

Previous s.16 Applications covering the Application Site

Approved Applications

<u>No.</u>	<u>Application No.</u>	<u>Use/Development</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
1.	A/TM-LTY Y/154	Proposed Temporary Private Vehicle Park (Private Cars) for a Period of 3 Years	7.6.2007 [Revoked 7.12.2007]	(1), (2), (4), (6), (7), (13), (14)
2.	A/TM-LTY Y/184	Proposed Temporary Vehicle Park (Private Cars and Light Goods Vehicles) and Recreation and Village Affairs Centre for a Period of 3 Years	5.6.2009 [Revoked 5.9.2009]	(1), (2), (4), (6), (7), (8), (9), (13), (14)
3.	A/TM-LTY Y/224	Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles for a Period of 3 Years	6.1.2012 [Revoked 15.6.2012]	(1), (2), (5), (6), (7), (8), (9), (10), (11), (13), (14)
4.	A/TM-LTY Y/263	Proposed Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years	7.11.2014 TPB [Revoked 7.5.2016]	(1), (3), (4), (5), (6), (7), (8), (9), (10), (12), (13), (14)
5.	A/TM-LTY Y/342	Temporary Public Vehicle Park (Private Cars only) for a Period of 3 Years	22.12.2017	(1), (3), (4), (5), (6), (7), (8), (9), (10), (13), (14)

Approval Conditions

- (1) No night-time operation.
- (2) No medium or heavy goods vehicles, including container vehicles and container trailers, are allowed to be parked/stored on the site.
- (3) Only private cars and/or van-type light goods vehicles are allowed to enter/be parked on the site.
- (4) No parking/storage of vehicles without valid licences.
- (5) Posting of a notice at a prominent location to indicate the type of vehicles to be allowed or not allowed to enter/be parked on the site.
- (6) No vehicle dismantling, maintenance, repairing, cleansing/washing, paint spraying and other workshop activities.
- (7) Submission and implementation of tree preservation and/or landscape proposals.
- (8) Submission and/or implementation of drainage proposals.
- (9) Submission and/or implementation of fire service installations proposal.
- (10) Provision of boundary fencing on the site.
- (11) Submission and implementation of vehicular run-in/run-out proposal to/from the site.
- (12) Submission and implementation of a layout plan of the vehicle park.
- (13) Revocation clauses.
- (14) Reinstatement clause.

Rejected Applications

<u>No.</u>	<u>Application No.</u>	<u>Use/Development</u>	<u>Date of Consideration</u>	<u>Rejection Reasons</u>
1.	A/TM-LTY Y/194	Temporary Private Vehicle Park (Private Cars and Light Goods Vehicles) for Villagers of To Yuen Wai and Recreation and Village Affairs Centre for a Period of 3 Years	15.1.2010	(1), (2), (4)
2.	A/TM-LTY Y/201	Temporary Private Vehicle Park (Private Cars and Light Goods Vehicles) for Villagers of To Yuen Wai and Recreation and Village Affairs Centre (With Ancillary Self-help Car Cleansing Facilities) for a Period of 3 Years	8.10.2010 TPB	(1), (2), (4)
3.	A/TM-LTY Y/255	Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years	1.3.2013	(3), (5)

Main Reasons for Rejection

- (1) The proposed development would frustrate development of Small Houses at part of the site and contravene with the planning intention of the "Village Type Development" zone.
- (2) The proposed development would cause adverse environmental and/or road safety impacts to the local residents and/or the surrounding area.
- (3) The applicant failed to demonstrate that the development would not cause adverse traffic, drainage and landscape impacts on the surrounding area.
- (4) There was no information in the submission to demonstrate that the proposed development would not cause adverse drainage impacts on the surrounding areas.
- (5) The application involved three previously revoked planning permissions due to non-compliance of approval conditions. The applicant failed to demonstrate in the submission that the relevant conditions would be complied with. Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

Similar s.16 Applications in the subject “V” zone

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)/ Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1.	A/TM-LTY Y/73	Temporary Real Estate Agency Office for a Period of 3 Years	16.3.2001	(4), (9)
2.	A/TM-LTY Y/75	Retail Shop	30.3.2001	(4)
3.	A/TM-LTY Y/233	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	30.3.2012	(1), (3), (4), (6), (7), (8), (9), (10)
4.	A/TM-LTY Y/303	Temporary Shop and Services (Retail Shop) for a Period of 5 Years	5.2.2016 [Revoked on 5.8.2016]	(1), (2), (4), (6), (9)
5.	A/TM-LTY Y/328	Temporary Shop and Services (Retail Shop) for a Period of 5 Years	3.3.2017 [Revoked on 3.9.2017]	(1), (2), (4), (5), (6), (9)
6.	A/TM-LTY Y/339	Temporary Shop and Services for a Period of 5 Years	11.8.2017	(1), (4), (5), (6), (9), (10)
7.	A/TM-LTY Y/366	Proposed Temporary Shop and Services (Retail Shop) with Ancillary Office for a Period of 5 Years	3.5.2019	(1), (4), (5), (9)

