

RNTPC Paper No. A/TM-LTYYY/350
For Consideration by
the Rural and New Town
Planning Committee
on 18.5.2018

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

APPLICATION NO. A/TM-LTYYY/350

- Applicant** : Sun Cheong Management Consultant Limited
- Site** : Lot 3674 RP in D.D. 124, Sun Fung Wai, Tuen Mun, New Territories
- Site Area** : About 93 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTYYY/9
- Zoning** : “Village Type Development”
[Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) 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 shop and services (real estate agency) for a period of 3 years (**Plan A-1**). The Site is currently being used for the applied use under planning permission No. A/TM-LTYYY/296 valid until 5.6.2018.
- 1.2 The Site is related to six previous applications (Nos. A/TM-LTYYY/126, 135, 179, 192 and 243 for temporary sale of vehicles (private cars and light goods vehicles) with or without office for a period of 3 years and No. A/TM-LTYYY/296 for temporary shop and services (real estate agency)). The last Application No. A/TM-LTYYY/296 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) for a period of 3 years on 5.6.2015. All the time-specific approval conditions have been complied with. Details of the previous applications are summarised at paragraph 6 below and at **Appendix III**.

- 1.3 The major development parameters of the current application are the same as the last approved application and as follows:

Site Area	About 93m ²
Applied Use	Renewal of Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years
Total Floor Area (non-domestic)	About 186m ²
No. of Structure	1
Height of Structure	2 storeys (6.1m) G/F for ancillary sitting area 1/F for container-converted site office and toilet
Operation Hours	9:00 a.m. to 7:30 p.m. from Mondays to Saturdays No operation on Sundays and public holidays

- 1.4 Compared with the last approved Application (No. A/TM-LTY/296), the current application is submitted by a different applicant for the same use on the same site with the same development parameters.
- 1.5 The ground floor plan, first floor plan and site access plan are at **Drawings A1 to A3** respectively.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 26.3.2018 **(Appendix I)**
 - (b) Supplementary planning statement with location plan, ground floor plan, first floor plan and site access plan **(Appendix Ia)**
 - (c) Letter of 26.4.2018 providing response to TD's comments **(Appendix Ib)**
 - (d) Letter of 7.5.2018 clarifying the planning justification with a revised ground floor plan **(Appendix Ic)**

2. Justifications from the Applicant

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

- (a) The applicant has complied with all the approval conditions and show it is compatible with the surrounding land uses. No adverse drainage, traffic, environmental and visual impacts.
- (b) The proposed development is a temporary use which would not jeopardise the long term planning intention of the "V" zone. The Site is not subject to any land transaction being proposed by the Land Authority for the conversion into low density residential use.
- (c) No operation will be held during 7:30p.m. to 9:00a.m. next morning. The proposed development will be closed on Sundays and public holidays. The

ground floor sitting area is ancillary of the proposed temporary shop and service (real estate agency) which is not open to public.

- (d) The nature form and layout of the proposed development are compatible with surrounding environment. It would not affect the character of the indigenous village.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice of the application outside the Site and sending registered mail to Tuen Mun Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The site is involved in six previous planning applications (Nos. A/TM-LTY Y/126, 135, 179, 192, 243 and 296). Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/TM-LTY Y/126 was for temporary sales of vehicles (private cars and light goods vehicles) and office for a period of 3 years at the site. It was approved with conditions by the Committee on 10.6.2005. The permission was revoked on 10.12.2005 due to non-compliance with approval conditions on provision of fire extinguisher and vehicular access, and submission and implementation of drainage proposal. Application No. A/TM-LTY Y/135 for temporary sales of vehicles (private cars and light goods vehicles) and office for 3 years was approved with conditions by the Committee on 17.3.2006. All approval conditions had been complied with. The permission expired on 17.3.2009.
- 6.3 Application No. A/TM-LTY Y/179 for renewal of planning approval for a period of 3 years was approved with conditions by the Committee on 27.2.2009. The permission was revoked on 27.8.2008 due to non-compliance with approval condition on submission and implementation for fire service installations (FSIs) proposal. Application No. A/TM-LTY Y/192 for the temporary sales of vehicles (private cars and light goods vehicles) and office for 3 years was approved with

conditions by the Committee on 4.12.2009. The permission was revoked on 4.8.2012 due to non-compliance with approval conditions on the submission and implementation of vehicular access proposal and the implementation of drainage facilities.

