

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

**APPLICATION NO. A/TM-LTYT/413**

- Applicant** : Sun Cheong Management Consultant Limited
- Site** : Lot 3674 RP in D.D. 124, Sun Fung Wai, Tuen Mun, New Territories
- Site Area** : About 93 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTYT/10
- Zoning** : “Village Type Development” (“V”)  
*[Restricted to a maximum building height of 3 storeys (8.23m)]*
- Application** : 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 temporary shop and services for a period of 3 years (**Plan A-1**). According to the Notes for the “V” zone on the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission (**Plans A-2 and 4**).
- 1.2 The Site was involved in 7 previous applications (No. A/TM-LTYT/126, 135, 179, 192, 243, 296 and 350) for temporary shop and services (real estate agency), sales of vehicles and/or office (**Plan A-1**). The last application (No. A/TM-LTYT/350) for renewal of planning approval for temporary shop and services (real estate agency) was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years on 18.5.2018 with permission valid until 5.6.2021. All of the time-limited approval conditions have been complied with. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with the same layout and development parameters.

- 1.3 The Site is accessible via Castle Peak Road – Hung Shui Kiu (**Plans A-2 and A-3**). According to the applicant, the proposed development will be used for real estate agency. A 2-storey temporary structure with total floor area of about 186 m<sup>2</sup> and height of 6.1m for ancillary office and toilet is proposed. No vehicle is allowed to enter/park at the Site. The operation hours are from 9:00 a.m. to 7:30 p.m. on Mondays to Saturdays with no operation on Sundays and public holidays. The layout plans, pedestrian access plan, fire service installations and drainage proposals submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 28.5.2021 (**Appendix I**)
  - (b) Supplementary Information (SI) received on 1.6.2021 (**Appendix Ia**)
  - (c) Further Information (FI) received on 18.6.2021 (**Appendix Ib**)  
responding to departmental comments  
*(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 **Appendix I**. They can be summarised as follows:

- (a) The proposed development is a temporary use which would not jeopardise the long-term planning intention of the “V” zone. The Site is not subject to any land transaction being proposed by the Land Authority for the conversion into low density residential use.
- (b) The ground floor sitting area is ancillary of the proposed temporary shop and service (real estate agency).
- (c) The nature form and layout of the proposed development are compatible with surrounding environment. It would not affect the character of the indigenous village.
- (d) The applicant has complied with all the approval conditions. No adverse drainage, traffic, environmental and visual impacts.

## **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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Ping Shan Rural Committee by registered mail. 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 7 previous applications (No. A/TM-LTY Y/126, 135, 179, 192, 243, 296 and 350). Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Applications No. A/TM-LTY Y/126, 135, 179 and 192 for temporary sales of vehicles (private cars and light goods vehicles) and office were all approved with conditions each for a period of 3 years by the Committee between 2005 and 2009, mainly on the considerations that the development would not jeopardize the long-term planning intention; not incompatible with surrounding land uses and no adverse comment from concerned government departments. However, the planning permissions under applications No. A/TM-LTY Y/126, 179 and 192 were revoked in 2005, 2009 and 2012 respectively due to non-compliance with time-limited approval conditions.
- 5.3 Application No. A/TM-LTY Y/243 for temporary sales of vehicles (private cars and light goods vehicles) for a period of 3 years was rejected by the Committee in 2013 mainly on the grounds that the approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent.
- 5.4 Applications No. A/TM-LTY Y/296 and its renewal application A/TM-LTY Y/350 for temporary shop and services (real estate agency) each for a period of 3 years were approved with conditions by the Committee in 2015 and 2018 respectively mainly on the considerations that the applied uses would not jeopardize the long-term planning intention; not incompatible with surrounding land uses and no adverse comment from concerned government departments.
- 5.5 Compared with the last application (No. A/TM-LTY Y/350), the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters.

#### 6 **Similar Applications**

- 6.1 There are 10 similar applications (No. A/TM-LTY Y/210, 245, 264, 268, 321, 345, 382, 387, 401 and 408) for temporary shop and services which were intended for the use of real estate agencies within the same “V” zone. The applications were all approved by the Committee. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 All of these 10 similar applications were approved on considerations that the temporary use would not jeopardize the long-term planning intention; the

proposed development was not incompatible with the surrounding land uses; and the use was unlikely to create significant adverse traffic, environmental, drainage and visual impacts on the surrounding areas. Amongst these approved applications, the planning permissions for four applications (No. A/TM-LTYT/210, 245, 345 and 382) were subsequently revoked due to non-compliance with time-limited approval conditions.

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

### **7.1 The Site is:**

- (a) currently used for the applied use without valid planning permission; and
- (b) accessible via Castle Peak Road – Hung Shui Kiu (**Plans A-2 and A-3**).

### **7.2 The surrounding areas have the following characteristics:**

- (a) to the immediate east and northeast are vehicle service and gardening. To the further east are temporary structures for residential dwellings intermixed with vacant land and vehicle parks which are suspected unauthorized developments (UD);
- (b) to the immediate south and southeast are vehicle parks. To the further south are parking of vehicles which is a suspected UD and residential dwellings; and
- (c) to the west is a cycling track and Castle Peak Road – Hung Shui Kiu.

