

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/TM-LTYT/454**

<b><u>Applicant</u></b>	:	Man Yee Transportation Bus Company Limite represented by Goldrich Planners & Surveyors Limited
<b><u>Site</u></b>	:	Lots 1211 S.C (Part), 1248 (Part) and 1249 (Part) in D.D. 130, Fuk Hang Tsuen, Tuen Mun, New Territories
<b><u>Site Area</u></b>	:	About 580.8 m <sup>2</sup>
<b><u>Land Status</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/12
<b><u>Zoning</u></b>	:	“Residential (Group D)” (“R(D)”) <i>[restricted to maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]</i>
<b><u>Application</u></b>	:	Temporary Shop and Services with Ancillary Storage Area and Office 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 shop and services with ancillary storage area and office for a period of three years (**Plan A-1**). According to the Notes for the “R(D)” zone on the OZP, ‘Shop and Services’ is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the Site is accessible from Tak Fuk Road via a local track to the north (**Plan A-3**) and a pedestrian access is provided at the southern part of the Site (**Drawing A-1**). The proposed shop and services use is for a real estate agency and local provisions store. The operation hours are from 8:00 a.m. to 9:00 p.m. from Mondays to Sundays, including public holidays. The proposed layout plan, drainage plan and tree preservation and landscape proposal submitted by the applicant are shown in **Drawings A-1 to A-3** respectively.
- 1.3 The Site is involved in two previous applications (No. A/TM-LTYT/320 and 396) for temporary shop and services with ancillary storage area and office for a period of three years which were approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2016 and 2020 (details at

paragraph 6 below).

- 1.4 Compared with the last approved application No. A/TM-LTYT/396, the current application is submitted by a different applicant for the same use at the same site with same area but a slight increase in GFA. A comparison of the major development parameters of the current application and the last approved application is summarised as follows:

	<b>Last approved application (A/TM-LTYT/396) (a)</b>	<b>Current application (A/TM-LTYT/454) (b)</b>	<b>Difference (b)-(a)</b>
Applied Use	Temporary Shop and Services with Ancillary Storage Area and Office		No change
Site Area	About 580.8 m <sup>2</sup>		No change
Gross Floor Area (GFA)	About 279.8m <sup>2</sup>	About 288.2m <sup>2</sup>	+8.4m <sup>2</sup> (+3%)
Number of Structures	3 (1 for real estate agency and local provision store and the shed projection; 1 toilet and 1 open staircase and platform)	4 (1 for real estate agency and local provision store and the shed projection; 1 toilet, 1 open staircase and platform and 1 pump room and water tank)	+1 (+33%)  (for pump room and water tank)
Maximum Building Height	2 storeys (not exceeding 7.5m)		No change
Car Parking Space	1 (5m x 2.5m) (for private car)		No change
Loading/ Unloading (L/UL) Space	1 (7m x 3.5m) (for light goods vehicle)		No change
Operation hours	8:00 a.m. to 9:00 p.m. daily		No change

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

- (a) Application Form with attachments received on 18.4.2023 **(Appendix I)**
- (b) Further Information (FI) received on 24.5.2023\* **(Appendix Ia)**

*\*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 at **Appendixes I and Ia**. They can be summarised as follows:

- (a) There are several village houses in Fuk Hang Tsuen and residential developments namely Botania Villa and The Sherwood to the further west of the Site (**Plan A-1**). The proposed development serves to meet the needs of local people.
- (b) The proposed development consists of one-to-two storeys converted-container structures. It is compatible with the surrounding environment which comprises mainly domestic structures of one-to-two storeys. No significant visual impact is anticipated.
- (c) The proposed use (real estate agency and local provisions store) is small in scale and aims at serving residents in the vicinity. No significant adverse traffic impact to the local road network is expected.
- (d) Seven existing trees on the southern portion of the Site will be properly maintained in accordance with the guidelines from the Greening, Landscape and Tree Management Section of Development Bureau including ‘Tree Care During Construction’ and ‘Pictorial Guide for Tree Maintenance’.
- (e) Previous applications have 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 would be subject to planning enforcement action.

### **5. Previous Applications**

- 5.1 The Site is involved in two previous applications (No. A/TM-LTYT/320 and 396). Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Both applications for temporary shop and services with ancillary storage area and office for a period of three years were approved with conditions by the Committee in 2016 and 2020 respectively. The major considerations were that the applied use would not jeopardise the long-term planning intention of the “R(D)” zone and was not incompatible with the surrounding uses. Although the planning permission of application No. A/TM-LTYT/320 was revoked on 25.4.2019 due to non-compliance with the approval condition on the implementation of the drainage proposal, all time-limited approval conditions of application No. A/TM-LTYT/396, including the implementation of the drainage proposal, have been complied with and the planning permission lapsed on 25.4.2023.

## **6. Similar Applications**

There are two similar applications (No. A/TM-LTY/395 and 430) for proposed temporary shop and services with ancillary office for a period of three years in the same “R(D)” zone during the past five years which were approved with conditions by the Committee in 2020 and 2022 respectively mainly on similar grounds as those mentioned in paragraph 5.2 above. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) paved and partly fenced;
- (b) currently occupied by two 2-storey container-converted structures for the applied use without valid planning permission; and
- (c) accessible via a vehicle parking area and a local track to its north leading to Tat Fuk Road and a pedestrian access in its southern part (**Drawing A-1** and **Plan A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northeast are parking of vehicles;
- (b) to its immediate south, west and northwest are residential dwellings intermixed with storages and open storage of containers and some vacant land;
- (c) to the further southeast/south are amenity areas and a factory; to the further southwest is a marble workshop; and
- (d) some of the uses and structures are suspected unauthorized developments subject to planning enforcement action.

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

## **10. Public Comments Received During Statutory Publication Period**

The application was published for public inspection on 25.4.2023. During the statutory public inspection period, one public comment from individual was received (**Appendix**

VI) indicating that the applicant should ensure that the previous approval conditions have been fully complied with.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary shop and services with ancillary storage area and office 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, there is no known development proposal at the Site and the applied use could provide shop and services use to meet any such demand in the area. Approval of the application on a temporary basis for three years would not jeopardise the planning intention of the “R(D)” zone.
- 11.2 The Site is surrounded by residential dwellings, vacant land and parking of vehicles intermixed with open storage of containers and storage uses (**Plan A-2**). The applied use is considered generally 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 Two previous approvals for temporary shop and services with ancillary storage area and office at the Site were granted by the Committee in 2016 and 2020 respectively. All approval conditions under the last approval have been complied with. Approval of the application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comment received during the statutory publication period as summarised in paragraph 10 above, 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 **9.6.2026**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) the submission of a condition record of existing drainage facilities with **3 months** from the date of planning approval to the satisfaction of the Direct of Drainage Services or of the Town Planning Board by **9.9.2023**;

- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of fire service installations proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.12.2023;
- (d) in relation to (c) above, the implementation of 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 9.3.2024;
- (e) if any of the above planning condition (a), (c), 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; and
- (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.

#### 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 applied use is not in line with the planning intention of the "R(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 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**

<b>Appendix I</b>	Application Form with attachments received on 18.4.2023
<b>Appendix Ia</b>	FI received on 24.5.2023
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments

<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	Public Comment received during statutory publication period
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Drainage Plan
<b>Drawing A-3</b>	Tree Preservation and Landscape Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-1a</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT**  
**JUNE 2023**