

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTY Y/407

- Applicant** : Mr Siu Kwok Tung represented by Metro Planning & Development Company Limited
- Site** : Lot 581 (Part) in D.D. 130, To Yuen Wai, Lam Tei, Tuen Mun, New Territories
- Site Area** : About 1,575 m²
- 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** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Public Vehicle Park (Private Cars only) and Shop and Services 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 public vehicle park (private cars only) and shop and services for a period of 3 years (**Plan A-1**). According to the Notes for the “V” zone on the OZP, ‘Public Vehicle Park (excluding container vehicles)’ and ‘Shop and Services’ are Column 2 uses which require permission from the Town Planning Board (the Board). The Site is currently being used for temporary public vehicle park (private cars only) with a valid planning permission (No. A/TM-LTY Y/342) until 22.12.2020 (**Plans A-2 and A-4**).
- 1.2 The Site was involved in eight previous applications (No. A/TM-LTY Y/154, 184, 194, 201, 224, 255, 263 and 342) (**Plan A-1**) mainly for temporary private/public vehicle park (for private cars/and light goods vehicles). The last application (No. A/TM-LTY Y/342) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 22.12.2017. All the approval conditions have been complied with. The planning permission is valid until 22.12.2020. Details of the previous application are summarised at paragraph 5 below and **Appendix II**.
- 1.3 According to the applicant, the Site is accessible from To Lai Road via a local track (**Drawing A-1 and Plan A-2**). Vehicles without valid licences issued under the Road

Traffic Ordinance (RTO) will not be permitted to park at the Site. No vehicle washing, vehicle repair, dismantling, paint spraying or other workshop activity will be carried out at the Site. The proposed shop and services will be used for real estate agency. The layout plan, landscape and tree preservation plan and as-built drainage plan submitted by the applicant are shown in **Drawings A-2 to A-4** respectively.

- 1.4 A comparison of the major development parameters of the last approved application and current application is as follows:

Major Development Parameters	Last Approved Application No. A/TM-LTYT/342 (a)	Current Application No. A/TM-LTYT/407 (b)	Difference (b)-(a)
Applied Use	Temporary Public Vehicle Park (Private Cars Only) for a Period of 3 Years	Temporary Public Vehicle Park (Private Cars only) and Shop and Services for a Period of 3 Years	Addition of Shop and Services use
Site Area	About 1,575 m ²		No change
Gross Floor Area (GFA)	Not exceeding 285 m ²	505 m ² (about)	+220 m ² (about)
Number of Structures	3 (1 for site office and rain shelter, 1 for guard room and 1 for storage)	4 (1 for site office & rain shelter, 1 for guard room, 1 for store room and 1 for real estate agency)	+1
Maximum Building Height	Not exceeding 5.5m and 1 storey		No change
Car Parking Space	31 (5 m x 2.5 m) (for private cars only)	25 (5 m x 2.5 m) (for private cars only)	-6
Operation hours	7:00 a.m. to 11:00 p.m. daily (including Sundays and public holidays)		No change

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

- (a) Application Form and attachments received on 5.10.2020 **(Appendix I)**
- (b) Further Information (FI) providing responses to departmental comments received on 29.10.2020 **(Appendix Ia)**
(*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 in Part 7 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) The proposed use is in line with the planning intention of the “V” zone which is primarily for the convenience of the villagers. ‘Public Vehicle Park (excluding

container vehicles)' and 'Shop and Services' are Column 2 uses in "V" zone. There is an insufficient supply of parking spaces to meet parking demand in To Yuen Wai. The proposed real estate agent service will benefit the villagers.

- (b) Five previous applications for similar use were approved and similar applications have been approved by the Board in the same "V" zone. The proposed no. of parking spaces under the application is less than the previous approval (No. A/TM-LTY Y/342), minimal traffic impact is envisaged.
- (c) The proposed use is compatible with the surrounding environment. Insignificant noise and environmental impacts are envisaged because no operation during sensitive hours.
- (d) The applicant has provided trees and surface U-channel at the Site.
- (e) No vehicle without valid licences issued under RTO is permitted to park at the Site. No vehicle washing, vehicle repairing, dismantling, paint spraying or other workshop activity will be carried out at the Site.