- 6.4 Application No. A/TM-LTY Y/243 for temporary sales of vehicles (private cars and light goods vehicles) for a period of 3 years was rejected by the Committee on 15.3.2013. The rejection reasons included, amongst others, approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent.
- 6.5 Application No. A/TM-LTY Y/296 for temporary shop and services (real estate agency) by the same applicant of application No. A/TM-LTY Y/243 for a period of 3 years was approved with conditions by the Committee on 5.6.2015. The major considerations were the use would not jeopardize the long-term planning intention; no significant adverse impacts on the area; and no adverse comment from relevant Government departments.
- 6.6 Compared with the last approved Application No. A/TM-LTY Y/296, the current application is submitted by a different applicant for the same use on the same site with the same development parameters.

7. **Similar Applications**

There are six similar applications (Nos. A/YL-LTY Y/210, 245, 264, 268, 321 and 345) within the same “V” zone. Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently occupied by a 2-storey structure for the applied use with valid planning permission; and
- (b) accessible via Castle Peak Road – Hung Shui Kiu section.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate east and northeast are vehicle repair workshop and a vehicle selling area. To the further east there are temporary structures for dwelling purposes intermixed with cultivated and vacant land;
- (b) to the immediate southeast is a vehicle park. There are village type dwellings to the further southeast;
- (c) to the south is vacant land. To the southwest are amenity and vehicle retailing;
- (d) to the west is a cycling track and Castle Peak Road – Hung Shui Kiu section.

9. Planning Intention

The planning intention of “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. 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 (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

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 3674 RP in D.D. 124 (the Lot). The Lot is an 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. A Short Term Waiver No. MR 17001 (“STW”) was issued by his office to permit erection of structures for temporary shop and service (real estate agency) within the Site.
- (b) Site inspection revealed that a structure used for office of real estate agency purpose was found at the Site. The use and dimensions of the structure comply with the terms of STW.
- (c) The Site is accessible via a strip of government land leading from Castle Peak Road. His office does not carry out maintenance works for the said road nor guarantee that right-of-way will be given to the Site.
- (d) Notwithstanding the above, his office reserves the right to take enforcement actions as consider appropriate against any unauthorised erection/extension/alteration of the structures concerned or any other breaches of the waiver conditions or the lease conditions should the same be found irrespective of whether planning permission will be given or not.
- (e) His office also reserves the right to take any action against any unauthorised occupation of government land.

- (f) According to his record, there is no Small House (SH) application received or under processing at the Site. There are three outstanding SH applications in the vicinity of the Site.

Building Matter

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

- (a) 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.
- (b) If the existing structures are erected on leased land without approval of the BD (not being a NTEH), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
- (c) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (d) For UBW erected on leased land, enforcement action may be taken by the 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 constructed as an acceptance of any existing building works or UBW on the Site under the BO.
- (e) In connection with (d) above, 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.
- (f) Formal submission under the BO is required for any proposed new works, including any temporary structures.

Traffic

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

As clarified by the applicant, no vehicular access would be provided by the applicant and the adjoining car parking/car storage was not related to the Site. He has no further comment from traffic engineering viewpoints.

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

- (a) According to the application submission, there is no vehicular access to the Site proposed.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Drainage

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

- (a) He has no objection in principle to the application from public drainage point of view.
- (b) Should the application be approved, a condition should be included to request the applicant to submit condition record of the implemented drainage facilities.
- (c) His detailed comments are in **Appendix V**.

