

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/461

<u>Applicant</u>	:	Tse Kam Kuen represented by FiBi International Project Consultancy Co. Limited
<u>Site</u>	:	Lot 1038 S.A. (part) in D.D. 130, Fuk Hang Tsuen, Tuen Mun, New Territories
<u>Site Area</u>	:	About 494m 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>	:	“Residential (Group D)” (“R(D)”) <i>[restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]</i>
<u>Application</u>	:	Proposed Temporary Shop and Services with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services with ancillary office for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “R(D)” zone, ‘Shop and Services’ is a Column 2 use which require planning permission from the Town Planning Board (the Board). The Site is currently occupied by storage use and temporary structures without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Fuk Hang Tsuen Road via a local track (**Drawing A-2 and Plan A-2**). According to the applicant, the proposed use is for selling hardware accessories products to serve the local community, and no workshop activities will be carried out at the Site. Plans showing the site layout, vehicular access, drainage proposal and swept path analysis submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.3 The major development parameters of the application are summarised as follows:

Site Area	About 494 m ²
Total Non-domestic Gross Floor Area	About 414.4 m ²
No. of Structures	3
Height of Structures	Not more than 7.5 m (2 storeys)
No. of Parking Spaces	1 for private car (5m x 2.5m)
No. of Loading/ Unloading Space	1 for light goods vehicle (7m x 3.5m)
Operation Hours	9:00am to 6:00pm (Monday to Saturday) No operation on Sundays and public holidays

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

- (a) Application Form with attachments received on 14.8.2022 **(Appendix I)**
- (b) Further Information (FI) received on 4.9.2023* **(Appendix Ia)**
- (c) FI received on 18.9.2023* **(Appendix Ib)**
- (d) FI received on 21.9.2023* **(Appendix Ic)**

**accepted and exempted from recounting requirements*

2. Justifications from the Applicant

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

- (a) the proposed use would serve the local demand for hardware accessories products;
- (b) the proposed use is temporary in nature which would not frustrate the long-term planning intention of the “R(D)” zone;
- (c) there are similar applications approved by the Board; and
- (d) no significant adverse traffic and environmental impacts are anticipated.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site at present is not subject to planning enforcement action.

5. Previous Application

There is no previous application at the site.

6. Similar Application

There are four similar applications (No. A/TM-LTYT/395, 396, 430 and 454) covering these sites for temporary shop and services with/without ancillary storage area and office within the same “R(D)” zone in the past five years. All the applications were approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2020 and 2023 mainly on the considerations that the proposed/applied use would not jeopardise the long-term planning intention of the “R(D)” zone and was not incompatible with the surrounding uses. Application No. A/TM-LTYT/395 was revoked on 21.6.2022 due to non-compliance with the time limited approval conditions regarding the submission of fire service installations (FSIs) proposal and the implementation of the FSIs, run-in/out and drainage proposals. Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently occupied by storage use without valid planning permission (**Plan A-4**); and
- (b) accessible from Fuk Hang Tsuen Road via a local track (**Plan A-2**).

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

- (a) to its north and northwest are storage and warehouse uses which are suspected unauthorized developments (UDs). To the further north are mainly residential dwellings in Fuk Hang Tsuen and some agriculture land;
- (b) to its immediate east are residential dwellings and a church;
- (c) to its immediate south are a shop and some vacant land; and
- (d) to its west is a site used for temporary shop and services with ancillary office, which is covered by a valid planning permission No. A/TM-LTYT/430.

8. Planning Intention

The “R(D)” zone is intended 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 III and IV** respectively.

10. Public Comment Received During Statutory Publication Period

On 22.8.2023, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual (**Appendix V**) was received expressing views that the Board should ascertain that no “Green Belt” zone or government land is involved under the proposal.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services with ancillary office for a period of three years at the Site zoned “R(D)” on the OZP. Whilst the proposed 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 proposed use could provide shop and services uses to meet any such demand in the area. Approval of the application on a temporary basis would not jeopardise the planning intention of the “R(D)” zone.
- 11.2 The Site is surrounded by storage use, warehouses and residential dwellings (**Plan A-2**). The proposed shop and services use is generally not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North, Drainage Services Department, Chief Highway Engineer/New Territories West of Highways Department and Director of Fire Services have no objection to or no adverse comment on the application. Adverse traffic, environmental, drainage and fire safety impacts on the surrounding areas are not anticipated. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below.
- 11.4 Given four similar applications within the same “R(D)” zone were approved by the Committee between 2020 and 2023, approval of the current 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 Site falls within “R(D)” zone and is on private land.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 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 three years until **13.10.2026**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission of a run-in/out proposal within **6 months** from the date of planning approval to the satisfaction of the Commissioner for

Transport and the Director of Highways or of the Town Planning Board by **13.4.2024**;

- (b) in relation to (a) above, the implementation of a run-in/out proposal within **9 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by **13.7.2024**;
- (c) the submission of a drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **13.4.2024**;
- (d) in relation to (c) above, the implementation of the drainage proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **13.7.2024**;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a 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 **13.4.2024**;
- (g) in relation to (f) 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 **13.7.2024**;
- (h) if the above planning condition (e) 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
- (i) if any of the above planning condition (a), (b), (c), (d), (f) or (g) 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 proposed 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

Appendix I	Application Form with attachments received on 14.8.2023
Appendix Ia	FI received on 4.9.2023
Appendix Ib	FI received on 18.9.2023
Appendix Ic	FI received on 21.9.2023
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Proposed Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Proposal
Drawings A-4 and A-5	Swept Path Analysis
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**