

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/TM-LTYT/411

<u>Applicant</u>	: ExxonMobil Hong Kong Limited represented by Jones Lang LaSalle Limited
<u>Site</u>	: 121 Castle Peak Road, Lot 2792 RP (Part) in D.D. 130 and adjoining Government Land, Lam Tei, Tuen Mun, New Territories
<u>Site Area</u>	: About 54.284 m ² (Includes Government Land (GL) of about 17.7 m ² (about 32.6%))
<u>Lease</u>	: 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); and GL under a No-objection Letter of 18.5.1999 (for the purposes of a petrol filling station office)
<u>Plan</u>	: Approved Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTYT/10
<u>Zonings</u>	: “Other Specified Uses” annotated “Petrol Filling Station” (“OU(PFS)”) (33%); and area shown as ‘Road’ (67%)
<u>Application</u>	: Renewal of Planning Approval for Temporary Shop and Services (Retail Shop and Ancillary Storage Use) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval 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**). Although the applied use is neither a Column 1 nor 2 use in the “OU(PFS)” zone, according to the covering Notes of the OZP, temporary use on development of any land of building not exceeding a period of three years require 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 covering Notes of the OZP also states that all uses or developments within areas shown as ‘Road’ require planning permission from the Board. The Site is currently occupied by a convenience store for the applied use with valid planning permission under application No. A/TM-LTYT/353 (**Plan A-2**).

- 1.2 The Site involves two previous applications (No. A/TM-LTYT/267 and 353) for temporary shop and services (retail shop and ancillary storage use) (**Plan A-2**). The last application (No. A/TM-LTYT/353) for the same use as the current application and was approved with conditions for a period of three years by the Rural and New Town Planning Committee (the Committee) of the Board on 6.7.2018. All the time-limited approval conditions under the last application had been complied with and the permission is valid up to 6.7.2021. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.
- 1.3 According to the applicant, the applied use is for the retail of tobacco, drinks, automotive related products, groceries, snacks, confectionery and dairy products, etc. The retail shop will operate 24 hours every day, as long as the petrol filling station is in operation. The layout plan and section plans submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/TM-LTYT/353, which are summarised as follows:

Major Development Parameters	Last Approved Application (No. A/TM-LTYT/353)	Current Application (No. A/TM-LTYT/411)
Applied Use	Temporary Shop and Services (Retail Shop and Ancillary Storage Use) for a Period of 3 Years	
Site Area	About 54.284 m ² (Includes GL of about 17.7 m ²)	
Total Floor Area (non-domestic)	About 54.284 m ²	
No. of Structures	1	
Height of Structure	1 storey, 3.5m	
Uses within structure	Sales room, ancillary storage and ancillary toilet	
No. of Parking Spaces	Nil	
Operation Hours	24 hours daily	

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments and supplementary information (SI) received on 19.3.2021 and 24.3.2021 respectively (**Appendix I**)
 - (b) Further Information (FI) providing updated Certificate of Fire Service Installation and Equipment (FS251) received on 14.4.2021 (**Appendix Ia**)
 - (c) FI in response to departmental comments received on 26.4.2021 (**Appendix Ib**)

- (d) FI in response to departmental comments received on 3.5.2021 (Appendix Ic)
[(b) to (d) 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 the Application Form and SI at **Appendix I**. They can be summarised as follows:

- (a) Planning permission for the same use had been obtained under planning application No. A/TM-LTYT/353. The previous application was approved on 6.7.2018 for a period of 3 years and is valid until 6.7.2021.
- (b) There is no change to the site area under application No. A/TM-LTYT/353, and the permitted built-over-area under the Short Term Tenancy (STT) No. MX14015. The applicant has obtained STT and Temporary Waiver for the applied use.
- (c) The applied use is for the retail of tobacco, drinks, automotive related products, groceries, snacks, confectionery and dairy products, etc. The retail shop will operate 24 hours every day, as long as the petrol filling station is in operation.
- (d) The Site is occupied with a building completed in 1991. There is no change to the building structure. No additional building will be erected. There will be no construction work or additional petrol filling facility involved and would not affect railway operation nearby.

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. For the GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. **Background**

The Site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves two previous applications for the same use as the current application covering the same site. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Applications No. A/TM-LTYT/267 and 353 were approved with conditions each for a period of 3 years by the Committee on 17.1.2014 and 6.7.2018 respectively, mainly on the considerations that the development was not conflict with the planning intention of the “OU(PFS)” zone; 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 the time-limited approval conditions of the last application have been complied with and the planning permission is valid until 6.7.2021.
- 6.3 Compared with the last application (No. A/TM-LTYT/353), the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

7. Similar Application

There is no similar application within the same “OU(PFS)” zone and area shown as ‘Road’ on the OZP.

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

- 8.1 The Site is:
- (a) occupied by a convenience store used for the applied use with valid permission under application No. A/TM-LTYT/353;
 - (b) part of an existing petrol filling station; and
 - (c) accessible from Castle Peak Road – Lam Tei (**Plan A-2**).
- 8.2 The surrounding areas have the following characteristics:
- (a) to the immediate east is Castle Peak Road – Lam Tei. To the 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 is a temporary structure with shop and services use, and storage use and a residential development named *E Lu* (怡廬);
 - (c) to the south are low-rise buildings with eating place and retail 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; to the further west and northwest across the tracks are unused land and a residential development named Lingrade Garden (詠柏苑); and
- (e) to the north is the petrol filling station and an amenity area.

