

RNTPC Paper No. A/TM-LTY Y/353
For Consideration by
the Rural and New Town
Planning Committee
on 6.7.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTY Y/353

- Applicant** : ExxonMobil Hong Kong Limited
- Site** : 121 Castle Peak Road, Lot 2792 RP (Part) in D.D.130 and adjoining Government Land, Lam Tei, Tuen Mun, New Territories
- Site Area** : About 54.284m² (including about 17.7m² Government Land)
- Lease** : Lot 2792 RP in D.D.130 under New Grant No. 2923 as varied by the Modification Letter of 22.3.2002 (restricted for use as a petrol filling station excluding any lubricating, servicing, repairing or vehicles washing facilities); Government land under a No-objection Letter of 18.5.1999 (for the purposes of a petrol filling station office)
- Plan** : Draft Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTY Y/9
- Zoning** : “Other Specified Uses” annotated “Petrol Filling Station” (“OU(PFS)”) (33%)

‘Road’ (67%)
- Application** : Temporary Shop and Services (Retail Shop and Ancillary Storage Use) 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 (retail shop and ancillary storage use) for a period of 3 years(**Plan A-1**). The site is currently occupied by the applied use without valid planning permission.
- 1.2 According to the Notes for the “OU(PFS)” zone of the OZP, ‘Shop and Services’ is neither a Column 1 nor Column 2 use. For area shown as ‘Road’, ‘shop and services’ requires planning permission. According to the covering Notes for the OZP, temporary use not exceeding a period of three years requires permission from the Town Planning Board (the Board). The applicant is currently seeking temporary planning permission for a period of 3 years.

- 1.3 The site is related to 1 previous Application No. A/TM-LTY Y/267 for the same use. The last Application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 17.1.2014. All the time-specific approval conditions have been complied with and the planning permission has lapsed on 18.1.2017.
- 1.4 The layout plan, and section plans submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.5 A comparison of the major development parameters of the current application and the last approved application is as follows:

Major Development Parameters	Last Approved Application No. A/ TM-LTY Y /267 (a)	Current Application No. A/TM-LTY Y/353 (b)	Difference (b) – (a)
Development/Use	Temporary Shop and Services (Retail Shop and Ancillary Storage Use) for a Period of 3 Years	Temporary Shop and Services (Retail Shop and Ancillary Storage Use) for a Period of 3 Years	No change
Site Area	About 54.7m ² (including Government Land of about 18.2m ²)	About 54.284m ² (including Government Land of about 17.7m ²)	-0.42m ²
Total Floor Area (Non-domestic)	54.7m ²	54.284m ²	-0.42m ²
No. of Structure	1	1	No change
Height of Structure	1 storey, 3.5m	1 storey, 3.5m	No change
Uses within structure	Sales room, ancillary storage and ancillary toilet	Sales room, ancillary storage and ancillary toilet	No change
Operation Hours	24 hours daily	24 hours daily	No change

- 1.6 Compared with the last approved Application (No. A/TM-LTY Y/267), the current application is submitted by the same applicant for the same use on the same site, with a slightly smaller site area (-0.42m²) and floor area (-0.42m²).
- 1.7 In support of the application, the applicant has submitted the following documents:
- (a) Application form of 27.4.2018 and attachments **(Appendix I)**
(received on 10.5.2018)
 - (b) Supplementary Planning Statement attached to the application form **(Appendix Ia)**
 - (c) Email dated 16.5.2018 providing enlarged section plans **(Appendix Ib)**

- (d) Email dated 22.6.2018 confirming ancillary toilet use within the structure **(Appendix Ic)**

2. Justifications from the Applicant

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

- (a) Planning Permission for the same use had been obtained via the previous Application No. A/TM-LTY/267 on 17.1.2014 for a period of 3 years. The approval conditions have been complied with.
- (b) The Subject Premises is situated at the building completed in 1991 (Occupation Permit No. NT 144/91). There is no change to the subject building structure.
- (c) The total area of the Site (about 54.284m²) is based on the building plan approved by the Building Authority on 5.8.1991. The area is slightly different from the previous application (about 54.7m²). It is confirmed that the Subject Premises is same as the premises in the previous application.
- (d) No additional building will be erected. There will also be no construction work of additional petrol filling facility involved (i.e. not affecting railway operation nearby).
- (e) The categories of retail sale items include: (a) Tobacco; (b) Drinks; (c) Automotive related products; and (d) grocery, snacks, confectionery and dairy products etc.
- (f) The retail shop will operate 24 hours every day, i.e. as long as the petrol filling station is in operation
- (g) For the portion of Subject Premises on Government land, it has been subject to a Short Term Tenancy No. MX14015 issued by Lands Department for the purposes of “retail sale and storage ancillary to the retail sale”.
- (h) For the portion of Subject Premises on Lot 2792 R.P. in D.D. 130, it has also been subject to a Temporary Waiver application to the Lands Department for “retail sale and storage ancillary to the retail sale”.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Application

