

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

APPLICATION NO. A/TM-LTYT/424

- Applicant** : Mr. Muhammad Yasir Urfat represented by Metro Planning and Development Company Limited
- Site** : Lots 3839 RP (Part) and 3840 RP (Part) in D.D. 124, Shun Tat Street, Tuen Mun, New Territories
- Site Area** : About 800 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/11
- Zoning** : “Residential (Group D)” (“R(D)”)
[restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
- Application** : Renewal of Planning Approval for Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary shop and services for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes for the “R(D)” 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 planning 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/368 (**Plans A-2, A-4a and 4b**).
- 1.2 The Site involves two previous applications (No. A/TM-LTYT/317 and 368) (**Plan A-1**) for the same use as the current application. The last application (No. A/TM-LTYT/368) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 17.5.2019. All the time-limited approval conditions under the planning permission had been complied with and the planning permission is valid until 17.5.2022. 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 site layout and development parameters.

- 1.3 The Site is abutting and accessible from Shun Tat Street (**Plan A-2**). According to the applicant, the proposal is for retail shops for apparel and potted plants. The proposed layout plan, proposed landscape plan, as-built drainage plan and fire service installations (FSIs) plan are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/TM-LTTY/368, which are summarised as follows:

Major Development Parameters	Last Approved Application (A/TM-LTTY/368)	Current Application (A/TM-LTTY/424)
Applied Use	Temporary Shop and Services for a Period of 3 Years	
Site Area	About 800 m ²	
Total Floor Area	Not more than 348 m ²	
No. of structures	4 structures (2 structures for retail shops; 1 pump room for fire services; and 1 water tank for fire services)	
Height of structures	1 storey (not exceeding 7.5m)	
Loading/unloading bays	2 (7m x 3.5m) (for private cars/light goods vehicles)	
Operation Hours	9 a.m. to 8 p.m. daily (including public holidays)	

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on 14.2.2022 (**Appendix I**)
 - (b) Further Information (FI) received on 28.2.2022 (**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 at **Appendix I**. They can be summarised as follows:

- (a) The proposed use is a shop and services use which would benefit the residents in the vicinity.
- (b) The nature and form of use is not incompatible with the surrounding environment and is a complementary use to the adjacent houses.

- (c) The proposed use is static in nature and would not generate adverse impact to the surrounding environment. No adverse traffic impact is foreseen and the drainage and environmental impacts are minimal.
- (d) The Site is subject to two previous planning permissions No. A/TM-LTYT/317 and 368 which were both approved for the same use.
- (e) The applicant has complied with all approval conditions in the last approved application No. A/TM-LTYT/368.
- (f) The Board has approved similar application (No. A/TM-LTYT/416) in the same “R(D)” zone in the proximity to 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 by posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on 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 the application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves two previous applications (No. A/TM-LTYT/317 and 368) for the same use as the current application. 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/317 and 368 both for temporary shop and services for a period of 3 years were approved with conditions by the Committee on 28.10.2016 and 17.5.2019 respectively. The major considerations were that the proposed use would not jeopardize the long-term planning intention of the “R(D)” zone, not incompatible with the surrounding uses and no adverse comment from relevant government departments.

However, the planning permission of application No. A/TM-LTY/317 was revoked on 28.3.2019 due to non-compliance with the implementation of the FSI's proposal. For application No. A/TM-LTY/368, all the time-limited approval conditions had been complied with and the permission is valid until 17.5.2022.

- 6.3 Compared with the last application (No. A/TM-LTY/368), the current application is submitted by the same applicant for the same use at the same site with the same layout and development parameters.

7. Similar Application

There is one similar application (No. A/TM-LTY/416) for proposed temporary shop and services for a period of 3 years within the same "R(D)" zone. The application was approved by the Committee on 24.9.2021 on similar considerations as those mentioned in paragraph 6.2 above. Details of the application are at **Appendix IV** and the location is shown on **Plan A-1**.

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

- 8.1 The Site is:

- (a) currently occupied by the applied use with valid planning permission;
- (b) abutting and accessible from Shun Tat Street (**Plan A-2**); and
- (c) paved and fenced off (**Plans A-4a and 4b**).

- 8.2 The surrounding areas have the following characteristics:

- (a) to the east are parking of vehicles and storage of recycling materials, warehouse which are suspected unauthorised developments (UDs), open storage of vehicles, a vehicle repair workshop, structure for storage use and residential dwellings;
- (b) to the immediate south and southwest are fallow/cultivated agricultural land and residential dwellings, and to the further south and southwest are orchard, some vacant land and residential dwellings;
- (c) to the west is an open storage yard for containers; and
- (d) to the immediate north is Shun Tat Street, and to the further north across Shun Tat Street are land for storage and parking of vehicles and container vehicles uses, which are suspected UD's, and some vacant land.

9. Planning Intention

The planning intention of the “R(D)” zone is intended primarily for improvement and upgrading temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from 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 Site falls within the Lots No. 3839 RP and 3840 RP (Part) in D.D. 124 (“the Lots”). The Lots are Old Schedule Agricultural Lots 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.
- (b) A Short Term Waiver No. MR. 17003 (“STW”) is granted by her Office to permit erection of structures for temporary shop and services (retail shop for pet food and potted plants) on Lot No. 3839 RP in D.D. 124. As revealed from the subject application, both the Built Over Area (“B.O.A.”) and the user of the existing structure do not tally with those approved under the STW. If planning permission is given by the Board, the lot owner is required to apply to her Office for the revision of the B.O.A. and user of the STW. However, there is no guarantee that the application will be approved. 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 fee, etc.
- (c) The Site is accessible via a strip of government land (GL) leading from Shun Tat Street. Her Office is not responsible for the maintenance of the said road nor guarantee that right-of-way will be given to the Site.