Environment

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

- (a) He notes that the Site was the subject of a previous s.16 application No. A/TM-LTY/296 for the same use which was approved by the Board.
- (b) The current application is for renewal of the planning approval for 3 years. The proposed use for shop and service (real estate agency) at the Site falling within "V" zone is not anticipated to have adverse environmental implications. He has no objection to the application.
- (c) The applicant is advised that public sewer is available in the vicinity along Castle Peak Road for connection.

Fire Safety

10.1.7 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 D of FS.

- (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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

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

With reference to his site records and aerial photos of 2017, the entire site appears to be occupied by a temporary structure. The Site is situated in an area of village landscape character. Significant change arising from the continued use of the application is not envisaged.

Long Term Development

- 10.1.9 Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) and the Chief Town Planner/Housing & Office Land Supply, PlanD (CTP/HOLS, PlanD):

The Site falls within the Study Area of the on-going Preliminary Land Use Study for Lam Tei Quarry and the Adjoining Areas (the Study) jointly commissioned by CEDD and PlanD. He has no specific comment as far as the Study is concerned.

Others

- 10.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be

reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

10.1.11 Comments of the District Officer (Tuen Mun), HAD (DO(YL), HAD):

His office has not received any comment from locals upon the end of consultation period.

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

- (a) Director of Leisure and Cultural Services (DLCS);
- (b) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 3.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 24.4.2018, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The current application is for renewal of the planning approval under previous Application No. A/TM-LTY/296 for temporary shop and services (real estate agency) for a period of 3 years. The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Whilst the development is not entirely in line with the planning intention of the “V” zone, according to the DLO/TM, LandsD, there is no Small House application approved or under processing at the Site. The proposed development could also serve any demand for real estate agency services in the area. Approval of the renewal application on a temporary basis for 3 years would not jeopardise the long-term planning intention of the “V” zone.
- 12.2 The Site is at the fringe of a “V” zone and abuts Castle Peak Road – Hung Shui Kiu section (**Plan A-2**). The proposed development for real estate agency is considered not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with TPB PG-No. 34B 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 that of the previous approval.

- 12.4 Relevant Government departments, including DEP, AC for T, TD CHE/NTW, HyD, CE/MN, DSD, D of FS and CTP/UD&L, PlanD, have no objection to or adverse comment on the application. The proposed use will unlikely create significant adverse traffic, environmental, drainage and landscape impacts to the surrounding areas. To minimize 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 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” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 12.5 The Committee has approved one previous application for the same use at the Site and six other similar applications within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There is no public comment received on the application.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12, the Planning Department considers that the temporary shop and services (real estate agency) could be tolerated for a further period of 3 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 from **6.6.2018 until 5.6.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:30 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to enter or be parked/stored on the Site at any time during the planning approval period;
- (d) the submission of condition record of implemented drainage facilities within **3** months from the date of commencement of the renewed

planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **6.9.2018**;

- (e) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **6.12.2018**;
- (g) in relation to (f) above, the implementation of the fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **6.3.2019**;
- (h) if any of the above planning conditions (a), (b), (c) or (e) 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;
- (i) if any of the above planning conditions (d), (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; and
- (j) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

[Approval conditions (a), (b), (c), (f) to (j) are the same as the previous Application No. A/TM-LTY/296, while conditions (d) and (e) are added to reflect the latest departmental comments.]

Advisory clauses

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

- 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 "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The continuous occupation of the Site for the proposed development is not in line with the planning intention of the "V" zone. No strong planning justification has been given 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 26.3.2018
Appendix Ia	Supplementary planning statement with location plan, ground floor plan, first floor plan and site access plan
Appendix Ib	Letter of 26.4.2018 providing response to TD's comments
Appendix Ic	Letter of 7.5.2018 clarifying the planning justification with a revised ground floor plan
Appendix II	Extract of 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. 34B)
Appendix III	Previous Applications covering the Site
Appendix IV	Similar Applications within the same "V" zone on the draft Lam Tei and Yick Yuen OZP No. S/TM-LTY/9
Appendix V	Detailed Comments of Drainage Services Department
Appendix VI	Advisory Clauses
Drawing A-1	Ground Floor Plan
Drawing A-2	First Floor Plan
Drawing A-3	Site Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos