

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/448

Applicant : New Trend Management Limited represented by R-riches Property Consultants Limited

Site : Lot 2339 (Part) in D.D.130, Lam Tei, Tuen Mun, New Territories

Site Area : About 819 m²

Land Status : Block Government Lease (demised for agricultural use)

Plan : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/12

Zoning : “Residential (Group D)” (“R(D)”)
[Restricted to a maximum building height of 2 storeys (6m)]

Application : Temporary Wholesale Trade with Ancillary Storage for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary wholesale trade with ancillary storage for a period of three years (**Plan A-1**). The Site falls within an area zoned “R(D)” on the approved OZP. Temporary use or development of any land or buildings not exceeding a period of three years within the zone requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Shun Tat Street via a local track (**Drawing A-1 and Plan A-2**). According to the applicant, the Site is used for wholesale trade (drinks and household goods) trade with ancillary storage. It is estimated that five staff would be working at the Site, while visitors are required to make appointment in advance to access the Site. Two loading/unloading (L/UL) spaces and adequate space for manoeuvring of vehicles will be provided within the Site. The location plan and layout plan submitted by the applicant are shown in **Drawings A-1 and A-2** respectively.
- 1.3 The Site is the subject of one previous application (No. A/TM-LTYT/404) for temporary wholesale trade with ancillary storage approved by the Rural and New Town Planning Committee (the Committee) of the Board on 23.10.2020 (**Plan A-1**) (details at paragraph 5 below).

- 1.4 Compared with the last approved application (No. A/TM-LTY/404), the current application is submitted by the same applicant for the same use at the same site with same development parameters. The major development parameters of the current application is summarised as follows:

	A/TM-LTY/448
Applied Use	Temporary Wholesale Trade with Ancillary Storage for a Period of 3 Years
Site Area	About 819 m ²
Gross Floor Area (GFA)	About 819 m ²
No. of structures	2 (1 for Wholesale Trade (Drinks and Household goods) and Ancillary Storage of Goods (about 665m ²) and 1 for Canopy (about 154m ²))
Height of structures	About 11m (1-storey)
No. of L/UL spaces	2 (for light goods vehicle)
Operation hours	9am to 7pm from Mondays to Saturdays (No operation on 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 5.1.2023 **(Appendix I)**
 - (b) Further Information (FI) received on 15.3.2023* **(Appendix Ia)**
 - (c) FI received on 20.4.2023* **(Appendix Ib)**
 - (d) FI received on 27.4.2023* **(Appendix Ic)**
**accepted and exempted from publication and recounting requirements*
- 1.6 On 3.3.2023, the Committee agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Application Form and FIs at **Appendices I to Ic**. They can be summarised as follows:

- (a) the applicant would like to use the Site to operate its wholesale trade (drinks and household goods) business to provide large quantity of goods for local retailers.
- (b) although the applied development is not in line with the planning intention of the "R(D)" zone, approval of the application for temporary use would not

frustrate the long-term planning intention of the “R(D)” zone. The applied development is considered not incompatible with the surrounding land use. The approval of the application will not set an undesirable precedent.

- (c) the applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ by the Environmental Protection Department (EPD) to minimise all possible environmental impacts on the nearby sensitive receivers. No medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site.
- (d) the applied development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Adequate mitigation measures will be provided, i.e. implementation of drainage, run –in/out and fire services installations (FSIs) to mitigate any adverse impact arising from the proposed development after planning approval has been granted by the Board.
- (e) the applicant could not complete the implementation of the drainage, run-in/out proposal and FSIs proposal imposed to the last planning permission No. A/TM-LTYYY/404 since the loss of manpower due to the outbreak of COVID-19 in the past years. The applicant has demonstrated efforts to comply with the previous approval conditions including the submissions of drainage, run-in/out and FSIs proposal which were accepted by concerned departments and obtained the quotations for implementing the accepted proposals to support the current application.

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 notice in a prominent position on or near the Site and sending a registered mail to the Tuen Mun Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 The use at the Site would be subject to planning enforcement action.
- 4.2 The Site falls within the study boundary of an engineering feasibility study (EFS) for the proposed public housing development at Lam Tei North, Tuen Mun which is being carried out by CEDD and targeted for completion in 2023/24.

