 years until 17.10.2022 (i.e. additional 4 years from the original approval)

1. The Proposal

- 1.1 The proposed residential development at the application site (the Site) (**Plan AA-1**) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) on 17.10.2014 upon further consideration. The application shall be valid until 17.10.2018 unless before the said date either the development permitted is commenced or the permission is renewed. The approval letter of application No. A/TM-LTYYY/273 issued by the Secretary of the Board dated 31.10.2014 is at

Appendix I.

- 1.2 On 22.2.2018, the applicant submitted application No. A/TM-LTYYY/273-1 (**Appendix I**) for Class B amendments to the approved scheme under application No. A/TM-LTYYY/273 for the extension of time (EOT) for commencement of the approved development for an additional period of 4 years until 17.10.2022.
- 1.3 In support of the application, the applicant has submitted the following documents:
- Application Form received on 22.2.2018 (Appendix II)
Enclosure attached to the Application Form received on 22.2.2018 (Appendix IIa)
- 1.4 The approved development parameters and the indicative block layout plan under application No. A/TM-LTYYY/273 are at **Appendix III** and **Drawing AA-1** respectively.

2. Justifications from the Applicant

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

- (a) The applicant has continuously been keeping close contact and actively engaging in close liaison with relevant Government departments, with an aim to facilitate early commencement and implementation of the approved development. The applicant has been making effort in trying to implement the approved development, with most of the approval conditions have been partially complied with. Specifically, the applicant has complied with all planning conditions on design and submission of technical assessments, including the submission of detailed drainage proposal, tree preservation and landscape proposal and detailed archaeological impact assessment. The remaining planning conditions could only be complied with in the implementation stage.
- (b) The applicant has continuously refined the scheme by taking into account the comments from various departments and at the same time actively keeping close liaison and negotiation with the Lands Department (LandsD) to bring forward the land exchange application since January 2015. The applicant has been making the best effort in preparing the submissions requested by LandsD, yet additional time is required to further negotiate with LandsD regarding the basic terms and land premium offers. In this connection, the applicant has to apply EOT for completion of the land exchange process.
- (c) Upon approval of the last planning application (No. A/TM-LTYYY/273), the applicant had made 4 general building plan (GBP) submissions in July 2015, February 2017, August 2017 and October 2017 respectively for the Buildings Department (BD)'s approval and has been continuously refining the scheme based on the comments received at different stage of GBP submission. The applicant will continue to pay effort to address the outstanding departmental comments for approval of GBP in future.

- (d) In accordance with the Town Planning Board Guidelines on Extension of Time for Commencement of Development (TPB PG-No. 35C), any EOT for commencement of development shall not result in an aggregated extension period longer than the original duration for commencement of the approved development. As the Board granted a 4-year period for commencement of the approved development under the planning approval No. A/TM-LTY/273, the extension sought by the applicant for another 4 years, i.e. until 17.10.2022, is reasonable and does not exceed the original duration for commencement of the approved development.
- (e) All the criteria for assessing applications for EOT for commencement of development as stipulated in TPB PG-No. 35C have been duly complied with under this application, including (i) no material change in planning circumstances since the permission was granted and no adverse planning implications arising from the EOT, (ii) reasonable actions have been taken to the satisfaction of relevant Government departments in complying with the approval conditions, and (iii) reasonable actions have been taken for the commencement of the approved development.

3. Town Planning Board Guidelines

- 3.1 The Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals (TPB PG-No. 36A¹) is applicable to this application. The applied EOT for commencement of the development is a Class B amendment under Category 19. According to the Guidelines, the Board has delegated its authority to the Director of Planning to consider applications for Class B amendments. However, application for Class B amendments which is unacceptable by the concerned Government departments will need to be submitted to the Board for consideration. In this regard, the Director of Housing (D of H) does not support the application as stated in paragraph 7.1.2 below. As such, the application is submitted to the Committee of the Board for consideration.
- 3.2 TPB PG-No. 35C is also applicable to this application. Any EOT for commencement of development shall not result in an aggregated extension period longer than the original duration for commencement of the approved development proposal. The criteria for assessing applications for EOT for commencement of development are as follow:
 - (a) whether there has been any material change in planning circumstances since the original permission was granted (such as a change in planning policy/land-use zoning for the area);
 - (b) whether there are any adverse planning implications arising from the extension of time;

¹ TPB PG-No. 36A has been revised and superseded by TPB PG-No. 36B on 2.3.2018. As the subject EOT application was submitted before 2.3.2018, TPB PG-No. 36A is applicable. Nevertheless, the revision to TPB PG No. 36 has no direct bearing on the assessment of the EOT application.

- (c) whether the commencement of development is delayed due to some technical/practical problems which are beyond the control of the applicant, e.g. delays in land administration procedures, technical issues in respect of vehicular access and drainage works or difficulties in land assembly;
- (d) whether the applicant has demonstrated that reasonable action(s), e.g. submission of building plans for approval or application for Small House/land exchange, have been taken for the implementation of the approved development;
- (e) whether the applicant has demonstrated that reasonable action(s), e.g. submission and implementation of proposals, have been taken to the satisfaction of relevant Government departments in complying with any approval conditions;
- (f) whether the applicant has demonstrated that there is a good prospect to commence the proposed development within the extended time limit;
- (g) whether the extension period applied for is reasonable; and
- (h) any other relevant considerations.

4. **Background**

- 4.1 Application No. A/TM-LTY Y/273 for proposed residential development (flat) at the Site was approved with conditions by the Committee of the Board on 17.10.2014, upon further consideration.
- 4.2 At the time of processing the planning application No. A/TM-LTY Y/273, the Site fell within a proposed public housing site at San Hing Road, which was under planning at that time.
- 4.3 Both the Planning Department (PlanD) and Housing Department (HD) did not support the application or had raised strong objection respectively. The main reasons were that the Site had encroached onto part of the planned public housing development and premature approval of the application might lead to substantial loss of public housing flats and jeopardise the implementation of the planned public housing development. The development proposal also did not represent an optimal utilisation of the limited land resources given its irregular boundary with residual land parcel difficult to be developed.
- 4.4 On 22.8.2014, the Committee considered the application and noted that consultation with the Tuen Mun District Council (DC) on the proposed public housing development at San Hing Road would be conducted shortly. The Committee decided to defer a decision pending the outcome of the DC consultation (see extract of meeting minutes at **Appendix IVa**).
- 4.5 After DC consultation on 2.9.2014, the case was resubmitted to the Committee for further consideration on 17.10.2014. After taking a vote, the Committee decided to approve the application, noting that, amongst others, the conceptual

stage of and DC’s concern on the public housing proposal, proposed development under application complied with the OZP development restrictions, and the “I/R” interface and other technical issues adequately addressed. Extract of minutes of the Committee’s meeting on 17.10.2014 is at **Appendices IVb**.

4.6 In relation to action taken by the applicant to take forward the approved development, the position of compliance with the approval conditions attached to the planning permission (**Appendix I**) are as follow:

Approval Conditions	Status of Compliance
(a) the implementation of the mitigation measures identified in the Environmental Assessment and Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the TPB;	To be complied with at implementation stage
(b) the provision of vehicular access, parking and loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the TPB;	To be complied with at implementation stage
(c) the submission and implementation of detailed drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB;	Partially complied with on 17.8.2015
(d) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;	To be complied with at implementation stage
(e) the submission of detailed archaeological impact assessment and implementation of the mitigation measures identified therein to the satisfaction of the Director of Leisure and Cultural Services or of the TPB;	Fully complied with ² on 15.9.2017
(f) the submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the TPB; and	Partially complied with on 28.12.2016
(g) the design of the boundary treatment and provision of measures to mitigate the visual impact along the boundary of the proposed development, including its boundary fence, to the satisfaction of the Director of Planning or of the TPB.	Partially complied with on 28.12.2016

² According to the findings of the detailed archaeological impact assessment, it concluded that the Site has no archaeological potential, thus no mitigation measure for the proposed development is required. AMO, LCSD on 13.9.2017 agreed that approval condition (e) is considered fully complied with.

- 4.7 The applicant submitted a land exchange proposal to LandsD on 13.1.2015. In response, LandsD on 15.7.2016 requested the applicant to submit a land boundary plan for the subdivision of lots, carry out a land boundary survey of the regrant Lot 2880 in D.D. 130 and submit a Survey Record Plan together with the survey report and supporting documents for LandsD's reference. The land exchange application is under processing.
- 4.8 Meanwhile, BD received four sets of GBP submission by the applicant on 25.6.2015, 28.2.2017, 4.8.2017 and 24.10.2017 respectively. While the applicant withdrew the submission in August 2017 on 25.9.2017, BD disapproved the remaining three sets of GBP submission on 17.8.2015, 25.4.2017 and 21.12.2017 respectively.
- 4.9 In respect of the proposed public housing development, after granting planning approval to the Site on 17.10.2014 and another private residential development (Application No. A/TM-LTYT/337) in the area on 23.6.2017 (**Plan AA-1a**), the Government had explored how to adjust the proposed public housing developments in San Hing Road and its vicinity.
- 4.10 To meet the pressing demand for developments and public housing land and having reviewed the latest situation, the Government has now decided to conduct a feasibility study on proposed developments at San Hing Road and Hong Po Road for public housing purpose covering a larger site area with a higher plot ratio. The area to be studied for the above purpose now covers the two private housing sites. The Site falls within the indicative public housing and school sites on the plan prepared by CEDD (see **Plan AA-1b**) showing the study area which was included in the submission for applying the Study Brief under the Environmental Impact Assessment Ordinance (EIAO) made on 21.6.2017. As the overall study area is larger than 20ha, the study of which is considered a Schedule 3 designated project under EIAO. The Study Brief was issued on 4.8.2017 (**Appendix V**). Consultants have subsequently been appointed and the feasibility study commenced in February 2018 for tentative completion in Q1 2020.

5. The Site and Its Surrounding Areas (Plans AA-1 to AA-3)

- 4.1 The Site is:
- (a) currently vacant and fenced-off; and
 - (b) accessible from San Tat Lane connected to San Hing Road.
- 4.2 The surrounding areas have the following characteristics:
- (a) to the north are orchard, metal workshop and storage yards. To the further north are car repair workshop, storage yards and residential dwellings;
 - (b) to the east are godown and San Tat Lane. To the further east are godown, storage yards and residential dwellings;
 - (c) to the south are open storage yards, orchard and vacant land. To the

further south is Hong Po Road; and

(d) to the west is open storage of construction materials and vacant.

6. Planning Intention

The planning intention of the “R(E)” zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.

7. Comments from Relevant Government Departments

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

Land Administration

7.1.1 Comments of the District Lands Officer/ Tuen Mun, LandsD (DLO/TM, LandsD):

A land exchange application for the Site is currently under processing and consideration. He has no comment on the proposed EOT.

Long Term Development

7.1.2 Comments of the Director of Housing (D of H):

CEDD is conducting the Site Formation and Infrastructural Works for the Development at San Hing Road and Hong Po Road, Tuen Mun – Feasibility Study. In this connection, the application is not supported.

7.1.3 Comments of the Head of Civil Engineering Office, CEDD (Head of CEO, CEDD):

(a) His office is conducting a consultancy study titled “Agreement No. CE 68/2017(CE) – Site Formation and Infrastructural Works for the Development at San Hing Road and Hong Po Road, Tuen Mun – Feasibility Study” for the Housing Department (HD). The consultancy study commenced in February 2018 scheduled for completion in Q1 2020.

(b) The subject land lots under application (for private residential development) would encroach into HD's public housing development site area at San Hing Road (**Plan AA-1a**). HD's comment should be sought on their development approach in San Hing Road and Hong Po Road.

Traffic

7.1.4 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no comment on the application for EOT for commencement of development from traffic engineering point of view.
- (b) Referring paragraph (b) of the letter issued by the Secretary of the Board to the applicant dated 31.10.2014 (**Appendix I**), the applicant should report for the latest situation of the provision of vehicular access, parking and loading and unloading facilities to the satisfaction of his Office.

Drainage

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

- (a) He has no comment on the application for the proposed EOT for commencement of development for 48 months from public drainage viewpoint.
- (b) The applicant is reminded to maintain the free flow conditions of the natural streams within the boundary of the Site before “implementation” of the drainage diversion works in accordance with approval condition (c) (**Appendix I** refers).

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Building Surveyor/New Territories West, BD (CBS/NTW, BD);
- (c) Director of Environmental Protection (DEP);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Fire Services (D of FS);
- (f) Director of Food and Environmental Hygiene (DFEH);
- (g) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (h) Director of Leisure and Cultural Services (DLCS);
- (i) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (j) Commissioner of Police (C of P);
- (k) District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD);
- (l) Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD); and
- (m) Project Manager (West), CEDD (PM(W), CEDD).