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 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 Applications

- 5.1 The Site was involved in 5 approved previous applications (No. A/TM-LTY Y/154, 184, 224, 263 and 342) and 3 rejected previous applications (A/TM-LTY Y/194, 201 and 255) for various temporary public vehicle park uses covering different extents of the Site. Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

Rejected Applications (3 Cases)

- 5.2 Applications No. A/TM-LTY Y/194, 201 and 255 for temporary private vehicle park with or without recreation and village affairs centre (ancillary self-help car cleansing facilities) were rejected by the Committee or by the Board upon review between 2010 and 2013. The major considerations were that the development was not in line with the planning intention of the "V" zone, would have adverse environmental and road safety impacts to local residents, the applicant failed to demonstrate no adverse drainage impacts on the surrounding areas, and approval with repeated non-compliances would set an undesirable precedent for other similar applications.

Approved Applications (5 Cases)

- 5.3 Applications No. A/TM-LTY Y/154, 184, 224 and 263 for temporary vehicle parks (private cars and/or light goods vehicle)/and recreation and village affairs centre were all approved with conditions by the Committee between 2007 and 2014 each for a period of 3 years. The applications were approved mainly on the considerations that the proposed developments would not defeat the long-term planning intention of the “V” zone, not incompatible with the surrounding areas and unlikely to create adverse impacts. However, these permissions were subsequently revoked due to non-compliance with approval conditions.
- 5.4 The last application (No. A/TM-LTY Y/342) for temporary public vehicle park (private cars only) for a period of 3 years was approved with conditions by the Committee on 22.12.2017 mainly on similar considerations as those specified in paragraph 5.3 above. All the approval conditions under the last permission have been complied with. The application is valid until 22.12.2020.
- 5.5 Compared with the last application No. A/TM-LTY Y/342, the current application is submitted by the same applicant on the same site for a similar vehicular park use with shop and services on different layout and changes in development parameters.

6. Similar Applications

- 6.1 There are 9 similar applications (No. A/TM-LTY Y/68, 74, 182, 222, 234, 250, 251, 272 and 287) for temporary public vehicle park for private cars/light goods vehicles/motorcycles/light bus in the subject “V” zone. All were rejected by the Committee between 2000 and 2014 mainly on the grounds, amongst others, that there was insufficient information to demonstrate that a proper vehicular access can be provided, no information 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, 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 and approval would set an undesirable precedent.
- 6.2 There are 7 similar applications (No. A/TM-LTY Y/73, 75, 233, 303, 328, 339 and 366) for temporary shop and services use in the subject “V” zone, which were all approved by the Committee between 2001 and 2019 mainly on the grounds, amongst others, that the proposed development would serve nearby villagers, not adversely affect the existing character of the villages, not incompatible with the surrounding uses, no adverse impacts on the area and no adverse comment from relevant government departments.
- 6.3 Details of the similar applications are summarized at **Appendix III** and the locations of the sites are shown on **Plan A-1**.

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

- 7.1 The Site is:

- (a) currently used for temporary public vehicle park (private cars only) under approved planning application No. A/TM-LTY Y/342. The permission is valid until 22.12.2020; and
- (b) accessible from To Lai Road via a local track (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is vacant land and further north are residential dwellings and a food factory, land for parking of vehicles, open storage of wood which are suspected unauthorised developments (UDs) (**Plan A-2**);
- (b) to its immediate east is vacant land and the further east are residential dwellings and land for parking of vehicles;
- (c) to its immediate west are residential dwellings and the further west is land for parking of vehicles which is suspected UD; and
- (d) to the south are elderly homes intermixed with a vehicle workshop and parking of vehicles and storage of vehicles and containers which are suspected UD.

