

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

APPLICATION NO. A/TM-LTYT/419

<u>Applicant</u>	: Mr. LAU Kwong Wah
<u>Site</u>	: Lot 101 RP (Part) in D.D. 130, Ng Lau Road, Lam Tei, Tuen Mun, New Territories
<u>Site Area</u>	: 40 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plans</u>	: Draft Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/11
<u>Zonings</u>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	: Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 5 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 (real estate agency) for a period of 5 years (**Plan A-1**). According to the Notes for “V” zone on the OZP, ‘Shop and Services’ not on ground floor of a New Territories Exempted House (NTEH) is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use with valid planning permission under application No. A/TM-LTYT/323 (**Plans A-1 and A-4**).
- 1.2 The Site involves one previous application (No. A/TM-LTYT/323) for temporary shop and services (real estate agency) (**Plan A-1**) which was approved with conditions for a period of 5 years by the Rural and New Town Planning Committee (the Committee) of the Board on 23.12.2016. All the time-limited approval conditions under the last application have been complied with and the permission is valid until 23.12.2021.
- 1.3 The Site is accessible from Ng Lau Road (**Plans A-2 and A-3**). According to the applicant, the proposed development involves a one-storey temporary structure (not exceeding 4m high) with a total floor area of 40 m² for a real estate agency. No vehicle

could enter/park at the Site. The site plan and proposed layout plan submitted by the applicant are at **Drawings A-1 to A-2** respectively.

- 1.4 Compared with the last application, the proposal and development parameters of the current application are the same, as shown in the table below:

Major Development Parameters	Last Approved Application (A/TM-LTYT/323)	Current Application (A/TM-LTYT/419)
Applied Use	Temporary Shop and Services (Real Estate Agency) for a Period of 5 Years	
Site Area	40 m ²	
Total Floor Area (non-domestic)	40 m ²	
No. of Structures	1	
Height of Structure	1 storey (4m)	
No. Parking Spaces	Nil	
Operation Hours	10:00 a.m. to 8:00 p.m. daily (including public holidays)	

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

- (a) Application Form and attachments received on 30.8.2021 **(Appendix I)**
- (b) Further Information (FI) received on 13.9.2021 providing updated Certificate of Fire Service Installation (FSI) and Equipment (FS251) and FSIs proposal **(Appendix Ia)**
- (c) FI received on 29.9.2021 providing responses to departmental comments **(Appendix Ib)**
((b) and (c) are 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 **Appendices I to Ib**. They can be summarised as follows:

The Site is the subject of previous planning permission and has been occupied for real estate agency use since 2016. All approval conditions imposed to the last planning permission had been complied with. The operation hours are from 10:00 a.m. to 8:00 p.m. daily, including public holidays. No significant traffic impact is anticipated.

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 Tuen Mun Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

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. 34D) 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 Application

- 6.1 The Site involves one previous planning application (No. A/TM-LTYT/323) at the same site. Details of the previous application is summarised at **Appendix III** and its location is shown on **Plan A-1**.
- 6.2 Application No. A/TM-LTYT/323 for temporary shop and services (real estate agency) was approved with conditions for a period of 5 years by the Committee in 2016 mainly on the considerations that the applied use would not jeopardise the long-term planning intention, not incompatible with surrounding land uses and no adverse comment from concerned government departments. All the time-limited approval conditions have been complied with and the permission is valid until 23.12.2021.
- 6.3 Compared with the last application No. A/TM-LTYT/323, 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 Applications

There are two similar applications (No. A/TM-LTYT/246 and 276) for temporary shop and services for real estate agency within the same “V” zone. The applications were approved by the Committee in 2013 and 2014 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. However, the planning permission for application No. A/TM-LTYT/246 was subsequently revoked due to non-compliance with approval condition. Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently occupied by the applied use with a valid planning permission (**Plans A-2 and A-4**); and
- (b) accessible from Ng Lau Road (**Plan A-2**).

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

- (a) to the immediate east, south and west are land for parking of vehicles, which are suspected unauthorised developments (UDs). To the further northeast are land for parking of vehicles which is a suspected UD, residential dwellings, a shrine, temporary structures for a gardening company, office and storage uses;
- (b) to the southeast across the nullah are residential dwellings, a pond, orchard, fallow agricultural land and vacant land;
- (c) to the southwest are residential dwellings intermixed with land for parking of vehicles, car park and vacant land; and
- (d) to the north and northwest across Ng Lau Road are residential dwellings, Fa Pao Association and temporary structure for workshops, warehouse and storage uses and a store.