- (d) Notwithstanding the above, her Office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations of the structures within the Lots at any time irrespective of whether planning permission will be given or not. Enforcement action will also be taken should any structure is found erected without prior approval given by her Office or in case of any unauthorised occupation of GL.

Traffic

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

- (a) The proposed access from the Site to Shun Tat Street is not and will not be maintained by HyD.
- (b) The applicant should note the detailed comments at **Appendix V**.

Environment

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

- (a) In view that the proposed use will not involve heavy vehicles and dusty activities, she has no objection to the application.
- (b) According to her record, there is no complaint case related to the Site in the past three years.
- (c) The applicant should note the detailed comments at **Appendix V**.

Nature Conservation

10.1.4 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) He has no specific comment on the application from the nature conservation perspective.
- (b) However, there are some trees on GL adjacent to the Site. The applicant should implement good site practice to avoid impacts to the trees. Should tree felling on GL be unavoidable, prior approval from the LandsD should be obtained.

Landscape

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

- (a) With reference to the aerial photo of 2021, it is observed that the Site is situated in an area of miscellaneous rural fringe landscape character predominated by village houses, open storage, tree groups and a highway located at the east of the Site. The Site is currently occupied by a few temporary structures and some existing trees were observed mainly at the eastern and northern boundary of the Site.
- (b) According to the Proposed Landscape & Tree Preservation Plan (**Drawing A-2**) provided by the applicant, there is no change to the current layout and existing trees will be preserved. Noting the application is a renewal of planning approval for the same use, hence, she has no comment on the application from the landscape planning perspective.
- (c) The applicant should note the detailed comments at **Appendix V**.

Fire Safety

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

The submitted FSIs are considered acceptable. He has no objection in principle to the proposal subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Long-term Development

10.1.7 Comments of the Project Team Leader/Housing, Civil Engineering and Development Department (PTL/Housing, CEDD):

An engineering feasibility study (EFS) for site formation and infrastructure works for the proposed public housing development at Lam Tei North, Tuen Mun is being carried out. The Site encroaches onto the boundary of the proposed public housing development under the EFS. Should the application be approved by the Board, an advisory clause should be stipulated to remind the applicant that the Site might be subject to land resumption for the implementation of the proposed public housing development which might take place at any time before the expiry of the temporary planning permission and thus the applicant shall be advised not to carry out any substantial works in view of the proposed public housing development.

Building Matters

10.1.8 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 V**.

District Officer's Comments

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

She has distributed consultation letters to the locals concerned and understand that they would provide their comments (if any) to the Board direct. She has no specific comments.

10.2 The following departments have no comment on the application:

- (a) Commissioner for Transport (C for T);
- (b) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (c) Project Manager (West), CEDD;
- (d) Commissioner of Police (C of P);
- (e) Director of Electrical and Mechanical Services (DEMS); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comment Received During the Statutory Publication Period

On 25.2.2022, the application was published for inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning approval for temporary shop and services for a period of 3 years at the Site zoned "R(D)" on the OZP. The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Although the applied use is not entirely in line with the planning intention of the "R(D)" zone, the proposed

shop and services could meet any such demand in the area. As advised by PTL/Housing, CEDD, the Site has encroached onto the boundary of the proposed public housing development at Lam Tei North, Tuen Mun under the EFS. While PTL/Housing, CEDD has no adverse comment on the application for renewal of the planning approval on a temporary basis for 3 years, the applicant would be advised that the Site might be subject to land resumption for the implementation of the proposed public housing development which might take place at any time before the expiry of the temporary approval (**Appendix V**). Approval of the application on a temporary basis for a period of 3 years would not jeopardize the long-term development of the area.

- 12.2 The Site is surrounded by vehicle parks, fallow/cultivated agricultural land, residential dwellings and open storage yard (**Plan A-2**). The applied use is considered not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with TPB PG-No. 34D in that there is no material change in planning circumstances since the last approval was granted; approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the last application No. A/TM-LTYT/368 had been complied with; and the 3-year approval period sought is reasonable and of the same time frame as the previous approval.
- 12.4 Relevant government departments, including C for T, CHE/NTW of HyD, CE/MN of DSD, DEP, D of FS and CTP/UD&L of PlanD, have no objection to or adverse comment on the application. The applied use will unlikely create significant adverse traffic, drainage, environmental, fire safety and landscape impacts on the surrounding areas. There has been no environmental complaint concerning the Site received in the past 3 years. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. 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 latest “COP” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 12.5 The Committee had approved 2 previous applications for the same use at the Site. Moreover, one similar application within the same “R(D)” zone was also approved by the Committee. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 There is no public comment received during the publication period.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12, 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 3 years, and be renewed from **18.5.2022** to **17.5.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing fencing of the site shall be maintained at all times during the planning approval period;
- (b) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (c) the existing fire service installations implemented on the Site should 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 conditions (a) and (b) are the same as those under the permission for application No. A/TM-LTYT/368; while condition (c) has been updated and restriction on operation hours and landscape conditions have been removed as per relevant government departments' latest requirements.]

Advisory clauses

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

- 13.3 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 planning intention of the "R(D)" zone which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings for low-rise, low-density residential development. There is no strong planning justification 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 received on 14.2.2022
Appendix Ia	FI received on 28.2.2022
Appendix II	Relevant extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use of Development (TPB-PG No. 34D)
Appendix III	Previous Applications
Appendix IV	Similar Application
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape and Tree Preservation Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	Fire Service Installations Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**