

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/436

<u>Applicant</u>	: Mr Wong Kwong Ching Philip
<u>Site</u>	: Lots 804 S.B RP, 804 S.B ss.3 S.B (Part), 804 S.B ss.3 RP (Part) and 804 S.B ss. 5 in D.D. 130, 83 Lam Tei Main Street, Lam Tei, Tuen Mun, New Territories
<u>Site Area</u>	: About 270 m ²
<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-LTYT/11
<u>Zonings</u>	: (i) "Village Type Development" ("V") (about 96.3%); and <i>[Restricted to a maximum building height (BH) of 3 storeys (8.23m)]</i> (ii) "Comprehensive Development Area" ("CDA") (about 3.7%) <i>[Restricted to a maximum plot ratio of 2.0 and a maximum BH of 15 storeys excluding car park (45m)]</i>
<u>Application</u>	: Temporary Shop and Services and School (Tutorial School) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services and school (tutorial school) for a period of 5 years at the application site (the Site) (**Plan A-1**). The Site mainly falls within an area zoned "V" (about 96.3%) with a minor portion encroaching onto an area zoned "CDA" (about 3.7%). According to the Notes for "V" zone on the OZP, 'Shop and Services' not on the ground floor of a New Territories Exempted House (NTEH) and 'School' are Column 2 uses, whilst 'Shop and Services' and 'School' within the "CDA" zone are Column 2 uses which require planning permission from the Town Planning Board (the Board). The applied uses are not located within a NTEH. The Site is currently used for the applied uses without a valid planning permission (**Plans A-4a and 4b**).
- 1.2 The Site is abutting and accessible via Lam Tei Main Street (**Plan A-2**). According to the applicant, the proposal is for the provision of shops and services and school (tutorial school). The layout plan, as-built drainage plan and as-built fire service

installations (FSIs) plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.3 The Site is involved in one previous application (No. A/TM-LTYT/339) for temporary shop and services for a period of 5 years (**Plan A-1**) (details at paragraph 5 below).
- 1.4 The major development parameters of the previously approved application No. A/TM-LTYT/339 and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/TM-LTYT/339 (a)	Current Application No. A/TM-LTYT/436 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services (Retail Shop) for a Period of 5 Years	Temporary Shop and Services and School (Tutorial School) for a Period of 5 Years	Addition of School (Tutorial School) use
Site Area	About 270 m ²		---
Total Non-domestic Floor Area	275 m ²		---
No. and Height of Structures	5 structures of 1 to 2 storeys (2.5m to 5m) for shop and services and entrance	5 structures of 1 to 2 storeys (2.5m to 5m) for shop and services, school (tutorial school) and entrance	Addition of School (Tutorial School) use
No. of Parking Spaces and Loading/Un-loading Spaces	Nil		---
Operation hours	8:00 a.m. to 10:00 p.m. daily		---

- 1.5 In support of the application, the applicant has submitted an application form with attachments on 17.8.2022 (**Appendix I**).

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:

The current application is generally the same with the previously approved application No. A/TM-LTYT/339 except that the 2/F of Shop 2 is used for a tutorial school. The proposal meets the demand on shop and services and tutorial school in the area. The operation hours of the proposal is from 8:00 am to 10:00 pm daily.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is one of the “current land owners”. In respect of the other “current land owner(s)”, the applicant 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 obtaining consents from the other current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The shop and services and school (tutorial school) on the Site would be subject to planning enforcement action.

5. Previous Application

The Site is involved in a previous application (No. A/TM-LTYT/339) for temporary shop and services use which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 5 years in 2017 mainly on the considerations that approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “V” zone; the proposal was not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. All the time-limited approval conditions had been complied with and the planning permission lapsed on 12.8.2022. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.

6. Similar Applications

There are three similar applications (No. A/TM-LTYT/328, 366 and 407) for temporary shop and services use in the subject “V” zone in the last 5 years. All were approved by the Committee between 2017 and 2020 on similar grounds as stated in paragraph 5 above. However, the planning permission for application No. A/TM-LTYT/328 was subsequently revoked due to non-compliance with approval conditions. Details of the similar applications are summarised at **Appendix II** and the locations of the sites are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) abutting and accessible via Lam Tei Main Street, which is a one-way street (**Plan A-2**); and
- (b) currently used for the applied uses without a valid planning permission.

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

- (a) Lam Tei Main Street is predominantly occupied by local stores and restaurants on both sides, some of which are in temporary structures;
- (b) to the immediate north, northeast and east are residential dwellings and a comprehensive development namely The Sherwood;

- (c) to the south and southeast across Lam Tei Main Street are some storages, a Tsz Tong, some village-type houses and a residential development namely Botania Villa; and
- (d) to the southwest, west and northwest are village-type houses, local stores and vacant land.

8. Planning Intention

Majority of the Site (96.3%) falls within the “V” zone. The planning intention of “V” zone is to reflect existing recognized 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 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.

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 Comments Received During the Statutory Publication Period

On 26.8.2022, the application was published for public inspection. During the statutory public inspection period, two objecting comments (**Appendices V-1 and V-2**) were received from the village representative of Lam Tei Tsuen (**Appendices V-1**) and an individual mainly on the grounds that the applied uses would have adverse impacts on traffic, fire safety and drainage aspects to the surrounding area.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services and school (tutorial school) for a period of 5 years at the Site mainly zoned “V” (about 96.3%) with minor encroachment onto an area zoned “CDA” (about 3.7%) on the OZP. Although the applied uses are not entirely in line with the planning intention of the “V” zone, which is primarily for development of Small Houses by indigenous villagers, the proposal could meet any such demand for shop and services and school (tutorial school) in the area. As there is no Small House application approved/under processing at the Site, approval of the application on a temporary basis of 5 years would not jeopardize the long-term planning intention of the area.
- 11.2 The Site is situated on Lam Tei Main Street, which is predominantly occupied by shops and restaurants on both sides (**Plan A-2**). The applied uses are considered not incompatible with the surrounding land uses.

- 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 to the surrounding area are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of concerned government departments.
- 11.4 In addition to one previous planning approval at the Site for temporary shop and services, there are three similar approvals for such uses within the same “V” zone on the OZP (**Plan A-1**). Approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 Two public comments objecting to the application were received during the statutory publication period as summarised in paragraph 10. The planning considerations and assessments in the above paragraphs 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 5 years until 14.10.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the existing drainage facilities on the Site should be maintained at all times during the planning approval period;
- (b) the implementation of the accepted 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 14.7.2023;
- (c) if the above planning conditions (a) 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
- (d) if the above planning condition (b) 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 development is not in line with the planning intention of the “Village Type Development” zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. 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 17.8.2022
Appendix II	Previous and Similar Applications
Appendix III	Government Departments’ General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-2	Public Comments Received During the Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	As-built Drainage Plan
Drawing A-3	As-built 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
OCTOBER 2022**