

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/404

- Applicant** : New Trend Management Limited represented by R-riches Property Consultants Limited
- Site** : Lot 2339 (Part) in D.D. 130, Lam Tei, Tuen Mun, New Territories
- Site Area** : About 819m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/10
- Zoning** : “Residential (Group D)” (“R(D)”)
[restricted to maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Wholesale Trade with Ancillary Storage for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary wholesale trade with ancillary storage for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “R(D)” on the approved OZP. Although the proposed development is neither a Column 1 nor 2 use in the “R(D)” 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 occupied by a vacant structure (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicant, the Site is for wholesale trade (drinks) business. The Site is accessible from Shun Tat Street via a local track (**Drawing A-1 and Plan A-2**). It is estimated that 5 no. of staff would work at the Site. Visitors are required to make appointment in advance to access the Site. Adequate space for manoeuvring of vehicles will be provided within the Site. The operation hours are from 9am to 6pm from Mondays to Saturdays with no operation on Sundays and Public Holidays. The location plan and layout plan submitted by the applicant are shown in **Drawings A-1 and A-2** respectively.

1.3 The major developments parameters of the application are as follows:

Site Area	About 819m ²
Gross Floor Area (GFA)	About 819m ²
No. of Structures	2 (1 for Wholesale Trade (Drinks) and Ancillary Storage of Goods (about 665m ²) and 1 for Canopy (about 154m ²))
Height of Structures	About 11m (1 storey)
Loading and Unloading Spaces	2 for Light Goods Vehicles (3.5m x 7m)
Operation Hours	9 a.m. to 6 p.m. (Mondays to Saturdays) (excluding Sundays and Public Holidays)

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form and attachments received on 1.9.2020 **(Appendix I)**
- (b) Further Information (FI) providing responses to departmental comments received on 25.9.2020 **(Appendix Ia)**
(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 and Ia**. They can be summarised as follows:

- (a) The applicant would like to use the Site to operate its wholesale trade (drinks) business to provide large quantity of drinks for local retailers. The provision of the facilities is to bring convenience to the retailers in Nai Wai area.
- (b) Although the proposed development is not in line with the planning intention of the “R(D)” zone, the application is only on a temporary basis, approval of the application would not frustrate the long-term planning intention of the “R(D)” zone. The proposed development is considered not incompatible with the surrounding land use. The approval of the application will not set an undesirable precedent.
- (c) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ by the Environmental Protection Department (EPD) to minimise all possible environmental impacts on the nearby sensitive receivers. No storage of dangerous goods, vehicle repairing, car beauty, washing, cleansing, paint-spraying, repairing/maintenance, dismantling or other workshop activities will be allowed at the Site. No medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site.
- (d) The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Adequate mitigation measures will be provided, i.e. submission of drainage, fire services installations

(FSIs) and landscape proposals etc. to mitigate any adverse impact arising from the proposed development after planning approval has been granted by the Board.

- (e) The applicant will modify the existing structures in accordance to the proposed scheme.

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 sending a registered mail to the Tuen Mun Rural Committee and by posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is no similar application in the same “R(D)” zone.

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

7.1 The Site is:

- (a) currently occupied by a vacant structure; and
- (b) accessible from Shun Tat Street via a local track (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northwest is an open storage yard for containers, which may be tolerated under the Town Planning Ordinance; to its further north is a warehouse and to the further north and west are residential dwellings, namely the Richtree Villas and Mountain View (**Plan A-2**);
- (b) to its immediate east is a vacant structure and the further east is vacant land;
- (c) to its immediate west is a piece of fallow agricultural land; and
- (d) to the south are warehouses and land for storage intermixed with residential dwellings and an orchard.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing

temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application 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 falls within Lot No. 2339 in D.D. 130 (“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.
- (b) A Short Term Waiver No. 582 (“STW”) was granted on the Lot by his office to permit erection of structures not exceeding the built-over area of 125m² and not exceeding the height of 3.95m for the storage and repair of container boxes.
- (c) The Site is accessible from Shun Tat Street via local access on the private lots. It is entirely at the applicant’s own arrangement regarding the said local access over the private lots and the Government is not and will not be involved. His office does not carry out maintenance works for the said local access nor has given any right-of-way over the said local access to the Site.
- (d) In the event that planning permission is given by the Board, the lot owner may apply to his office for revision of the user, site coverage and height of structures of STW No. 582. He would advise that the proposal will only be considered upon his receipt of formal application. However, notwithstanding that planning permission is given, there is no guarantee that application will be approved. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. The application, if approved, would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee from such date as may be appropriate, deposit and administration fee etc. The Government also reserves the right to take enforcement action as may be considered appropriate regarding any unauthorized structures erected on the Lot or any encroachment of unauthorized of Government Land.

Traffic

9.1.2 Comments of the Commission for Transport (C for T):

- (a) He has no comment on the application from traffic engineering viewpoints.
- (b) The access route indicated by the applicant is not managed by the Transport Department (TD). The applicant should be reminded to seek comment from relevant authorities/parties regarding the use of the proposed access route.

