

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

**APPLICATION NO. A/TM-LTYT/481**

- Applicant** : Chain Win Properties Limited represented by R-riches Property Consultants Limited
- Site** : Lot 1038 S.B (Part) in D.D. 130, Fuk Hang Tsuen, Tuen Mun, New Territories
- Site Area** : 581m<sup>2</sup> (about)
- Lease** : 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 plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]*
- Application** : 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) zoned “R(D)” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “R(D)” zone, ‘Shop and Services’ other than those on the ground floor of a New Territories Exempted House is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a warehouse with ancillary office without valid planning permission (**Plan A-4**).
- 1.2 The Site is accessible from Fuk Hang Tsuen Road via a local access (**Drawing A-3 and Plan A-2**). According to the applicant, the applied use is for retail shop of metalware with ancillary office. Plans showing the layout, fire service installations (FSIs), drainage and run-in/out proposals submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.3 The Site was involved in two previous applications for the same use submitted by the same applicant which were approved by the Rural and New Town Planning

Committee (the Committee) of the Board in 2020 and 2022 respectively (**Plan A-1**). A comparison of the current application and the last application is summarised below:

	<b>Previous Application (A/TM-LTY/430) (a)</b>	<b>Current Application (A/TM-LTY/481) (b)</b>	<b>Difference (b) – (a) (%)</b>
Applied Use	Proposed Temporary Shop and Services with Ancillary Office for a Period of Three Years		--
Site Area	About 884 m <sup>2</sup> (including about 302 m <sup>2</sup> GL)	About 581m <sup>2</sup>	-303m <sup>2</sup> (-34%)
Total Floor Area	About 804 m <sup>2</sup>	About 660 m <sup>2</sup>	-144m <sup>2</sup> (-18%)
No. of Structures	2 for shop and services, ancillary office, store room, storage of goods and rain shelter	1 for shop and services, ancillary office, store room and storage of goods	-1 (-50%)
Building Height	About 8-11m, 1-2 storeys	About 11m high, 2 storeys	--
No. of Parking Spaces and Loading/Unloading (L/UL) Spaces	2 L/UL spaces for light goods vehicle (3.5m x 7m)		--
Operation Hours	9:00 a.m. to 6:00 p.m. Mondays to Saturdays, excluding Sundays and public holidays		--

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

- (a) Application Form received on 25.9.2024 **(Appendix I)**
  - (b) Supplementary Planning Statement (SPS) received on 25.9.2024 **(Appendix Ia)**
  - (c) Further Information (FI) received on 6.11.2024\* **(Appendix Ib)**
  - (d) FI received on 11.11.2024\* **(Appendix Ic)**
- \*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 in the SPS and FIs at **Appendices Ia to Ic**. They can be summarised as follows:

- (a) the proposed metalware retail shop at the Site is to serve the needs of the local residents;
- (b) approval of the application on a temporary basis for a period of three years would not jeopardise the long-term planning intention of the “R(D)” zone;
- (c) the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”) issued by the Environmental Protection

Department will be strictly followed to minimise adverse environmental impacts and nuisance to the surrounding areas;

- (d) the proposed use will not create significant adverse impacts to the surrounding areas; and
- (e) the non-compliance of approval conditions in the previous applications No. A/TM-LTTY/395 and 430 was mainly due to insufficient time for implementation of proposals (for drainage and FSIs proposals) and land administrative process (for run-in/out proposal). The applicant is committed to implement the relevant approval conditions regarding drainage, fire safety and traffic aspects should this application be approved.

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

The applicant is the sole ‘current land owner’ of the Site. 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**

The Site was involved in two previous applications (No. A/TM-LTTY/395 and 430) for temporary shop and services with ancillary use for a period of three years, which were approved with conditions by the Committee in 2020 and 2022 respectively mainly on the considerations that approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “R(D)” zone; the proposal was not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, both planning permissions were revoked in 2022 and 2024 respectively due to non-compliance with approval conditions regarding the submission/implementation of drainage, FSIs and/or run-in/out proposals. Details of these applications are at **Appendix II** and their locations are shown on **Plan A-1**.

### **6. Similar Applications**

Three similar applications (No. A/TM-LTTY/396, 454 and 461) involving two sites for temporary shop and services with ancillary office within the same “R(D)” zone were approved by the Committee between 2020 and 2023 on similar grounds as stated in paragraph 5 above. Details of these applications are at **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 paved and occupied by a temporary structure used for warehouse with ancillary office without valid planning permission; and
  - (b) accessible via a local access connecting to Fuk Hang Tsuen Road.
- 7.2 The surrounding areas are sub-urban in nature predominantly occupied by low to medium-density residential developments, village houses and temporary structures intermixed with shops, storage yards, warehouses, electricity sub-station, agricultural land and vacant land. Some of these uses are suspected unauthorised 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**