5. Previous Application

The Site is the subject of a previous application (No. A/TM-LTYYY/404) for temporary wholesale trade with ancillary storage for a period of three years at the Site which was approved with conditions by the Committee on 23.10.2020 mainly on the considerations of not incompatible with the surrounding land uses and no objection or adverse comments

from government departments. Nevertheless, the planning permission was revoked on 23.3.2023 due to non-compliance with time-limited approval conditions regarding the implementation of the run-in/out, drainage and FSIs proposals. Details of the previous application is summarised at **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Application

There is no similar application within the same “R(D)” zone.

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

4.3 The Site is:

- (a) currently occupied by a structure for the applied use without valid planning permission; and
- (b) accessible from Shun Tat Street via a local track (**Plan A-2**).

4.4 The surrounding areas have the following characteristics (**Plans A-2 to A-4b**):

- (a) to its immediate north and northwest is an open storage yard for containers; to its further north is a warehouse which is a suspected unauthorized development (UD). To the further north and west are residential dwellings, namely the Richtree Villas and Mountain View;
- (b) to its immediate east is an open storage yard for containers and the further east is unused land;
- (c) to its immediate west is vacant land; and
- (d) to the south and southwest are warehouses and open storage and storage yards which are suspected UD intermixed with residential dwellings and an orchard.

8. Planning Intention

The “R(D)” zone is primarily intended 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 in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

10. Public Comments Received During Statutory Publication Period

On 17.1.2023, the application was published for public inspection. During the statutory public inspection period, one public comment from individual was received objecting to

the application mainly on the ground that conditions of the previous planning application were not fulfilled (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary wholesale trade with ancillary storage for a period of three years at the site zoned “R(D)” on the OZP. Whilst the applied use is not entirely in line with the planning intention of the “R(D)” zone, the applied development could provide wholesale trade service to meet any such demand in the area. While the Site falls within the study area of the EFS for the proposed public housing development at Lam Tei North, Project Team Leader, Housing Projects Unit, Civil Engineering and Development Department (PTL/Housing, CEDD), has no adverse comment on the application on a temporary basis for three years. Should the application be approved, it is suggest to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects. In this regard, approval of the application on a temporary basis for a period of three years would not jeopardise the long-term development at the area.
- 11.2 The Site is mainly surrounded by open storage of containers, warehouses, unused land and vacant land (**Plan A-2**). The applied use is considered not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including the Commissioner for Transport, Chief Engineer/Mainland North, Drainage Services Department, Director of Environmental Protection, Director of Fire Services and Chief Town Planner/Urban Design & Landscape, Planning Department have no objection to or no 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. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 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 planning enforcement action. Should the application be approved, the applicant will also be advised to follow the latest Code of Practice in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The last application (No. A/TM-LTY/404) for the same use at the same site submitted by the same applicant of the current application was approved with conditions for a period of three years by the Committee on 23.10.2020. However, the planning permission was revoked on 23.3.2023 due to non-compliance with time-limited approval conditions on the implementation of run-in/out, drainage and FSI proposals. The applicant explains that the non-compliance of the implantation aspect of the accepted proposals under the previous approval was due to the loss of manpower during the outbreak of COVID-19. To support the current application, the applicant has demonstrated efforts to comply with the approval conditions including the submission of the previously accepted drainage, run-in/out and FSIs proposals and the quotation for implementing the said proposals (**Appendix Ib**). As such, sympathetic consideration may be given to the 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 applications.

- 11.5 Given that a previous application for the same use has been approved by the Committee mainly on the considerations of not incompatible with the surrounding land uses and no objection or no adverse comments from government departments in 2020, approval of the current application is generally in line with the Committee's previous decision.
- 11.6 There is one public comment objecting to the application received during the statutory public inspection period as stated in paragraph 10 above. The planning considerations and assessments in paragraph 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 considers that the temporary wholesale trade with ancillary storage could be tolerated for a period of three years.
- 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 **5.5.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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 **5.2.2024**;
- (b) in relation to (a) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (c) 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 **5.11.2023**;
- (d) in relation to (c) 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 **5.2.2024**;
- (e) the implementation of the run-in/out proposal at the access point of Shun Tat Street within **9** months from the date of the planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by **5.2.2024**;
- (f) if the above planning condition (b) 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 conditions (a), (c), (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 applied development is not in line with the planning intention of the "R(D)" zone which is intended 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 the 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 5.1.2023
Appendix Ia	FI received on 15.3.2023
Appendix Ib	FI received on 25.4.2023
Appendix Ic	FI received on 27.4.2023
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V-1	Public Comments received during statutory publication period
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and A-4b	Site Photos