9. 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 (SH) 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

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 lot is held under the Block Government Lease (demised for agricultural use). Erection of structures on the lot is not allowed under the lease unless written consent of his office has been obtained.
- (b) The existing structure at the Site is not a NTEH. There is no Small House application within the Site and its close vicinity.
- (c) According to his site inspection, there are a retractable canopy projecting over the adjoining Government land (GL) and hard paving extending from the site to the adjoining GL. His office reserves the rights to take enforcement action against unlawful occupation of GL.
- (d) If planning approval is given, the owner(s) of the lot will need to apply to his office for Short Term Waiver (STW) for erection of the structures on the lot. The STW proposal will only be considered by his office upon receipt of formal application from the owner(s) of the lot. There is no guarantee that the application will be approved and he reserves his comment on such. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, deposit and administrative fees, etc..

Environment

10.1.2 Comments of the Director of Environmental Protection (DEP):

- (a) The proposed temporary office within a “V” zone is not anticipated to have adverse environmental implications and he has no objection to the application.
- (b) The applicant is advised that public sewer is available at the vicinity of the subject Site. DSD should be consulted on sewer connection works.
- (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”).
- (d) There was no substantiated environmental complaint concerning the Site received by DEP in the past 4 years.

Landscape

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

With reference to the aerial photo of 2020, it is completely occupied by existing temporary structure. No significant landscape resources within the Site is observed. The Site is situated in an area of village/miscellaneous rural fringe landscape character predominated by small houses and tree groups with

some open storage yards in the vicinity. Significant change to the landscape character arising from the development is not anticipated.

Fire Safety

10.1.4 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 FSIs implemented on the Site being maintained in efficient working order at all times.

Building Matters

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

(a) There is no record of approval by the Building Authority for the structures existing at the site and BD is not in a position to offer comments on their suitability for the use related to the application.

(b) The applicant should note the detailed comments at **Appendix VI**.

District Officer's Comments

10.1.6 Comments of District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

He has distributed consultation letters to the locals concerned and understand that they would provide their comments (if any) to the Board direct.

10.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Commissioner for Transport (C for T);
- (c) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) Chief Engineer/Mainland North, DSD (CE/MN, DSD);
- (f) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (g) Director of Electrical and Mechanical Services (DEMS); and
- (h) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 7.9.2021, the application was published for public inspection. During the statutory public inspection period, one public comment (**Appendix V**) was received. The individual expressed concern on whether approval conditions of the previous application (No. A/TM-LTTY/323) had been complied with.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning approval for temporary shop and services (real estate agency) for a period of 5 years. Whilst the applied use is not entirely in line with the planning intention of the “V” zone which is primarily for development of SH by indigenous villagers, it could provide shop and services to serve any such demand in the area. According to DLO/TM, LandsD, no SH application has been approved or under processing at the Site. Approval of the application on a temporary basis will not frustrate the long-term planning intention of the “V” zone.
- 12.2 The Site is located along Ng Lau Road and mainly surrounded by residential dwellings and parking of vehicles (**Plan A-2**). The proposed development is considered not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with the TPB PG-No. 34D in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/TM-LTTY/323, the applicant has complied with all the approval conditions, and the 5-year approval period sought is of the same time frame as the previous approval.
- 12.4 Relevant Government departments, including C for T, DEP, CE/MN, DSD, CTP/UD&L, PlanD and D of FS have no objection to or no adverse comments on the application. The proposed use will unlikely create significant adverse traffic, environmental, drainage, landscape and fire safety impacts on 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 13.2 below. 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.
- 12.5 The Committee has approved one previous application for the same use at the Site and two similar applications within the same “V” zone (**Plan A-1**). Approval of the application is in line with the Committee’s previous decisions.
- 12.6 There was one public comment received expressing concern to the application during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in the paragraphs 12.1 to 12.5 are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 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 5 years, and be renewed from 24.12.2021 until 23.12.2026. 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 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to be parked or enter the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) 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
- (d) if any of the above planning conditions (a), (b) or (c) 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.

[Approval condition (a) is the same as the condition under application No. A/TM-LTTY/323; condition (b) has been updated as per the current proposal; condition (c) has been updated to accord with the latest departmental comments and the reinstatement clause is deleted.]

Advisory Clauses

The recommended advisory clauses are at **Appendix VI**.

- 13.3 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 SH 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.

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 Attachments received on 30.8.2021
Appendix Ia	FI received on 13.9.2021
Appendix Ib	FI received on 29.9.2021
Appendix II	Relevant extract of TPB PG-No. 34D
Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Public Comment
Appendix VI	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2021**