

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

APPLICATION NO. A/TM-LTYT/437

<u>Applicant</u>	: Tang Kam Chai represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lot 2995 RP (Part) in D.D. 124 and Adjoining Government Land (GL), Chung Uk Tsuen, Tuen Mun, New Territories
<u>Site Area</u>	: About 186m ² (including GL of about 100m 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>Zoning</u>	: “Village Type Development” (“V”) [Restricted to a maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary shop and services (real estate agency) for a period of 3 years at the application site (the Site) (**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 being occupied by the applied use with valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, there is no change to the layout comparing to the previously approved application (No. A/TM-LTYT/387). No vehicular ingress/egress is proposed. The operation hours are between 9:00 a.m. to 8:00 p.m. daily (including Sundays and public holidays). The proposed layout plan, as-planted landscape and tree preservation plan, as-built drainage plan and fire service installation layout plan are at **Drawings A-1 to A-4** respectively.
- 1.3 The Site is involved in three previous applications (details at paragraph 6 below).

- 1.4 The major development parameters of the current application are the same as the approved application (No. A/TM-LTYT/387) and are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/TM-LTYT/387	Current Application No. A/TM-LTYT/437
Site area	About 186m ² (including GL of about 100m ²)	
Maximum floor area	74.4m ²	
No. of structure	1	
Maximum Height of structure	2 storeys and not exceeding 5.3m	
No. of Parking Space and Loading/Unloading Space	Nil	
Operation hours	9:00 a.m. to 8:00 p.m. daily (including Sundays and public holidays)	

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

- (a) Application Form and Attachments received on 19.8.2022 (Appendix I)
- (b) Further Information (FI) received on 26.8.2022 (Appendix Ia)
- (c) FI received on 29.9.2022 (Appendix Ib)
((b) and (c) accepted and 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 in the application form at **Appendix I**. They can be summarised as follows:

- (a) All approval conditions for the last planning permission under application No. A/TM-LTYT/387 had been complied with.
- (b) ‘Shop and Services’ is a Column 2 use under “V” zone. The applied use is static in nature and would not generate adverse impact to the surrounding areas. It is considered that the applied use is not incompatible with the surrounding areas.
- (c) The proposal is beneficial to the residents nearby.
- (d) Similar applications for temporary shops and services has been approved in the proximity to the Site.
- (e) There will be minimal traffic, environmental and drainage impacts arising from the applied use.

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

For the private land portion of the Site, 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. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

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 not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site is involved in three previous applications (No. A/TM-LTYT/264, 321 and 387) for temporary shop and services. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/TM-LTYT/264, 321 and 387 were all approved with conditions each for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board between 2013 and 2019 mainly on the considerations that the proposals would not jeopardise the planning intention of the “V” zone, not incompatible with the surrounding land uses, no adverse comment from government departments and in line with previous decision of the Committee. All the time-limited approval conditions of planning permission No. A/TM-LTYT/387 have been complied with and the planning permission is valid until 9.12.2022.
- 6.3 Compared with the last approved application (No. A/TM-LTYT/387), the current application is submitted by the same applicant for the same use at the same site with the same development parameters and same layout.

7. Similar Applications

There are four similar applications (No. A/TM-LTYT/345, 382, 401 and 408) for temporary shop and services use in the subject “V” zone in the last 5 years. All were approved on similar considerations as those mentioned in paragraph 6.2 above. However, the planning permission for application No. A/TM-LTYT/382 was revoked due to non-compliance with approval conditions. Details of the similar applications are summarised at **Appendix III** 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) accessible from Castle Peak Road – Hung Shui Kiu (**Plan A-2**); and
- (b) paved, fenced off and occupied by a 2-storey structure, which is currently used for the applied use with a valid permission under application No. A/TM-LTYT/387 (**Plans A-2 and A-4**).

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate east are residential dwellings, some storage uses which are suspected unauthorised developments;
- (b) to the south are residential dwellings and a rehabilitation centre, to the further south is a vacant school;
- (c) to the southwest are yard for open storage (sand depot), storage use, parking of vehicles and a vehicle workshop which are suspected unauthorized developments;
- (d) to the immediate west is a cycle track and Castle Peak Road-Hung Shui Kiu section; and
- (e) to the further north across Castle Peak Road-Hung Shui Kiu section is a playground and Tin Ha Road and further northeast is open storage yard, residential dwellings and Tin Tei Yan Road.

9. Planning Intention

The planning intention of the “V” zone 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. 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.

10. Comments from Relevant Government Departments

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

11. Public Comment Received During the Statutory Publication Period

On 26.8.2022, the application was published for public 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 planning approval for temporary shop and services for a period of 3 years at the Site zoned “V” on the OZP. Although the applied use is not entirely in line with the planning intention of the “V” zone, which is primarily for development of Small House by indigenous villagers, the proposal could meet any such need for shop and services in the area. As there is no Small House application approved/under processing at the Site, approval of the application on a temporary basis for a period of 3 years would not jeopardize the long-term planning intention of the area.
- 12.2 The Site is at the fringe of the “V” zone and in an area dominated by residential dwellings (**Plan A-2**). The applied use is considered not incompatible with the surrounding land uses and the rural character of the surrounding area.
- 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 granting of the previous approval under application No. A/TM-LTY/387; all the time-limited approval conditions had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 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 surroundings are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 13.2 to address the technical requirements of concerned government departments.
- 12.5 The Committee had approved three previous applications for temporary shop and services at the Site and four similar applications within the same “V” zone since 2017 (**Plan A-1**). Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 There is no public comment received on the application during the statutory public inspection period.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 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 3 years and be renewed from 10.12.2022 until 9.12.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:
- (a) no vehicle is allowed to enter or be parked/stored on the site, as proposed by the applicant, at any time 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 submission of a condition record of the existing drainage facilities on the site within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.3.2023;
- (d) the existing fire service installations implemented on the site shall be maintained in efficient working order at all times during the planning approval period;
- (e) if any of the above planning conditions (a), (b) 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
- (f) if the above planning condition (c) 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.

[Approval conditions (a), (b) and (c) are the same as those under the permission for application No. A/TM-LTYY/387; condition (d) has been updated as per the current application; requirements for maintenance of landscaping, as well as restrictions on operation hours and specific activities and vehicle types have been removed as per the department's latest requirement.]

Advisory clauses

The recommended advisory clauses are 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 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.

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 19.8.2022
Appendix Ia	FI received on 26.8.2022
Appendix Ib	FI received on 29.9.2022
Appendix II	Relevant Extracts of TPB PG-No. 34D
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	As-planted Landscape and Tree Preservation Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	As-built Fire Service Installation 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 2022**