

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/TM-LTYT/401**

<b><u>Applicant</u></b>	: Ka Long Consultant Engineering Ltd. represented by Mr. Wong Sun Wo William
<b><u>Site</u></b>	: Lot 3866 S.B in D.D. 124, Shun Tat Street, Lam Tei, Tuen Mun, New Territories
<b><u>Site Area</u></b>	: About 416 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/10 (LTYT OZP)
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<b><u>Application</u></b>	: Proposed Temporary 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 proposed temporary shop and services for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “V” on the OZP. According to the Notes for “V” zone on the OZP, ‘Shop and Services’ is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is currently occupied by a temporary structure with an open shed for storage of construction materials and open storage of construction machinery and materials without planning permission (**Plans A-2 and A-4**).
- 1.2 The Site was involved in five previous applications (No. A/DPA/TM-LTYT/101, A/TM-LTYT/125, 130, 165 and 185) for open storage for building materials, temporary heavy vehicle park, temporary dump truck park and ancillary self-service repair workshop, office, store room and toilet and temporary public vehicle park (private cars) (**Plan A-1**). The last application No. A/TM-LTYT/185 for temporary public vehicle park (private cars) for three years covered a larger site area was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 24.7.2009. However, the planning permission was revoked on 14.10.2009 due to non-compliance of time-specific approval conditions on implementation of drainage, landscape, vehicular run-in and fire service installations (FSIs) proposals. Details of the previous applications are summarised at paragraph 5 below and at **Appendix II**.

- 1.3 According to the applicant, the proposed development will be used for real estate agency. The Site is accessible from Shun Tat Street via a strip of Government Land (GL) and private lots (**Plans A-2 and A-3**). The applicant claimed that he has obtained the owner's consent for vehicles passing through the concerned lots. The proposed development comprises two single-storey (3.5m high) temporary structures for real estate agency and toilet with a total floor area of 55m<sup>2</sup>. The operation hours of the proposed shop and services is 8:00 a.m. to 8:00 p.m. daily. Four private car parking spaces will be provided at the Site. The proposed layout plan, site access plan, drainage plan and landscape plan submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans received on 26.5.2020 **(Appendix I)**
  - (b) Further Information (FI) providing responses to departmental comments received on 6.10.2020 **(Appendix Ia)**
  - (c) FI providing responses to departmental comments received on 4.2.2021 **(Appendix Ib)**
  - (d) FI providing responses to departmental comments received on 16.3.2021 **(Appendix Ic)**  
*[(b) to (d) exempted from publication and recounting requirements]*
- 1.5 On 1.9.2020 and 4.12.2020, the Committee agreed to the applicant's request to defer a decision on the application each for two months. Further information was received since the deferments. The application is submitted to the Committee for consideration at this meeting.

## **2. Justifications from the Applicant**

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

There is an economic downturn in Hong Kong. The previous planning permission for 'Public Vehicle Park' was revoked. The applicant wishes to operate a real estate agency at the Site. The real estate agency is a 'Shop and Services' use which is under Column 2 of the zone.

## **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**

The Site was involved in five previous applications (No. A/DPA/TM-LTTY/101, A/TM-LTTY/125, 130, 165 and 185) covered a larger site area for various storage and temporary vehicle park with or without ancillary uses (**Plan A-1**). Since all previous applications are for different uses of the current application, details of the previous applications are not elaborated in this paragraph but summarised at **Appendix II** and their locations are shown on **Plan A-1**.

#### **6. Similar Applications**

6.1 There are 11 similar applications (No. A/TM-LTTY/210, 245, 264, 268, 296, 321, 345, 350, 382, 387 and 408) for temporary shop and services which included the use of real estate agencies within the subject “V” zone on the OZP. The applications were all approved by the Committee/the Board on review. Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

6.2 All these 11 similar applications were approved between 2011 and 2021 on a temporary basis for 3 years on the major considerations that the proposed use was not incompatible with the surrounding areas; would not jeopardise the long-term planning intention of “V” zone; no Small House application at the site; the proposed use was unlikely to cause significant environmental, traffic, drainage and visual impacts to the surrounding areas and no adverse comments were received from relevant government departments. Planning permissions under applications No. A/TM-LTTY/210, 245 and 345 were subsequently revoked due to non-compliance with time-specific approval conditions.

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

7.1 The Site is:

- (a) currently occupied by a temporary structure with an open shed for storage of construction materials and open storage of construction machinery and materials without planning permission (**Plan A-2 and A-4**); and
- (b) accessible from Shun Tat Street via a strip of GL and private lots (**Plan A-2**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to the immediate east is a piece of land for parking of vehicles. To the northeast is a residential structure. To the southeast are open storage of disused vehicles, land for parking of vehicles and a residential structure;
- (b) to the immediate south is a piece of unused land. To the further south across Shun Tat Street are a retail shop for apparel and potted plants under application

No. A/TM-LTYY/368, car service centre, vehicle repair workshop land for various open storage uses, residential dwellings and agricultural land;

- (c) to the immediate west is vacant land and to the further west are land for parking of vehicles and a structure for storage use; and
- (d) to the immediate north is a piece of unused land and land for parking of vehicles. To the further north are agricultural land with some residential structures.

