

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/450

<u>Applicant</u>	:	Ming Wai Management Company represented by Metro Planning and Development Company Limited
<u>Site</u>	:	Lots 3659 S.B ss.3 RP and 3676 RP in D.D.124, Shun Tat Street, Tuen Mun, New Territories
<u>Site Area</u>	:	About 160 m ²
<u>Land Status</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/12
<u>Zoning</u>	:	“Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	:	Proposed Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services for a period of three years (**Plan A-1**). The Site falls within an area zoned “V” on the OZP. According to the Notes for “V” zone of the OZP, ‘Shop and Services’ (except on the 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 vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the Site is accessible from Shun Tat Street (**Drawing A-1 and Plan A-2**). The proposed shop and services use is for a real estate agency with bicycle tyre patching service. No vehicle is allowed to enter or park at the Site. The operation hours are from 9:00 a.m. to 8:00 p.m. from Mondays to Sundays, including public holidays. 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 involved in three previous applications including one for temporary shop and services use (real estate agency) which was approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2019 (details at paragraph 6 below).
- 1.4 Compared with the last approved application No. A/TM-LTYT/382 (**Plan A-1a**),

the current application is submitted by the same applicant for the same use covering a smaller site with changes in development parameters. A comparison of the major development parameters of the current application and the previous approved application is summarised as follows:

	Last approved application (A/TM-LTYT/382) (a)	Current application (A/TM-LTYT/450) (b)	Difference (b)-(a)
Proposed Use	Temporary Shop and Services (Real Estate Agency)	Temporary Shop and Services (Real Estate Agency with Bicycle Tyre Patching Service)	Minor change in use
Site Area	About 224 m ² (including Government Land (GL) of about 65 m ²)	About 160 m ²	- 64 m ²
Floor Area	About 208 m ²	Not more than 50 m ²	- 168 m ²
Number of structures	1 (1 for Shop and Services (Real Estate Agency) and Toilet)	1 (1 for Shop and Services and Toilet)	Minor change in use of structure
Height of structures	Not exceeding 5 m (1 storey)	Not exceeding 6.5 m (2 storeys)	+1.5 m (+1 storey)
Operation hours	9 a.m. to 8 p.m. daily (including Sundays and public holidays)	9 a.m. to 8 p.m. daily (including Sundays and public holidays)	No change

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

- (a) Application Form with attachments received on 5.1.2023 **(Appendix I)**
- (b) Further Information (FI) received on 3.3.2023* **(Appendix Ia)**
- (c) FI received 3.4.2023* **(Appendix Ib)**
- (d) FI received 12.4.2023* **(Appendix Ic)**
**accepted and exempted from publication and recounting requirements*

1.6 On 31.3.2023, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

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 applicant would like to use the Site to provide real estate service and bicycle tyre patching service to bring convenience to nearby villagers.
- (b) The proposed development is in line with the planning intention of the “V” zone, and is not incompatible with the surrounding land uses.
- (c) The proposed development will not create significant adverse traffic, noise, environmental and drainage impacts on the surrounding areas. Adequate mitigation measures will be provided, i.e. implementation of drainage proposal to mitigate any adverse impact arising from the proposed development after planning approval has been granted by the Board.
- (d) The planning permission of application No. A/TM-LTYYY/382 for the same use was revoked due to non-compliance with time-limited approval conditions on the implementation of drainage and fire services installations (FSIs) proposal. Drainage and FSIs proposals have been submitted in the current application.
- (e) Similar application has been approved by the Board.

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

The Site is currently not subject to any planning enforcement action.

5. Previous Applications

- 5.1 The Site is involved in three previous applications (No. A/TM-LTYYY/124, 128 and 382). A minor portion of the Site is covered by two previous applications (No. A/TM-LTYYY/124 and 128) for temporary vehicle exhibition area, vehicle repair workshop and sales and purchase of vehicles respectively, which were rejected by the Committee and the Board on 18.3.2005 and 20.1.2006 and are irrelevant to the current application. Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1a**.
- 5.2 Application No. A/TM-LTYYY/382 for temporary shop and services (real estate agency) was approved with conditions by the Committee on 20.9.2019 mainly on the considerations that the applied use was not incompatible with the surrounding land uses and approval of the application was in line with the previous decisions

of the Committee. However, the planning permission was revoked on 20.6.2021 due to non-compliance of approval conditions regarding the implementation of drainage and FSIs proposals at the Site.