9. Planning Intention

The planning intention of the “OU(PFS)” zone is intended primarily for the provision of petrol filling station.

10. Comments from Relevant Government Departments

- 10.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) The Site concerns an existing petrol filling office building which is erected partly on GL and partly on Lot 2792 R.P in D.D. 130. A temporary waiver was issued to permit a floor area of about 31.8 m² for retail sale and storage ancillary to the retail sale (excluding the toilet) (“the Temporary Waiver”).
- (b) For the portion of the existing building on GL, a STT is issued to permit to use of land and a build over area of about 17.7 m² for use as petrol filling station and retail and ancillary storage purpose (“the STT”).
- (c) The applicant is reminded that in the event that planning permission is not obtained, the Government reserves the right to terminate the Temporary Waiver and STT as may be required. The Government reserves the right to take any actions as may be appropriate if any breach of the lease conditions or STT conditions is identified.

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

As far as railway land administration is concerned, part of the Site is underneath the air space vested to the Kowloon-Canton Railway Corporation in respect of the West Rail. The Site and its usage should not encroach onto or affect such vested air space. In addition, the whole Site falls within the West Rail Protection Boundary.

Traffic

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

Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Railway

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

The Site falls within the protection boundary of the West Rail Line. With reference to the procedure in PNAP APP-24, the applicant should consult MTR Corporation Limited with respect to operation, maintenance, safety and future construction of the existing railway network.

Environment

- 10.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) Given that the applicant will connect to the public sewer available along the Castle Peak Road - Lam Tei Section as far as practicable, he has no further comment on the application. DSD should also be consulted on sewer connection works.
- (b) Should the application be approved, the applicant shall be advised to follow the relevant mitigation measures and requirement 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.
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Landscape

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

- (a) With reference to the aerial photo of 2020, it is noted that the Site is entirely occupied by an existing structure. The Site is situated in an area of urban fringe landscape character predominated by village houses and scattered clusters of trees. Significant change

to the landscape character arising from the continued use of the application is not anticipated.

- (b) Given that the Site is entirely occupied by an existing structure, there is limited space within the Site for landscape treatments. As such, a landscape condition is considered not necessary.

Drainage

- 10.1.7 Comments of the Chief Engineer/Mainland North, DSD (CE/MN, DSD):

On the understanding that there is no change to the layout and proposed use as compared with the last approved application, he has no objection on the proposed renewal application from public drainage viewpoint.

Fire Safety

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

He has no objection in principle to the captioned renewal application subject to the existing fire service installations (FSIs) implemented on the Site being maintained in efficient working order at all times.

Building Matters

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

- (a) There is no in-principle objection under the Building Ordinance (BO) to the renewal of the application.
- (b) The applicant should note his detailed comments at **Appendix V**.

District Officer's Comments

- 10.1.10 Comments of the 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 directly.

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

- (a) Commissioner for Transport (C for T);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Commissioner of Police (C of P);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);

- (e) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (f) Director of Food and Environmental Hygiene (DFEH).

11. Public Comments Received During Statutory Publication Period

On 26.3.2021, the application was published for public inspection. During the statutory public inspection period, three public comments (**Appendix IV**) were received. A member of the Tuen Mun District Council expressed that he has no objection to the application. The Chairman of Tuen Mun North East Area Committee supports the application. One individual objected to the application raising concerns on environmental, fire safety and public order aspects.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning approval for temporary shop and services (retail shop and ancillary storage use) for a period of 3 years at a site partly zoned “OU(PFS)” (about 33%) and partly shown as ‘Road’ (about 67%) on the OZP. The planning intention of the “OU(PFS)” zone is intended primarily for the provision of petrol filling station. Although the applied use is not entirely in line with the planning intention of the “OU(PFS)” zone, 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. In this regard, approval of the application on a temporary basis will not jeopardise the long-term planning intention of the Site.
- 12.2 The Site is occupied by a convenience store which was built in 1991. The Site is mainly 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 applied use is considered not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with the TPB PG-No. 34C in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/TM-LTYT/353 in 2018; all the time-limited approval conditions under the previous application No. A/TM-LTYT/353 had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 There is no adverse comment on the application from concerned government departments, including DEP, DAFC, C for T, CHE/NTW of HyD, D of FS and DEMS. 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**). CES/RD, LandsD and 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. Furthermore, relevant approval conditions are recommended in paragraph 13.2 to address the technical

requirements of concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the relevant environmental mitigation measures in the latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas.

- 12.5 Given that two previous approvals for the same use as the current application have been granted to the Site (**Plan A-1**), approval of the application is in line with the Committee's previous decisions.
- 12.6 There are three public comment received on the application during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in the above paragraphs are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned 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 further period of 3 years.
- 13.2 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, and be renewed from 7.7.2021 until 6.7.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period; and
- (b) if the above planning condition (a) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked be revoked immediately without further notice.

[Approval condition (a) has been updated as per the current proposal.]

Advisory clauses

The recommended advisory clauses are attached at **Appendix V**.

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form with supplementary information received on 19.3.2021 and 24.3.2021 respectively
Appendix Ia	FI received on 14.4.2021
Appendix Ib	FI received on 26.4.2021
Appendix Ic	FI received on 3.5.2021
Appendix II	Relevant extract of TPB PG-No. 34C
Appendix III	Previous Applications covering the Site
Appendix IV	Public Comments
Appendix V	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
MAY 2021**