- 5.1 The Site is involved in one previous application (No. A/TM-LTYYY/267). Details of the previous application are summarized at **Appendix II** and the location is shown on **Plan A-1**.
- 5.2 Application No. A/TM-LTYYY/267 for temporary shop and services (retail shop and ancillary storage use) was approved with conditions by the Committee on 17.1.2014 for a period of 3 years mainly on grounds that the development is not in conflict with the planning intention of the “OU(PFS)”, and the development could serve the demand for retail from drivers visiting the petrol filling station, not incompatible with the surrounding land uses, and not creating adverse impacts on the surrounding areas. All approval conditions have been complied with.
- 5.3 Compared with the last application, the current application is submitted by the same applicant for the same use with similar development parameters.

6. Similar Application

There is no similar application within the same OZP.

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

- 7.1 The site is:
- (a) occupied by a convenience store currently in operation;
 - (b) part of an existing petrol filling station; and
 - (c) accessible from Castle Peak Road – Lam Tei.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the immediate east is Castle Peak Road-Lam Tei. Further east across Castle Peak Road-Lam Tei is Lam Tei Main Street. There are buildings with commercial uses including restaurants and shops and services. Some of these buildings have residential uses on the upper floors;
 - (b) to the further northeast is Miu Fat Buddhist Monastery; to the southeast are shops, a clinic, a storage and residential dwellings;
 - (c) to the south are low-rise buildings with eating place and shop, a car park, vacant land and amenity area;
 - (d) to the immediate west are the tracks of light rail and elevated tracks of West Rail; further west and northwest are some residential dwellings; and

- (e) to the north is a petrol filling station and an amenity area.

8. Planning Intention

- 8.1 The planning intention of the “OU(PFS)” zone is intended primarily for the provision of petrol filling station.
- 8.2 The area shown as ‘Road’ is to make land reservation for road works and its ancillary facilities.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application and the public comment received are summarized as follows:

Land Administration

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

- (a) The Site concerns an existing petrol filling station office building which is erected partly on Government land and partly on Lot 2792 RP on DD 130. The proposed retail shop and ancillary storage use does not conform with the lease conditions in respect of Lot No. 2792 RP in D.D. 130.
- (b) Approval has been given by his office for a temporary waiver (TW No. 85) to permit a total floor area of 31.8 square metres for retail sale and storage ancillary to the retail sale. A portion of the existing building which is for toilet use is excluded from the waiver.
- (c) As for the portion of the existing building on Government land, a short term tenancy (STT No. MX 14015) is issued to permit the use of the land and a built over area of 17.7 square metres of the existing building for use as petrol filling station and retail and ancillary storage purposes.
- (d) The total area of the Site as stated in the application is about 54.284 square metres which does not tally with the total covered area permitted under the temporary waiver and the short term tenancy. The applicant should clarify the intention and whether there will be any alteration to the existing building. They are reminded that any discrepancies among the Application area and those contained in the short term tenancy and temporary waiver referred to above should be rectified. The Government reserves the right to take any action as may be appropriate if any breach of the lease conditions or the short term tenancies conditions is identified.

9.1.2 Comments of the Chief Estate Surveyor/Railway Development, Lands Department (CES/RD, LandsD):

Part of the Site is underneath the air space vested to KCRC by the Deed of Vesting for West Rail dated 19.12.2003 and within the West Rail Protection Boundary. He has no comment on the application from railway development point of view subject to the Site or any proposed use/development shall not encroach into the air space vested to KCRC and no objection from RDO, HyD and MTRCL.

Building Matters

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

- (a) There is no in-principle objection under the Buildings Ordinance to the proposed use on the Site.
- (b) If the existing structures are erected on leased land without approval of the Buildings Department (BD) (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
- (c) Before any new building works (including erection of container and connection of drainage) 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 co-ordinator for the proposed building works in accordance with the Buildings Ordinance.
- (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 construed as an acceptance of any existing building works or UBW on the Site under the BO.