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

- (a) If the access arrangement is agreed by TD, the applicant should construct a run in/out at the access point at Shun Tat Street in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (b) The proposed access from the Site to Shun Tat Street is not and will not be maintained by HyD.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) He has no objection to the application.
- (b) Should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“CoP”) issued by DEP to minimise potential environmental nuisance to the surrounding area.
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Landscape

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

With reference to the aerial photo of 2019, the Site is completely occupied by an existing temporary structure. The applied use appears to be in operation. The Site is situated in a village landscape character. Significant change to the landscape character arising from the application is not envisaged.

Drainage

9.1.6 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, implement and maintain a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.
- (c) In regards to the proposed drainage proposal, his comments are as follows.
 - (i) The applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website (https://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html).
 - (ii) Presumably it is the intent of the applicant to make drainage connection to public drainage to discharge runoff from the Site. According to his records, there is no DSD maintained facility in the vicinity of the Site. In this regard, the applicant should be reminded to identify such public drainage and consult, as appropriate, the relevant authorities/owners of the existing drainage for consent of the connection works.
 - (iii) Details of the proposed u-channel and catchpits and how it would be connected to the existing drainage system should be clarified and clearly shown in the proposed drainage proposal.
 - (iv) Peripheral drainage channels should be provided to intercept the surface runoff from the uphill catchment so as to avoid the Site from overland flow influence.
 - (v) The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works.
 - (vi) The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system.

- (vii) The proposed works should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire services installations (FSIs) being provided to his satisfaction.
- (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 (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) 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) Formal submission under BO is required for any proposed new works, including any temporary structures.
- (c) His advisory comments are as follows:
 - (i) If the existing structures are erected on leased land without approval of the BA (not being an New Territories Exempted House (NTEH)), they are unauthorized under BO and should not be designated for any approved use under the application.
 - (ii) 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 BA should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorized Person

(AP) should be appointed as the coordinator for the proposed building works in accordance with BO.

- (iii) For UBW erected on lease land, enforcement action may be taken by BA 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.
- (iv) In connection with (ii) 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) Regulation (B(P)R) respectively.
- (v) 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 B(P)R at the building plan submission stage.

Long-term Development

9.1.9 Comments of the Project Team Leader/Housing, Civil Engineering and Development Department (PTL/Housing, CEDD):

The Site is located within the study area of the potential public housing cluster at Lam Tei North, Tuen Mun for which an engineering feasibility study (EFS) was commenced in mid-2020. The implementation programme will be subject to the findings of EFS.

Others

9.1.10 Comments of Director of Food and Environmental Hygiene (DFEH):

He has no comment on the application. If the proposal involves any commercial/trading activities, its state should not as to be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

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

He has distributed consultation letters to the concerned locals and understand that they will provide their comments (if any) to the Board direct.

9.2 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) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO); and
- (f) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

During the statutory public inspection period, two public comments were received from individuals objecting to the application on the grounds that the proposed development would affect the rural living and ecological environment and the operators should take part in the development of industrial parks and the Site should be used for dwellings or community amenities to implement the planning intention of “R(D)” zone (**Appendices II-1 to II-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary wholesale trade with ancillary storage for a period of 3 years at the site zoned “R(D)” on the OZP. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Whilst the applied use is not entirely in line with the planning intention of the “R(D)” zone, the applied development could provide wholesale trade service to meet any such demand in the area and there is no known development programme of the Site. In this regard, approval of the application on a temporary basis for 3 years would not jeopardize the planning intention of the “R(D)” zone and its long term development proposal.
- 11.2 The Site is mainly surrounded by open storage of containers, warehouses, fallow agricultural land and vacant land (**Plan A-2**). The applied use is not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including C for T, CE/MN of DSD, CHE/NTW of HyD, CTP/UD&L of PlanD, DEP and D of FS have no objection to or no adverse comment 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 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 12.2 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 CoP in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 Regarding the two objecting public comments received, the planning considerations and assessments in paragraphs 11.1 to 11.3 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary wholesale trade with ancillary storage 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 23.10.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 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 medium or heavy goods vehicles, exceeding 5.5 tonnes as defined in the Road Traffic Ordinance is allowed to enter/exit the site, as proposed by the applicant, at any time during the planning approval period;
- (d) the submission of a run-in/out proposal at the access point of Shun Tat Street within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 23.4.2021;
- (e) in relation to (d) above, the implementation of run-in/out proposal at the access point of Shun Tat Street within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 23.7.2021;
- (f) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.4.2021;
- (g) in relation to (f) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.7.2021;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.4.2021
- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.7.2021;

- (k) if any of the above planning conditions (a), (b), (c) or (h) 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
- (l) if any of the above planning conditions (d), (e), (f), (g), (i) or (j) 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 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "R(D)" zone, which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form and attachments received on 1.9.2020
Appendix Ia	FI received on 25.9.2020
Appendices II-1 to II-2	Public Comments Received During Statutory Publication Period
Appendix III	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2020**