

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/476

- Applicant** : Mr. TO Ka Lung represented by Mr. WONG Sun Wo William
- Site** : Lots 3866 S.B and 3868 in D.D. 124, Tuen Mun, New Territories
- Site Area** : About 968m²
- 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** : “Village Type Development” (“V”)
[*Restricted to a maximum building height of 3 storeys (8.23m)*]
- Application** : Proposed Temporary Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of five years at the application site (the Site) zoned “V” on the OZP (**Plan A-1a**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ other than 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 paved, largely fenced-off and occupied by temporary structures and open storage of construction materials and machinery without valid planning permission (**Plans A-3 and A-4**).
- 1.2 The Site is accessible from Shun Tat Street via a local track, and the ingress/egress point is at the southern portion of the Site (**Plan A-2**). According to the applicant, the proposed use is for sale of household hardware accessories and construction materials. Plans showing the layout, stormwater drainage and vehicular run-in/out proposals of the Site submitted by the applicant are at **Drawings A-1 to A-3b** respectively.

1.3 The major development parameters of the application are summarised as follow:

Total Floor Area	240m ²
No. of Structures	2 (for retail and toilet uses)
Building Height	1 storey (about 3.5m and 4.5m)
No. of Parking Spaces and Loading/Unloading (L/UL) Spaces	2 private car parking spaces; and 1 L/UL space for light goods vehicle
Operation Hours	8:00 a.m. to 6:00 p.m. from Mondays to Saturdays (i.e. 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 20.6.2024 (Appendix I)
- (b) Further Information (FI) received on 16.10.2024* (Appendix Ia)

**accepted and exempted from publication and recounting requirements*

1.5 On 16.8.2024, the Rural and New Town Planning Committee (the Committee) of the Board 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 in the Application Form at **Appendix I**. They could be summarised that the applicant anticipates that there are several construction works of village houses in the vicinity, but there is currently no retail shop selling hardware accessories and construction materials. The provision of such facility at the Site could serve the needs of local villagers.

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.31B) by notifying the two current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

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

5. **Previous Applications**

5.1 The Site, in whole or in part, was the subject of six previous applications (No.

A/DPA/TM-LTY Y/101, A/TM-LTY Y/125, 130, 165, 185 and 401) for open storage, temporary public vehicle park with or without ancillary uses and shop and services. Amongst them, the former three applications were rejected by the Committee mainly on the grounds of incompatible with the surroundings and adverse drainage and environmental impacts, while the latter three were approved with conditions by the Committee.

- 5.2 For the former five previous applications (No. A/DPA/TM-LTY Y/101, A/TM-LTY Y/125, 130, 165 and 185), either rejected or approved with conditions by the Committee between 1996 and 2009, the considerations of these applications are not relevant to the current application which involves a different use. Application No. A/TM-LTY Y/401 for proposed temporary shop and services (real estate agency) for a period of 3 years submitted by a different applicant was approved with conditions by the Committee on 26.3.2021 mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding uses; and the concerned government departments consulted in general had no adverse comment or their technical concerns could be addressed by relevant approval conditions. However, the planning permission was subsequently revoked on 26.9.2022 due to non-compliance with time-limited approval conditions regarding the submission and implementation of drainage and fire service installations proposals. Details of the previous applications are at **Appendix II** and the locations of the sites are shown on **Plan A-1b**.

6. **Similar Applications**

There are six similar applications (No. A/TM-LTY Y/408, 437, 450, 464, 473 and 480) for temporary shop and services for a period of three/five years within/straddling the same “V” zone were approved with conditions by the Committee between 2021 and 2024, mainly on similar considerations as stated in paragraph 5.2 above. Details of these applications are summarised at **Appendix II** 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) currently paved, largely fenced-off and occupied by temporary structures and open storage of construction machineries and materials (**Plans A-3 and A-4**) without valid planning permission; and
- (b) accessible via a strip of Government land and private lots connecting with Shun Tat Street (**Plan A-2**).

7.2 The surrounding areas are rural in character comprising mainly temporary structures for storage uses, open-air vehicle parks and vehicle repair workshops and village houses in Wo Ping San Tsuen intermixed with agricultural and unused lands. Some of these uses are suspected unauthorized developments subject to planning enforcement action.

8. Planning Intention

The planning intention of “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 Bureau/Departments

All government bureau/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 28.6.2024, the application was published for public inspection. During the statutory public inspection period, a total of four public comments from individuals were received, including two objecting comments (**Appendix V-a**) and two providing views (**Appendix V-b**). The two objecting comments are mainly raised on the grounds that the proposed use would have adverse impacts on traffic, environmental and land use compatibility aspects and jeopardise the long-term development of the area. The two public comments providing views include the one submitted by the lot owner enquiring whether consent has been obtained for using the Site for the proposed use, compensation to the lot owner and delay of implementation of NTEH, and another individual expressing views on the non-compliance with the approval conditions under previous applications and the enforcement history of the Site.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of five years at the Site zoned “V” on the OZP. Although the proposed use is not entirely in line with the planning intention of the “V” zone, the proposed use could help meet the demand for such use from locals. According to the District Lands Officer/Tuen Mun of Lands Department, there is no Small House application approved or under processing at the Site and he has no adverse comment on the application. Approval of the application on a temporary basis of five years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed use comprises two single-storey temporary structures (about 3.5m to 4.5m in height). It is considered not incompatible with the surrounding areas which are predominantly occupied by storage uses, open-air vehicle parks and vehicle repair workshops and village houses intermixed with agricultural and unused lands (**Plan A-2**).

- 11.3 Concerned government departments consulted, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application from traffic, environmental, drainage and fire safety perspectives respectively. Should the application be approved, relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of the concerned government departments and the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise potential environmental nuisances on the surrounding areas.
- 11.4 The Committee has approved one previous application at the Site and six similar applications within/straddling the subject “V” zone in the past five years. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 There are four public comments objecting to/providing views on the application received as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant. As for the queries raised by one of the commenters regarding the use of the Site and compensation, the applicant is advised to resolve any land issues relating to the proposed use with the concerned owner(s) of the Site.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 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 five years until **6.12.2029**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission of a revised 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 **6.6.2025**;
- (b) in relation to (a) above, the implementation of the revised 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 **6.9.2025**;
- (c) the implementation of the accepted 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 **6.9.2025**;
- (d) in relation to (c) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;

- (e) 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 **6.6.2025**;
- (f) in relation to (e) 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 **6.9.2025**;
- (g) if the above planning condition (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
- (h) if any of the above planning condition (a), (b), (c), (e) or (f) 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 "Village Type Development" zone which is to reflect existing recognised 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. No strong planning justification has been given in the submission to justify the proposed use 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 20.6.2024
Appendix Ia	FI received on 16.10.2024
Appendix II	Previous and Similar Applications
Appendix III	Government Bureau/Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Stormwater Drainage Proposal
Drawings A-3a and 3b	Vehicular Run-in/out Proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2024**