## **8. Planning Intentions**

The planning intention of the “V” zone on the OZP is to reflect existing recognized 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. 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 summarised 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. 3866 S.B in DD. 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. The applicant’s proposal to erect two structures on the Lot for office and toilet uses are not allowed under the lease except with prior written approval obtained.
- (b) The Site is accessible from Shun Tat Street via a strip of GL and private lots. It is entirely at the applicant’s own arrangement regarding the access over the private lots and the Government is not or will not be involved. As for the access over the said strip of GL, his office does not carry out maintenance works for the said GL nor has given any right-of-way over the said land to the Site.
- (c) In the event that planning permission is given by the Board, the lot owner may consider submitting an application to his office for a Short Term Waiver to permit erection of the proposed 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 over GL 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 unauthorized structure erected on the Lot or any encroachment or unauthorized use of GL.

### **Traffic**

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

- (a) 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**

#### **9.1.3 Comments of the Director of Environmental Protection (DEP):**

- (a) Should the application be approved, the applicant shall be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (“CoP”). The applicant is reminded that it is his obligation to meet the statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures.
- (b) There was no environmental complaint pertaining to the Site received in the past 3 years.

### **Landscape**

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

- (a) With reference to the site visit conducted by his office, the Site is hard paved with existing trees observed along the eastern boundary within the Site. The Site is situated in an areas of rural landscape character predominated by open storage yards and temporary structures. Significant change to the landscape character arising from the application is not anticipated.

- (b) In view that the Site is not facing any prominent public frontage, it is considered appropriate to impose an approval condition to maintain all existing trees within the Site in good condition during the planning approval period should the application be approved by the Board.

### **Drainage**

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

- (a) He has no objection in principle to the application from the 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) The applicant should note the detailed comments at **Appendix V**.

### **Fire Safety**

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

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to resubmit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should note the detailed comments at **Appendix V**.

### **Building Matters**

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

- (a) He has no in-principle objection under the Buildings Ordinance to the proposed use on the Site.
- (b) Formal submission under the BO is required for any proposed new works, including any temporary structures.
- (c) The applicant should note the detailed comments at **Appendix V**.

### **Others**

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

- (a) Since the concerned location is within 60m of overhead lines, the applicant should consult CLP Power Hong Long Limited's (CLP's)

advice whether safety steps and measures should be taken (particularly use of crane/lifting works). It will avoid any damages to the overhead lines or influence to the working party.

- (b) The applicant shall carry out the measures detailed 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 local concerned and understand that they would provide their comment (if any) to the Board direct.

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

- (a) Commission for Transport (C for T);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (e) Commissioner of Police (C of P).

**10. Public Comment Received During the Statutory Publication Period**

On 2.6.2020, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual enquiring the brownfield operations in the vicinity of the Site (**Appendix IV**).

**11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services for a period of 3 years. The Site falls within an area zoned "V" on the OZP, which is primarily intended for development of Small Houses by indigenous villagers. Commercial, community and recreational uses may be permitted on application to the Board. Whilst the proposed development is not entirely in line with the planning intentions of the zone, the development could provide real estate services to serve any such demand in the area. According to DLO/TM, there is currently 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 jeopardise the long-term planning intention of the zone.
- 11.2 The Site is mainly surrounded by various brownfield uses, including land for parking of vehicles, vehicle repair workshops, storage, warehouse and various open storage uses, intermixed with residential dwellings and agricultural land and unused land (**Plan A-2**). The proposed development is considered not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or no adverse comment on the application. The proposed use will unlikely create significant adverse traffic, environmental,

drainage and landscape impacts to the surrounding areas. 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 any unauthorised development on the 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 While all the previous applications at the Site are for different uses, the Committee/the Board has approved 11 similar applications for the temporary shop and services use in the subject “V” zone on the OZP. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 There is one public comment received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in the above paragraphs 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 26.3.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the existing tree planting within the Site shall be maintained in good condition at all times during the planning approval period;
- (c) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.9.2021;
- (d) in relation to (c) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.12.2021;
- (e) in relation to (d) above, 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 planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.9.2021;



- (g) in relation to (f) 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 26.12.2021;
- (h) if any of the above planning condition (a), (b) 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; and
- (i) if any of the above planning condition (c), (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.

#### 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 development is not in line with the planning intention of the "V" zone which is primarily 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**

<b>Appendix I</b>	Application Form and plans received on 26.5.2020
<b>Appendix Ia</b>	FI received on 6.10.2020
<b>Appendix Ib</b>	FI received on 4.2.2021
<b>Appendix Ic</b>	FI received on 16.3.2021
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Public Comment Received During the Statutory Publication Period
<b>Appendix V</b>	Advisory Clauses

<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Site Access Plan
<b>Drawing A-2</b>	Proposed Drainage Plan
<b>Drawing A-3</b>	Proposed Landscape Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2021**