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other 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.
- 9.2 The following government department objects to the application:

### **Land Administration**

- 9.2.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) he objects to the application from land administration point of view;
- (b) the Site comprises an Old Schedule Agricultural Lot, namely Lot 1038 S.B (Portion) in D.D. 130 (“the Lot”) held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) the following irregularities have been detected by his office:

#### **Unauthorised structure(s) within the Lot covered by the planning application**

- (i) there is an unauthorised structure on the Lot. The Lot owner(s) should immediately rectify/regularise the lease breaches and his office reserves the rights to take necessary lease enforcement

action against the breaches without further notice;

Unlawful occupation of GL adjoining the Lot with unauthorised structures not covered by the planning application

- (ii) the GL adjoining the Lot has been illegally occupied with unauthorised structures including a part of 2-storey structure, an electrical box and a ramp without permission. Any occupation of GL without government's prior approval is an offence under Cap. 28. DLO/TM reserves the rights to take necessary land control action against the illegal occupation of GL without further notice; and
- (iii) the Lot owner(s) shall remove the unauthorised structures and cease the illegal occupation of the GL immediately. Unless and until the unauthorised structures and the unlawful occupation of GL are duly rectified by the Lot owner(s)/applicant, please take it as DLO/TM's objection to the application which must be brought to the attention of the Board when they consider the application;
- (d) the existing structure may have also encroached onto the adjoining Lot 1038 S.A in D.D.130;
- (e) the Site is accessible via Fuk Hang Tsuen Road passing through a piece of GL. DLO/TM does not carry out maintenance works for the said GL nor guarantee that any right-of-way over the GL to the Site will be given; and
- (f) to note his advisory comments as detailed in **Appendix IV**.

**10. Public Comment Received During the Statutory Publication Period**

On 4.10.2024, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received (**Appendix V**) expressing concern on the non-compliance with approval conditions of the previous applications.

**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. Although the proposed use is not entirely in line with the planning intention of the "R(D)" zone, it could meet local demand for shop and services in the area. Besides, there is no known development proposal at the Site. Approval of the application on a temporary basis of three years would not jeopardise the long-term planning intention of the "R(D)" zone.
- 11.2 The proposed use is generally not incompatible with the surrounding areas which are sub-urban in nature predominantly occupied by low to medium-density

residential developments, village houses and temporary structures intermixed with shops, storage yards and warehouses, electricity sub-station, agricultural land and vacant land (**Plan A-2**).

- 11.3 Concerned government departments consulted, including the Director of Environmental Protection, Commissioner for Transport (C for T), Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Fire Services (D of FS) have no objection to or no adverse comment on the application from environmental, traffic, drainage and fire safety aspects 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. The applicant will also be advised to follow the latest “COP” to minimise the potential environmental nuisance on the surrounding areas.
- 11.4 The Site was the subject of two previous applications (No. A/TM-LTTY/395 and 430) for the same use submitted by the same applicant approved by the Committee in 2020 and 2022 respectively. However, both planning permissions were subsequently revoked mainly due to non-compliance with time-limited approval conditions regarding the submission/implementation of drainage, FSIs and/or run-in/out proposals. For the current application, the applicant has submitted drainage, FSIs and run-in/out proposals to support the application which are considered acceptable by CE/MN, DSD, D of FS and C for T respectively. The applicant is committed to implement the relevant approval conditions regarding drainage, fire safety and traffic aspects should this application be approved. As such, sympathetic consideration may be given to the current application. Should the application be approved, 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 may not be given to any further application.
- 11.5 Regarding DLO/TM’s concern on the unauthorised structure(s) erected within/outside the Site and the illegal occupation of GL adjoining the Lot with unauthorised structures not covered by the planning application, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.6 The Site was subject to two previous approved applications for the same use and there are three similar applications within the same “R(D)” zone for shop and services approved by the Committee between 2020 and 2023. Approval of the current application is generally in line with the previous decisions of the Committee.
- 11.7 Regarding the public comment expressing concern on the previous non-compliance with approval conditions as summarised in paragraph 10 above, the planning considerations and assessments in paragraphs 11.1 to 11.6 above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11, and having taken into account the public comment 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 three years until **22.11.2027**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the implementation of the accepted run-in/out proposal to/from Fuk Hang Tsuen Road within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by **22.8.2025**;
- (b) 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 **22.8.2025**;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted 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 **22.8.2025**;
- (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 condition (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 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 "Residential (Group D)" zone which is 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 such 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 25.9.2024
<b>Appendix Ia</b>	SPS received on 25.9.2024
<b>Appendix Ib</b>	FI received on 6.11.2024
<b>Appendix Ic</b>	FI received on 11.11.2024
<b>Appendix II</b>	Previous and Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comment
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	FSIs Proposal
<b>Drawing A-3</b>	Drainage Proposal
<b>Drawing A-4</b>	Run-in/out Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2024**