8. Planning Intention

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. 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. Other commercial, community and recreational uses may be permitted on application to 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. 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.
- (b) There is no small house application approved or under processing at the Site.

- (c) 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.
- (d) In the event that planning permission is given by the Board, 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.

Traffic

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

The road connecting to the vehicular access of the Site is not managed by his office.

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

- (a) The piece of unallocated GL in front of the vehicular access point of the Site is not and will not maintained by HyD.
- (b) 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 substantiated 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):

- (a) With reference to the site visit by his office, the Site is hard paved with existing trees generally along the northern, western and southern boundaries within the Site. The Site is situated in an area of village landscape character. Significant change to the landscape character arising from the application is not envisaged.
- (b) The applicant is advised 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.
- (c) In view of landscape works has been implemented under No. A/TM-LTY Y/342, it is recommended to impose an approval condition requiring the applicant to maintain the existing trees within the Site in good condition during the planning approval period.

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) It is noted that that applicant intended to adopt the existing drainage facilities shown in **Drawing A-5** which had been accepted in the previous approval under Application No. A/TM-LTY Y/342. In this regard, he has no comment from public drainage point of view on this drainage proposal. Should the application be approved, a condition should be included to request the applicant to maintain the drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.
- (c) The applicant should note the detailed comments at **Appendix V**.

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. The applicant should note his detailed comments at **Appendix V**.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the structures existing at the Site, he is not in a position to offer comments on their suitability for the use related to the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

9.1.9 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) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (e) Director of Electrical and Mechanical Services (DEMS)
- (f) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO); and
- (g) 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 there is a lack of community space or facilities in the village and raised concern on traffic safety (**Appendices II-1 to II-2**).

11. Planning Considerations and Assessments

11.1 The application is for temporary public vehicle park (private cars only) and shop and services for a period of 3 years at a site zoned "V" on the OZP. 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. 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. Whilst the applied use is not

entirely in line with the planning intention of the “V” zone, the development could provide car parking spaces and real estate services to serve any such demand in the area. According to DLO/TM, there is no Small House application approved or under processing at the Site. As such, approval of the application on a temporary basis for 3 years would not jeopardize the planning intention of the “V” zone.

- 11.2 The Site is located in an area predominantly occupied by village type developments. It is mainly surrounded by residential dwellings, elderly homes, parking and/or storage of vehicles, vehicle workshop, open storage of wood and vacant land (**Plan A-2**). The applied use is considered not incompatible with the surrounding land uses.
- 11.3 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 comment on the application. The proposed use 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 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 The Committee has approved 5 previous applications for temporary public vehicle park at the Site and 7 similar applications for temporary shop and services use in the subject “V” zone, approval of the application is in line with the previous decisions of the Committee.
- 11.5 There are 2 public comments received during the statutory publication period objecting to the application on grounds as summarised in paragraph 10 above. The planning considerations and assessments in the paragraphs 11.1 to 11.4 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 has no objection to the application.
- 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 4.12.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no vehicle washing, vehicle repairing, dismantling, paint spraying and other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (c) only private cars, 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) a notice should be posted at a prominent location of the Site at all times to indicate that only private cars, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on the Site during the planning approval period;
- (e) no vehicle without valid licence issued under the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site at any time during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the existing trees on the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the approval period;
- (i) the submission of a condition record of existing drainage facilities within 3 months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.3.2021;
- (j) 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 4.6.2021;
- (k) in relation to (j) 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 4.9.2021;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) 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
- (m) if any of the above planning conditions (i), (j) or (k) 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 V**.

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

the proposed use is not in line with the planning intention of the “V” zone, which is primarily intended for development of Small Houses by indigenous villagers. 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 5.10.2020
Appendix Ia	FI received on 29.10.2020
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendices IV-1 to IV-2	Public Comments Received During Statutory Publication Period
Appendix V	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**