8. Planning Considerations and Assessments

- 8.1 This is an EOT application. Since the application is considered unacceptable by HD, it is submitted to the Committee for consideration. The assessment criteria in TPB PG-No. 35C as summarized in paragraph 3.2 above are relevant. The main considerations include any material change in planning circumstances, any adverse planning implications arising from EOT, the reason for delay in commencement of development, any reasonable action to comply with approval conditions, any good prospect to commence the development within extended time limit and reasonableness of the extension period applied.
- 8.2 For background information, the original planning application No. A/TM-LTY Y/273 was objected by HD and not supported by PlanD mainly because of its encroachment onto a public housing site. The Committee approved the application upon further consideration on 17.10.2014 noting that, amongst others, the proposed public housing development at San Hing Road was still at the conceptual stage.
- 8.3 Since then, the Government had explored whether the proposed public housing developments in the area could be adjusted. Having reviewed the latest situation, the need for developing public housing in the area has been re-affirmed and the Government has now come up with a decision to plan the public housing development in San Hing Road and Hong Po Road on a larger scale. The Site, together with another approved private residential development site (No. A/TM-LTY Y/337), has been included into the study area and falls within the boundary of the proposed public housing and school sites (**Plan AA-1b**). The Study Brief under EIAO (**Appendix V**) has been issued and the study consultants have already been appointed. The feasibility study commenced in February 2018 and it was expected for completion in Q1 2020.
- 8.4 As such, when compared to the time of consideration of Application No. A/TM-LTY Y/273, there is a material change in circumstances in that the Government has commenced a feasibility study to further explore developing a larger site area including the Site for public housing purpose and there is a clear intention and plan to use the Site for public housing purpose. Approval of the EOT is not recommended as this will run against the clear Government intention on the land use for the area, not to mention the very confused message that may be conveyed to the public. That said, the applicant's right to commence the approved development until 17.10.2018 under planning approval No. A/TM-LTY Y/273 will not be deprived of.

9. Planning Department's Views

- 9.1 Based on the assessment made in paragraph 8, the Planning Department does not support the application for EOT for commencement of the approved development for the following reason :

the application is not in line TPB PG-No. 35C in that there has been a material change in planning circumstances in respect of a clear intention and plan to use the Site for public housing development.

- 9.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **17.10.2022**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the implementation of the mitigation measures identified in the Environmental Assessment and Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (b) the provision of vehicular access, parking and loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the submission and implementation of detailed drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (d) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- ~~(e) the submission of detailed archaeological impact assessment and implementation of the mitigation measures identified therein to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;~~
- (f)(e) the submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and
- ~~(g)~~(f) the design of the boundary treatment and provision of measures to mitigate the visual impact along the boundary of the proposed development, including its boundary fencing, to the satisfaction of the Director of Planning or of the Town Planning Board.

[Except the original approval condition (e) which has been fully complied with, the other approval conditions are the same as those of Application No. A/TM-LTYY/273.]

Advisory Clauses

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

[The advisory clauses at Appendix VI are the same as those of Application No. A/TM-LTYY/273.]

10. Decision Sought

- 10.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 10.2 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 date when the validity of the permission should expire.
- 10.3 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.

11. Attachments

Appendix I	Approval letter issued by the Secretary of the Board dated 31.10.2014
Appendix II	Application Form received on 22.2.2018
Appendix IIa	Enclosure attached to the Application Form received on 22.2.2018
Appendix III	Development Parameters under Application No. A/TM-LTY Y/273
Appendix IVa	Minutes of the RNTPC meeting on 22.8.2014
Appendix IVb	Minutes of the RNTPC meeting on 17.10.2014
Appendix V	EIA Study Brief issued by EPD on 4.8.2017
Appendix VI	Advisory Clauses
Appendix VIa	Detailed comments of Government Departments Concerned (extracted from Appendix IV of RNTPC Paper No. A/TM-LTY Y/273C)
Drawing AA-1	Indicative block layout plan submitted by the applicant during the previous application No. A/TM-LTY Y/273
Plan AA-1	Location Plan
Plan AA-1a	Location Plan of the Proposed Development at San Hing Road and Hong Po Road, Tuen Mun
Plan AA-1b	Proposed Development at San Hing Road and Hong Po Road, Tuen Mun
Plan AA-2	Site Plan
Plan AA-3	Site Photos