

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/653

- Applicant** : Million Gain Investments Limited represented by Metro Planning & Development Company Limited
- Site** : Lot 4058 RP in D.D. 116 and Adjoining Government Land (GL), Tai Kei Leng, Yuen Long, New Territories
- Site Area** : 260 m² (about) (including GL of about 35 m² (13.5%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/20
- Zoning** : “Residential (Group D)” (“R(D)”)
[restricted to a maximum plot ratio of 0.4 and a maximum building height (BH) of 3 storeys (9m)]
- Application** : Proposed Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of three years at the application site (the Site) zoned “R(D)” on the OZP (**Plan A-1a**). According to the Notes of the OZP for the “R(D)” zone, ‘Shop and Services’ being not 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 fenced off, formed and mainly vacant (**Plans A-2 to A-4**).
- 1.2 The Site abuts and is accessible from Tai Shu Ha Road East (**Plan A-2**). According to the applicant, the proposal is a shop for selling building materials including pipes, corrugated metal sheets and handy tools. Plans showing site layout and drainage proposal submitted by the applicant are at **Drawings A-1 to A-2**.

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

Site Area	About 260 m ² (including GL of about 35 m ²)
Covered Floor Area	Not more than 154 m ² (59 %)
No. of Structures (Height)	2 - 1 for shop and services with toilet (1 storey, 4.5 m) - 1 for meter box (1 storey, 3 m)
No. of Loading/ Unloading Space	1 for light goods vehicle (7m x 3.5m)
Operation Hours	9:00 a.m. to 7:00 p.m. daily

1.4 In support of the application, the applicant has submitted an Application Form with attachments received on 7.6.2024 (**Appendix I**).

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at the Application Form with attachments at **Appendix I**. They can be summarised as follows:

- (a) the proposed use would benefit the residents in the vicinity to meet their demand for building materials;
- (b) the proposed use is not incompatible with the surrounding areas;
- (c) the proposed use is a temporary use for a period of three years which would not jeopardise the long-term planning intention of the current zoning;
- (d) insignificant traffic, drainage and environmental impacts are anticipated; and
- (e) a similar application has been approved.

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. For the GL portion, 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) are not applicable.

4. **Background**

The Site is currently not subject to planning enforcement action.

5. **Previous Application**

The Site is the subject of a previous application (No. A/YL-TT/601) for temporary warehouse for a period of three years involving a larger site. The application was rejected by the Rural and New Town Planning Committee (the Committee) of the Board in December 2023. Considerations of the application are not relevant to the current application which involves a different use. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1b**.

6. **Similar Applications**

There are three similar applications (No. A/YL-TT/586, 598 and 633) for temporary shop and services use within the same “R(D)” zone in the past five years. All the applications were approved with conditions by the Committee between March 2023 and May 2024 mainly on considerations that the temporary use could not jeopardise the long-term planning intention of the area; not incompatible with the surrounding uses; and the departmental concerns could be addressed by imposing approval conditions. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1a**.

7. **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.

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

8.1 The Site is:

- (a) currently fenced off, formed and vacant; and
- (b) abutting and accessible from Tai Shu Ha Road East to its west.

8.2 The surrounding area is rural residential in nature predominantly occupied by village houses intermixed with workshop and storage uses which are suspected unauthorized developments (UDs) and may be subject to planning enforcement action.

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 has adverse comments on the application:

Land Administration

9.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD)

- (a) the GL within the Site has been unlawfully occupied with unauthorized structure(s) without permission. Any occupation of GL without Government's prior approval is an offence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). LandsD reserves the rights to take necessary land control action against the unlawful occupation of GL without further notice;
- (b) if the planning application is approved, the lot owner(s) shall apply to LandsD for a Short Term Waiver (STW) and a Short Term Tenancy (STT) to permit the structure(s) erected within the lot and the occupation of GL. The application(s) for STW and STT will be considered by LandsD in its capacity as a landlord and there is no guarantee that they will be approved. The STW and STT, if approved, will be subject to such terms and conditions including the payment of waiver fee, rent and administrative fee as considered appropriate to be imposed by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered; and
- (c) his detailed advisory comments are at **Appendix IV**.

10. Public Comment Received During the Statutory Publication Period

On 14.6.2024, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual (**Appendix V**) was received raising objection to the application mainly on the ground that the application is related to warehouse operation instead of shop.

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 "R(D)" on the OZP. Although the proposed use is not in line with the planning intention of the "R(D)" zone, it could meet the demand for shop and services in the area. As there is no known development proposal for the Site, approval of the application on a temporary basis of three years would not jeopardise the long-term planning intention of the area.
- 11.2 The proposed use is generally not incompatible with the surrounding area which is rural residential in nature predominantly occupied by village houses intermixed with workshop and storage uses (**Plan A-2**).
- 11.3 Concerned government departments, including the Director of Environmental Protection, Commissioner for Transport, Director of Fire Services and Chief Engineer/Mainland North of Drainage Services Department have no objection to or

no adverse comment on the application from environmental, traffic, fire safety and drainage aspects respectively. Should the application be approved, relevant approval conditions have been recommended in paragraph 12.2 below to address the technical requirements of the concerned government departments and the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise the potential environmental nuisances on the surrounding areas. Regarding DLO/YL of LandsD’s concerns on unlawful occupation of GL with unauthorized structure(s), should the Committee approve the application, the applicant will be advised to apply STW and STT from LandsD for regularisation and the issue ***could*** ***should*** be dealt separately under the land administration regime.

- 11.4 Three similar applications were approved by the Committee between March 2023 and May 2024. Approval of the current application is generally in line with the previous decisions of the Committee.
- 11.5 There is one public comment objecting to the application 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. Should any UD be found within the Site, it would be subject to planning enforcement action.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above 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 2.8.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a revised 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 2.2.2025;
- (b) in relation to (a) above, the implementation of the revised 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 2.5.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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 2.2.2025;

- (e) in relation to (d) above, the implementation of the 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 2.5.2025;
- (f) 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
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 Member's 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 into permanent buildings and for low-rise, low-density residential development. No strong planning justification has been given 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 7.6.2024
Appendix II	Previous and 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	Proposed Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2024**