## **8 Planning Intention**

The planning intention of “V” zone is to reflect existing recognised 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 (SHs) 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 and the public comments 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 3674 RP in D.D. 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. A Short Term Waiver No. MR 17001 (“STW”) was issued by his office to permit erection of structures for temporary shop and service (real estate agency) within the Site.
- (b) Site inspection revealed that a structure used for office of real estate agency purpose was found at the Site. The use and dimensions of the structure comply with the terms of STW.
- (c) The Site is accessible via a strip of government land (GL) leading from Castle Peak Road. His office does not carry out maintenance works for the said road nor guarantee that right-of-way will be given to the Site.
- (d) Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorised erection/extension/alteration of the structures concerned or any other breaches of the waiver conditions or the lease conditions should the same be found irrespective of whether planning permission will be given or not.
- (e) His office also reserves the right to take any action against any unauthorised occupation of GL.
- (f) No Small House (SH) application has been approved or under processing at the Site.

### **Traffic**

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

He has no adverse comment on the application. The applicant is reminded that his office may consider to install suitable traffic facilities along cycle track/footpath along Castle Peak Road to prevent illegal parking on footpath when necessary.

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

- (a) According to the submission, there is no vehicular access proposed. If the application is approved, the applicant should note that no vehicular access to the Site is provided.
- (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) In view that the proposed use is not anticipated to have adverse environmental implications, he has no objection to the application.
- (b) The applicant is advised that public sewer is available in the vicinity along the Castle Peak Road for connection.
- (c) 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”).

**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 2020, the Site is completely occupied by an existing temporary structure. The Site is situated in an area of village landscape character predominated by village houses, temporary structures and scattered tree clusters. As the application only involves an existing temporary structure, 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 subject planning application from public drainage viewpoint. The applicant shall submit condition records of the existing drainage facilities on site for compliance checking.

- (b) The applicant should note his detailed comments at **Appendix V**.

### **Fire Safety**

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

He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction. 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):

There is no record of approval by the Building Authority (BA) for the existing structures at the Site. The applicant should note his detailed comments at **Appendix V**.

### **District Officer's Comments**

- 9.1.9 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.

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

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

## **10 Public Comments Received During the Statutory Publication Period**

On 4.6.2021, the application was published for public inspection. During the statutory public inspection period, three public comments (**Appendix IV-1 to IV-3**) were received from the Chairman of the Tuen Mun North East Area Committee (TMNEAC) and two individuals. The Chairman of TMNEAC supported the application. The remaining two objected to the application mainly on the grounds that the proposed development will have adverse fire safety and environmental impacts and also the applicant has not complied with the approval conditions of previous applications.

## **11 Planning Considerations and Assessments**

- 11.1 The application is for temporary shop and services (real estate agency) for a period of 3 years at the Site zoned “V” on the OZP, which is primarily intended for development of SH by indigenous villagers. Whilst the development is not entirely in line with the planning intention of the “V” zone, the development could provide real estate services to serve any such demand in the area. According to the DLO/TM, LandsD, no SH application has been 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 “V” zone.
- 11.2 The Site is at the fringe of a “V” zone of Chung Uk Tsuen abutting Castle Peak Road – Hung Shui Kiu and in an area predominantly occupied by residential dwellings intermixed with shop and services, vehicle service, gardening and parking of vehicles (**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, DSD and CTP/UD&L of PlanD have no objection to or no adverse comment on the application. The applied 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. Should the planning application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the “COP” in order to minimise any potential environmental impact on the surrounding areas.
- 11.4 The Committee has approved two previous applications for the same use and four previous applications for other use at the Site. Compared with the last application (No. A/TM-LTYT/350), the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters. Moreover, 10 similar applications have also been approved by the Committee within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There were three public comments received during the statutory publication period 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 summarised in paragraph 10, 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 **23.7.2024**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:30 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 vehicle is allowed to enter or be parked/stored on the Site at any time during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the approval period;
- (e) the submission of condition record of implemented drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **23.10.2021**;
- (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 **23.1.2022**;
- (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 **23.4.2022**;
- (h) if any of the above planning conditions (a), (b), (c) or (d) 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 conditions (e), (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 attached 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 applied use is not in line with the planning intention of "V" zone which is primarily for development of SHs by indigenous villagers. No strong planning justification has been given 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 received on 28.5.2021
<b>Appendix Ia</b>	SI received on 1.6.2021
<b>Appendix Ib</b>	FI received on 18.6.2021
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Applications
<b>Appendices IV-1 to IV-3</b>	Public Comments
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	G/F Layout Plan
<b>Drawing A-2</b>	1/F Layout Plan
<b>Drawing A-3</b>	Pedestrian Access Plan
<b>Drawing A-4</b>	Fire Service Installations Proposal
<b>Drawing A-5</b>	Drainage Proposal
<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  
JULY 2021**