

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYYY/430

<u>Applicant</u>	: Chain Win Properties Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 1038 S.B(Part) in D.D. 130 and Adjoining Government Land, Fuk Hang Tsuen, Tuen Mun, New Territories
<u>Site Area</u>	: About 884 m ² (including about 302 m ² Government Land (GL))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYYY/11
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) <i>[restricted to a maximum plot ratio (PR) of 0.2 and a maximum building height (BH) of 2 storeys (6m)]</i>
<u>Application</u>	: Temporary Shop and Services with Ancillary Office for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services with ancillary office for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes for “R(D)” 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 as a warehouse of construction materials with office without valid planning permission (**Plan A-4**).
- 1.2 According to the applicant, the applied use is for the retail of metalware to serve the local demand. No medium or heavy goods vehicles, including container tractor/trailer, will be allowed to enter/exit the Site. The layout plan, drainage proposal and fire services installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The Site is involved in a previous application (No. A/TM-LTYYY/395) for the applied use (**Plan A-1**) (details at paragraph 5 below). The major development parameters of the previously approved application and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/TM-LTYT/395 (a)	Current Application No. A/TM-LTYT/430 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services with Ancillary Office for a Period of Three Years		---
Site Area	about 714 m ² (including about 128 m ² GL)	About 884 m ² (including about 302 m ² GL)	+170m ²
Total Non-domestic Floor Area	about 804 m ²		---
No. and Height of Structures	2 for shop and services, ancillary office, store room, storage of goods and rain shelter (about 8-11m, 1-2storeys)		---
No. of Parking Spaces and Loading/Un-loading (L/UL) Spaces	2 L/UL spaces for light goods vehicle (3.5m x 7m)		---
Operation hours	10:00 a.m. to 5:00 p.m. Mondays to Saturdays, excluding Sundays and public holidays	9:00 a.m. to 6:00 p.m. Mondays to Saturdays, excluding Sundays and public holidays	+2 hours

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

- (a) Application form and attachments received on 17.6.2022 **(Appendix I)**
- (b) Further Information (FI) received on 29.8.2022 **(Appendix Ia)**
- (c) FI received on 5.9.2022 **(Appendix Ib)**

((b) and (c) accepted and exempted from publication and recounting requirements)

1.5 Consideration of the application has been deferred once for two months by the Rural and New Town Planning Committee (the Committee) on 12.8.2022 as requested by the applicant.

2. Justifications from the Applicant

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

- (a) Approval of the application on a temporary basis for a period of three years would not jeopardise the long-term planning intention of the “R(D)” zone.

- (b) The applicant will strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”) and “Professional Persons Environmental Consultative Committee Practice Notes” (“ProPECCPNs”) issued by the Environmental Protection Department (EPD) to minimise adverse environmental impacts and nuisance to the surrounding areas.
- (c) The applied use will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas.

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 posting site notice and sending the notice to the Tuen Mun Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Application

- 5.1 The Site is involved in a previous application (No. A/TM-LTY Y/395) for the same use as the current application with a smaller site area, which was approved with conditions by the Committee of the Board for a period of three years in 2020 mainly on the considerations that approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “R(D)” zone; the proposal was not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permission was revoked in 2022 due to non-compliance with time-limited approval conditions on the submission and implementation of FSIs proposal and the implementation of run-in/out and drainage proposals. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.
- 5.2 Compared with the last application, the current application is submitted by the same applicant for the same use at the site with a larger site area and changes in operation hours.

6. Similar Application

There is one similar application (No. A/TM-LTY Y/396) for the temporary shop and services with ancillary storage area and office in the past five years. It was approved with conditions by the Committee in 2020 on similar grounds as stated in paragraph 5.1 above. Details of

the similar application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) abutting Fuk Hang Tsuen Road to its south (**Plan A-2**); and
- (b) currently used as a warehouse of construction materials with office without valid planning permission.

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

- (a) to its north are mainly residential dwellings intermixed with agricultural land, unused land and some brownfield operations which are suspected unauthorised developments (UDs);
- (b) to its immediate east and south are storage of construction materials and storage uses;
- (c) to its further south across Fuk Hang Tsuen Road is a site mainly covered by planning application No. A/TM-LTTY/249 for comprehensive development (flat, house, village office and public open space), which is currently used for parking of vehicles and Agricultural Fa Pao Committee, which are suspected UD; and
- (d) to its immediate west is storage use, which is a suspected UD. To the further west are scattered residential dwellings, warehouses and car trading and car service uses which are suspected UD.

8. Planning Intention

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.

9. Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices III and IV** respectively.

10. Public Comment Received During the Statutory Publication Period

On 24.6.2022, the application was published for public inspection. During the statutory public inspection period, one comment from an individual was received opining that the

impact on community health and safety should be examined as approval conditions of the previous planning permission have not been fulfilled (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services with ancillary office for a period of three years at the Site zoned “R(D)” on the OZP. 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 proposal could meet any such demand for shop and services in the area. As there is no known development proposal at the Site, approval of the application on a temporary basis of three years would not jeopardise the long-term planning intention of the area.
- 11.2 The applied use is generally not incompatible with the surrounding uses, which comprise predominantly residential dwellings intermixed with brownfield operations (**Plan A-2**).
- 11.3 There is no adverse comment from concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services. Adverse traffic, environmental, drainage and fire safety impacts on the surrounding area are not envisaged. Relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of concerned government departments.
- 11.4 The last application (No. A/TM-LTYT/395) for the same use as the current application was approved with conditions for a period of three years by the Committee on 20.3.2020. However, the planning permission was revoked on 20.6.2022 due to non-compliance with time-limited approval conditions on the submission and implementation of FSIs proposal and the implementation of run-in/out and drainage proposals. The current application is submitted by the same applicant for the same use at the site with a larger site area and changes in operation hours. Nevertheless, the applicant has submitted drainage, FSIs and run-in/out proposals for the current application, which CE/MN of DSD, D of FS and C for T have no objection to the application. As such, sympathetic consideration may be given to the current application. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further application.
- 11.5 The Committee has approved a previous application and a similar application for temporary shop and services use within the same “R(D)” zone (**Plan A-1**). Approval of the current application is generally in line with the Committee’s previous decisions.
- 11.6 One public comment providing view was received during the statutory publication period as summarised in paragraph 10. The planning considerations and assessments in the paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment 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 three years until 28.10.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.4.2023;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.7.2023;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.4.2023;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.7.2023;
- (f) if the above planning condition (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; and
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 IV**.

- 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 "Residential (Group 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. There is no strong planning

justification in the submission for a departure from such 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

Appendix I	Application Form with Attachments received on 17.6.2022
Appendix Ia	FI received on 29.8.2022
Appendix Ib	FI received on 5.9.2022
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Layout Plan
Drawing A-2	Drainage Proposal
Drawing A-3	FSIs Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2022**