Environment

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

- (a) The applicant is now seeking permission to use the Site for "Retail Shop and Ancillary Storage" for 3 years and the lot is

zoned as “Other Specified Uses” annotated “Petrol Filling Station” and “Road” on the draft Lam Tei and Yick Yuen OZP.

- (b) In view of the same use, he has no objection to the application from an environmental planning perspective. Nevertheless, he notes that the Site is not served by public sewer. The applicant is reminded that all wastewaters from the Site shall be properly collected, treated and disposed of in compliance with the requirements under the Water Pollution Control Ordinance.
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Conservation

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

The site is developed in nature and currently under similar use. He has no comment on the application from the nature conservation point of view.

Traffic

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

He has no comment on the application from traffic engineering viewpoints.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.8 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

The subject lot falls within the railway protection boundary of the existing West Rail Line, the MTRC should therefore be consulted with respect to operation, maintenance and safety of the West Rail Line. As the operation of existing railway network is not under the jurisdiction of his office, he has no comment on the planning application from railway development point of view.

Drainage

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

In view of the site of the development (54m²) and the current use of site, please be advised that he has no objection on the proposed application from public drainage viewpoint.

Fire Safety

- 9.1.10 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of the 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) 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

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

With reference to his site records and the submitted information, it is noted that the Site is entirely occupied by an existing structure with no significant vegetation. In consideration of the previous approved Planning Application No. A/TM-LTY/267 for the same use, significant change to the landscape character arising from the continued use of the application is not anticipated.

Long Term Development

- 9.1.12 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.

District Officer's Comments

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

- (a) He has distributed consultation letter to the locals concerned who would provide their comments (if any) direct to the Board.
- (b) He has no further comments.

- 9.2 The following Government departments have no comment on the application:

- (a) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (b) Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS); and
- (f) Director of Food and Environmental Hygiene (DFEH).

10. Public Comments Received During Statutory Publication Period

On 18.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.6.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The planning intention of the "OU(PFS)" zone is primarily for the provision of petrol filling station. The area shown as 'Road' is to make land reservation for road works and its ancillary facilities. Whilst the development is not entirely in line with the planning intention of the "OU(PFS)", it could serve the demand for retail of some consumer goods from drivers visiting the petrol filling station. The retail shop is located to the immediate southwest of an existing petrol filling

station (**Plan A-2**), and would not affect the operation of the petrol filling station. Approval of the application on a temporary basis would not frustrate the planning intention of the zone.

- 11.2 Although 67% of the site falls within an area shown as 'Road', the retail shop is in the proximity of the West Rail and was separated from the tracks of the light rail (**Plan A-4**). The CES/RD, LandsD and the CE/RD2-2, RDO, HyD have no objection to/comment on the application. In view of the above, adverse impact on the elevated West Rail is not envisaged.
- 11.3 The retail shop is located within a one-storey building built in 1991. The site is surrounded by the tracks of light rail and elevated tracks of West Rail to the west, restaurant and shop to the south, petrol filling station to the northeast and abuts on Castle Peak Road – Lam Tei at the east (**Plan A-2**). The development is considered not incompatible with the surrounding uses.
- 11.4 Relevant Government departments including the DEP, DAFC, C for T, CHE/NTW, HyD, D of FS, and DEMS have no objection to or adverse comment on the application. Concerns of the D of FS can be addressed through imposing approval conditions on the submission and implementation of FSIs proposal. Non-compliance with any of 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.
- 11.5 The Committee has approved a previous application for the same use at the Site. Approval of the current application is in line with previous decision of the Committee.
- 11.6 There is no public comment on the application.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above, the Planning Department considers that the temporary shop and services (retail shop and ancillary storage use) could be tolerated for a period of 3 years.
- 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 until **6.7.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **6.1.2019**;
- (b) in relation to (a) above, the implementation of fire service installations proposal within **9** months from the date of the planning approval to the

satisfaction of the Director of Fire Services or of the Town Planning Board by 6.4.2019; and

- (c) if any of the above planning conditions (a) or (b) 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 at **Appendix III**.

- 12.3 There is no strong reason to recommend rejection of the application.

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 of 27.4.2013 and attachments (received on 10.5.2018)
Appendix Ia	Supplementary Planning Statement attached to the application form
Appendix Ib	Email dated 16.5.2018 providing enlarged section plans
Appendix Ic	Email dated 22.6.2018 confirming ancillary toilet use within the structure
Appendix II	Previous Application covering the Site
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Section Plan
Drawing A-3	Section Plan
Plan A-1	Location Plan

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2018**