

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/TM-LTY Y/394

- Applicant** : Turbo Ice Company Limited represented by PineBridge Consulting Limited
- Site** : Lot 407 (Part) in D.D. 130 and Adjoining Government Land, Lam Tei, Tuen Mun, New Territories
- Site Area** : About 1,817.06m² (including about 91m² Government land (GL))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTY Y/10
- 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** : Renewal of Planning Approval under Application No. A/TM-LTY Y/325 for Temporary Edible Ice Manufacturing Plant for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for temporary edible ice manufacturing plant for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “R(E)” on the approved OZP. Although the proposed use is neither a Column 1 nor 2 use in the “R(E)” zone, the Covering Notes of the OZP stipulate that temporary use or development of any land or buildings not exceeding a period of 3 years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently being used for the applied use with a valid planning permission (No. A/TM-LTY Y/325) until 7.3.2020. The applicant currently seeks renewal of planning approval for a period of 3 years.
- 1.2 The Site was involved in four previous applications No. A/TM-LTY Y/229, 253, 275 and 325 for temporary edible ice manufacturing plant. The last application No. A/TM-LTY Y/325 was approved by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 3.2.2017. All approval conditions have been complied with. The planning permission is valid until 7.3.2020. Details of the previous applications are summarized at paragraph 6 below and at **Appendix III**.

- 1.3 The major development parameters of the current application are the same as the approved application (No. A/TM-LTY Y/325):

Site area	About 1,817.06m ² (including about 91m ² GL)
Total floor area	1,341.05m ²
No. of structures	2 (temporary edible ice manufacturing plant and electricity transformer room)
Height of structures	<ul style="list-style-type: none">• Temporary edible ice manufacturing plant: 1-storey (7m)• Electricity transformer room: 1-storey (4.5m)
Parking spaces	1 loading/unloading (L/UL) space for light goods vehicle
Operation hours	8:00 a.m. to 8:00 p.m. from Mondays to Sundays, including public holidays

- 1.4 According to the applicant, there is no change to the site boundary and all parameters comparing to the previously approved application (No. A/TM-LTY Y/325). The Site is accessible from Ng Lau Road via a local track. The ingress/egress is located at the western boundary of the Site. One L/UL space for light goods vehicle is located within an open L/UL area at the southwestern portion of the Site (**Drawing A-2**).
- 1.5 The location plan and layout plan are at **Drawings A-1** to **A-2** respectively.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 17.1.2020 (**Appendix I**)
 - (b) Supplementary Information confirming that site boundary and all parameters are the same as those under application No. A/TM-LTY Y/325 received on 22.1.2020 (**Appendix Ia**)
 - (c) Further Information providing clarifications on the trip generation and traffic implications received on 27.2.2020 (**Appendix Ib**)
(accepted and exempted from publication and recounting requirements)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ib**. They can be summarised as follows:

- (a) There is an existing single-storey ice manufacturing plant erected at the subject Site. In order to continue the existing ice manufacturing plant use, and make use of portion of the existing structure to apply for a food license for edible ice in order to fulfil the new licensing requirements under Food and Environmental Hygiene Department's administration, the applicant applied for renewal of permission for temporary edible ice manufacturing plant in the subject Site.

- (b) The applicant seeks the Committee's acceptance of the renewal of planning permission in view of all the planning conditions under the approved application No. A/TM-LTY Y/325 has been complied with and no operation between 8pm and 8am from Monday to Sundays on the site during the planning approval period. Furthermore, there is no change to the site boundary and all parameters comparing to the previously approved application (No. A/TM-LTY Y/325).
- (c) There is no adverse traffic impact to the surroundings and no complain received from neighbourhoods during the past three years.

3. Compliance with the "Owner's Consent/Notification" Requirements

For the private land portion of the Site, 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 sending notice to the Tuen Mun Rural Committee by registered post and posting notice near the Site. Detailed information would be deposited at the meeting for Members' inspection. For GL portion, the requirements as set out in TPB PG-No. 31A are not applicable.

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.34C) are relevant to this application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site was involved in four previous applications (No. A/TM-LTY Y/229, 253, 275 and 325) submitted by the same applicant for the same applied use as the current application. Details of the previous applications are summarised at **Appendix III** and shown on **Plans A-1** and **A-1a**.
- 6.2 These applications were approved with conditions by the Committee for a period of 3 years on 24.2.2012, 8.2.2013, 7.3.2014 and 3.2.2017 respectively on the considerations that the development were not jeopardizing long-term planning intention of the "R(E)" zone, significant adverse environmental impacts not envisaged, and no objection/adverse comments from government departments concerned. However, application Nos. A/TM-LTY Y/229 and 253 were revoked on 24.8.2012 and 8.8.2014 respectively due to non-compliance with approval conditions including drainage, fire service installations and landscape aspects. For the last approved application No. A/TM-LTY Y/325, all the approval conditions have been complied with. The planning permission of the last approved application is valid until 7.3.2020.