6. Similar Applications

There are seven similar applications (No. A/TM-LTYT/345, 350, 387, 401, 408, 413 and 437) within the same “V” zone for temporary shop and services (convenience store and/or real estate agency) uses which were approved by the Committee in the past five years on similar considerations as those mentioned in paragraph 5.2 above. However, the planning permission of one of the applications was subsequently revoked due to non-compliance with approved conditions. Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently vacant, fenced-off, and hard-paved (**Plan A-4**); and
- (b) accessible from Shun Tat Street and Castle Peak Road – Hung Shui Kiu Section (**Plans A-2 and A-3**).

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

- (a) to its immediate north is vacant land; and to its further north across Castle Peak Road – Hung Shui Kiu Section are mainly village type developments/residential dwellings, sitting-out area and unused land;
- (b) to its northeast is a real estate agency with planning permission and vacant land; and to its further northeast are sales of vehicles and a car park which are suspected unauthorized developments (UDs), a place for gardening and unused land (**Plan A-2**);
- (c) to its immediate east are parking of vehicles which is a suspected UD and residential dwellings. To the further east and southeast are mainly village type developments/residential dwellings, and a real estate agency, a storage yard and parking of vehicles which are suspected UD;
- (d) to its west is Castle Peak Road – Hung Shui Kiu Section. To the further northwest are factory, vehicle showroom, refuse collection point and a sitting-out area; and
- (e) to its south is Shun Tat Street. To its further south are mainly village type developments/residential dwellings, a storage yard and parking of vehicles which are suspected UD, and a car washing and repairing workshop.

8. Planning Intention

The “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 in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

10. Public Comments Received During Statutory Publication Period

On 7.2.2023, the application was published for public inspection. During the statutory public inspection period, one public comment from individual was received (**Appendix VI**) indicating that she would object to the application if the proposed use is for car repairing as there would be adverse environmental impacts including odour, drainage, noise and pedestrian safety concern due to obstruction of passageway.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of three years at the site zoned “V” on the OZP. Whilst the applied use is not entirely in line with the planning intention of the “V” zone, the proposed development could provide shop and services (real estate agency) to serve any such demand in the area. District Lands Officer/Tuen Mun (DLO/TM) also advises that there is currently no known Small House application at the Site. Approval of the application on a temporary basis would not jeopardise the long-term planning intention of the zone.
- 11.2 The Site is at the fringe of the “V” zone fronting onto Castle Peak Road – Hung Shui Kiu Section and Shun Tat Street. It is located in an area predominantly occupied by village type developments/residential dwellings, parking of vehicles, storage and real estate agencies (**Plan A-2**). The proposed use is considered not incompatible with the surrounding land uses.
- 11.3 There is no adverse comment from concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. To address the technical requirements of concerned government departments, relevant approval conditions have been recommended in paragraph 12.2 below.
- 11.4 The last approved application No. A/TM-LTYT/382 submitted by the same applicant for the same use was approved with conditions for a period of three years by the Committee on 20.9.2019. However, the planning permission was revoked on 20.6.2021 due to non-compliance with time-limited approval conditions regarding the implementation of the drainage and FSIs proposals. Nevertheless, the applicant has submitted drainage and FSIs proposals for the current application to which Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Fire Services (D of FS) have no objection. 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 Regarding the public comment received during the statutory publication period as summarised in paragraph 10 above, the subject application is for proposed temporary shop and services use, and the planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department has no objection 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 **19.5.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of revised 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 **19.11.2023**;
- (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 **19.2.2024**;
- (c) the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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 **19.2.2024**;
- (e) 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
- (f) if any of the above planning conditions (a), (b), or (d) 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 V**.

- 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 "V"

zone which is primarily intended for development of Small Houses by indigenous villagers. 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 3.3.2023
Appendix Ib	FI received on 3.4.2023
Appendix Ic	FI received on 12.4.2023
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comment received during statutory publication period
Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-1a	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2023**