Approval Conditions

- (1) No night time operation.
- (2) A minimum horizontal clearance of 500mm from Lam Tei Main Street and minimum vertical clearance of 3.5m over the road verge.
- (3) Submission and implementation of run-in/run-out proposal.
- (4) Submission and/or implementation of drainage proposal or provision of drainage facilities.
- (5) Maintenance of existing/implemented drainage facilities.
- (6) Submission and/or implementation of fire service installations proposal.
- (7) Submission and implementation of landscape proposal.
- (8) Provision of boundary fencing.
- (9) Revocation clauses.
- (10) Reinstatement clause.

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)/ Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reasons</u>
1.	A/TM-LTYYY/68	Temporary Public Car Park for two years	8.12.2000	(1)
2.	A/TM-LTYYY/74	Temporary Public Car Park for a period of two years	30.3.2001	(2), (3)
3.	A/TM-LTYYY/182	Proposed Temporary Vehicle Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years	22.5.2009	(2), (4)
4.	A/TM-LTYYY/222	Temporary Private Vehicle Park (Private Cars Only) for a Period of 1 Year	7.10.2011	(2), (3)
5.	A/TM-LTYYY/234	Temporary Private Vehicle Park (Private Cars Only) for a period of 1 Year	18.5.2012	(2), (3)
6.	A/TM-LTYYY/250	Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles) for a Period of 3 Years	25.1.2013	(2), (3)
7.	A/TM-LTYYY/251	Temporary Public Vehicle Park (Private Cars, Light Goods Vehicles and Light Bus) for a Period of 3 Years	25.1.2013	(2), (3)
8.	A/TM-LTYYY/272	Proposed Temporary Private Vehicle Park (Private Cars and Motorcycles) for a Period of 3 Years	21.2.2014	(2), (3)
9.	A/TM-LTYYY/287	Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles only) for a Period of 2 Year	12.12.2014	(2), (3)

Main Reasons for Rejection

- (1) Insufficient information to demonstrate that a proper vehicular access can be provided.
- (2) No information in the submission to demonstrate that the development would not generate adverse traffic impact on the area or to address the traffic flow/manoeuvring and/or road safety concerns.
- (3) Failed to demonstrate that the development would not have adverse environmental impacts and/or noise nuisance on the adjacent residential dwellings and/or landscape impacts on the surrounding areas
- (4) Set undesirable precedent.

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) to note the comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that:
 - (i) the Site falls within Lot No. 581 (Part) in D.D. 130 (the Lot). The Lot is an Old Schedule Lot held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No permission has been given to allow the erection of the existing structures on the Lot;
 - (ii) the Site is accessible via a road branching off from To Lai Road. His office does not carry out maintenance works for the said road nor has granted any right-of-way over the Government Land (GL) to the Site;
 - (iii) the lot owner will need to submit application to his office for a Short Term Waiver (STW) to permit erection of the structures on the Lot. However, notwithstanding that planning permission has been given, there is no guarantee that application will be approved or any right-of-way will be granted. The application will be considered by LandsD acting in the capacity as the private 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 any enforcement action as may be considered appropriate regarding any unauthorised structures erected on the Site or any encroachment of unauthorised of GL;
- (c) to note the comments of the Commissioner for Transport (C for T) that the road connecting to the vehicular access of the Site is not managed by his office;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that:
 - (i) the piece of unallocated GL in front of the vehicular access point of the Site is not and will not maintained by HyD;
 - (ii) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection (DEP) to minimise potential environmental impacts on the surrounding environment;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L) that the approval of the application does not imply approval of the trees works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/government

department direct to obtain necessary approval on tree works.

- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
- (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) based on his observation during an inspection, the existing catchpits respectively CP3, CP4, CP5 and CP6 as specified in the applicant’s submitted drainage proposal could not be found. The applicant should clarify the above in the condition record of existing drainage facilities;
 - (iii) 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;
 - (iv) 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;
 - (v) 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;
 - (vi) the proposed works should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas;
- (h) to note the comments of the Director of Fire Services (D of FS) that 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: (a) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and (b) the location of where the proposed FSI to be installed should be clearly marked on the layout plans. 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; and
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that formal submission under BO is required for any proposed new works, including any temporary structures and drainage works. 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.