6.3 Compared with the last approved application (No. A/TM-LTY Y/325), the current application is submitted by the same applicant for the same use on the same site with the same development parameters and same layout.

7. **Similar Application**

There is no similar application within the same “R(E)” zone on the OZP.

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

8.1 The Site is:

- (a) paved and occupied by a single-storey building for ice manufacturing plant and an electricity transformer room, which is currently used for the applied use with valid permission under application No. A/TM-LTY Y/325; and
- (b) accessible from Ng Lau Road via a local track (**Plan A-2**).

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate east are residential dwellings. Further to the east is Ng Lau Road, the Mass Transit Railway (MTR) Light Rail and the MTR West Rail Line;
- (b) to the immediate south are portion of the temporary edible ice manufacturing plant not covered under this application and a piece of vacant land and Ng Lau Road;
- (c) to the west are vacant land and some residential dwellings;
- (d) to the northwest are some residential dwellings, cultivated agricultural land and vacant land intermixed with vehicle workshops which are suspected unauthorised developments; and
- (e) to the immediate north is a warehouse. To the northeast are a vehicle repair workshop, a storage yard and residential dwellings and some graves.

9. **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.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site falls within Lot Nos. 407 S.A (Part) and 407 RP (Part) in DD.130 (“the Lots”) and adjoining GL. The Lots are Old Schedule Lot 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) STW (“STW”) No. MR16023 and Short Term Tenancy (“STT”) No. MX16026 were issued on the Lots and the adjoining GL for the purpose of edible ice manufacturing plant. Site inspection revealed that the layout of existing structures tally with the proposal as well as the built-over area and height of existing structures were permitted in the subject STW and STT.
- (c) The Site is accessible via a strip of GL designated as a right-of-way for STW No. MR16023 leading from the Ng Lau Road. The waiveree of STW No. MR16023 is responsible for carrying out maintenance works for the said right-of-way leading to the Site.
- (d) In the event that planning permission is not given by the Board, the Government may consider terminating the STW and STT concerned. The Lot owner is required to demolish and remove all structures and debris on the Lots and the adjoining GL at his own cost upon termination of the STW and STT. Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations of structures on the site or any unauthorized occupation of GL at any time and irrespective of whether planning permission will be given or not.

Traffic

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

He has no comment on the application.

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

- (a) The existing access road connecting the application site and Ng Lau Road is not and will not be maintained by HyD; and
- (b) Adequate drainage measures shall be provided to prevent surface water running from the application site to the nearby public roads and drains.

Environment

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

The proposed temporary edible ice manufacturing plant is not anticipated to have result in adverse environmental impact, he has no substantiated environmental complaint record related to the Site in the past three years. Therefore, he has no objection to the application.

Drainage

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

On the understanding that the captioned application involved no change to its last approved application with conditions regarding public drainage and sewerage aspects, he has no comment on the application from public drainage and sewerage viewpoints.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations being provided to the satisfaction of Director of Fire Services.
- (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. In addition, 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 FSI to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

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

- (a) He had no objection from the landscape planning perspective and significant change to the landscape character arising from the continued use of the Site for the applied use is not envisaged.

- (b) Should the application be approved by the Board, a planning condition requiring the applicant to maintain all existing trees within the Site in good condition during the duration of the approval period is suggested to be imposed.

Long-term Development

10.1.8 Comments of the Chief Engineer/Housing Projects 2 Division, Civil Engineering and Development Department (CE/HP2, CEDD):

- (a) His Office is currently conducting a consultancy study titled “Agreement No. CE68/2017(CE) – Site Formation and Infrastructural Works for the Development at San Hing Road & Hong Po Road, Tuen Mun – Feasibility Study” (the Study) for the Housing Department (HD).
- (b) According to the latest development layout plan prepared by the Consultants with the input from HD and other departments, the captioned lots are found encroaching onto the south-eastern boundary of the proposed public housing development at San Hing Road Site under the Study.
- (c) There may be interface issues between the validity period of the planning permission to be granted and the land resumption programme for the implementation of the proposed public housing development at San Hing Road Site. In this regards, he suggests if an advisory clause to inform the applicant that the site might be subject to land resumption for the implementation of the San Hing Road and Hong Po Road Public Housing Development which might take place at any time before the expiry of the temporary planning permission can be incorporated to remind the applicant that the land might be resumed at any time during the planning approval period.

10.1.9 Comments of the Director of Housing (D of Housing):

He has no supplement on CE/HP2, CEDD’s comment.

Building Matters

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

He has no objection for the renewal of captioned application and would like to advise the following:

- (i) There is no record of approval by the Building Authority for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (ii) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the

Buildings Department (BD), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the captioned application.

- (iii) Before any new building works are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (iv) For UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary.
- (v) 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.
- (vi) If the proposed use under application is subject to the issue of a license, please be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
- (vii) 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 respectively.
- (viii) 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 Building (Planning) Regulation at the building plan submission stage.
- (ix) Detailed comments under the BO will be provided at the building plan submission stage.

Others

10.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH)”

According to his office record, a Food Factory Licence (Manufacture of edible ice for wholesale) was issued at Section A of Lot. No. 407 in DD 130 & adjoining GL, San Hing Tsuen, Lam Tei, TM for the period from 29.6.2019 to 28.6.2020. The licence is subject to renewal annually if no statutory cancellation be warranted or granted.

District Officer's Comments

10.1.12 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

He trusts that the public views (if any) will be taken account when the Board deliberate on the application.

10.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO);
- (d) Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (g) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 24.1.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 14.2.2020, no public comment was received.

12. Planning Considerations and Assessments

12.1 The subject application is for renewal of planning approval for temporary edible ice manufacturing plant for a period of 3 years at a site zoned "R(E)" on the OZP. 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. The proposed development is not in line with the planning intention of "R(E)" zone. As advised by CE/HP2, CEDD, the Site has found encroaching onto the south-eastern boundary of the proposed public housing development at San Hing Road Site under the Study. There may be interface issues between the validity period of the planning permission to be granted and the land resumption programme for the implementation of the proposed public housing development at San Hing Road Site. An advisory clause is incorporated in advisory clause (f) of **Appendix IV**. D of Housing and CE/HP2, CEDD have no adverse comments to the application for renewal of the planning approval on a temporary basis for 3 years. Approval of the application on a temporary basis for a period of 3 years would not jeopardise the long-term planning intention of the "R(E)" zone.

12.2 The Site is surrounded by warehouse, vehicle workshops, few scattered residential dwellings and some vacant land (**Plan A- 2**). Whilst there are residential dwellings to the immediate east of the Site, DEP has no objection to

the application and there is no substantiated environmental complaint record related to the Site in the past three years. He considers that adverse environmental impact is not envisaged.

- 12.3 The application is generally in line with TPB PG-No. 34C in that there is no material change in planning circumstances since the previous temporary approval was granted; adverse planning implications arising from the renewal of the planning approval are not envisaged; all conditions under previous approval have been complied with; and the approval period sought is the same as the previous approval.
- 12.4 Relevant government departments, including C for T, CE/MN of DSD, CTP/UD&L of PlanD and DEP have no objection to or no adverse comments on the application. The proposed development will unlikely create significant adverse traffic, drainage, landscape and environmental impacts on the surrounding areas. There has been no substantiated environmental complaint concerning the Site received in the past 3 years. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP to minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.5 The Committee has approved four previous applications for the same use at the Site. Approval of the application is in line with the previous decisions of the Committee.
- 12.6 There is no public comment received during the publication period.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary edible ice manufacturing plant could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the renewal shall be valid on a temporary basis for a period of 3 years, and be renewed from 8.3.2020 to 7.3.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only light goods vehicles with valid license issued under the Road Traffic Ordinance, as proposed by the applicant, are allowed to access and park at the Site at any time during the planning approval period;

- (c) the existing trees on the Site shall be maintained at all times during the approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the approval period;
- (e) the submission of a condition record of existing drainage facilities within **3** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **8.6.2020**;
- (f) the submission of fire service installations proposal within **6** months from the date of the renewal planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **8.9.2020**;
- (g) in relation to (f) above, the implementation of fire service installations proposal within **9** months from the date of the renewal planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **8.12.2020**;
- (h) if any of the above planning conditions (a), (b), (c) or (d) 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 (e), (f) or (g) 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.

[Approval conditions (a) to (e) are the same as the previous application No. A/TM-LTY Y/325, conditions (f) and (g) have been revised to accord with the latest departmental comments and the reinstatement clause is deleted.]

Advisory clauses

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

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

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 Town Planning Board. The development is not in line with the planning intention. 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 with attachments received on 17.1.2020
Appendix Ia	Supplementary Information confirming that site boundary and all parameters are the same as those under application No. A/TM-LTY Y/325 received on 22.1.2020
Appendix Ib	Further Information providing clarifications on the trip generation and traffic implications received on 27.2.2020
Appendix II	Extract of Town Planning Board Guidelines No.34C on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No.34C)
Appendix III	Previous Applications covering the Site
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-1a	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photos
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2020**