

Previous Application Covering the Application Site

Approved Application

<u>Application No.</u>	<u>Use/Development</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
A/TM-LTY Y/317	Temporary Shop and Services (Retail Shop for Pet Food and Potted Plants) for a Period of 3 Years	28.10.2016 (Revoked on 28.3.2019)	(1) to (9)

Approval Conditions

- (1) No night time operation
- (2) Submission and implementation of run-in/run-out proposal
- (3) Submission and implementation of drainage proposal
- (4) Maintenance of implemented drainage facilities
- (5) Submission and implementation of fire service installations proposal
- (6) Submission and implementation of revised tree preservation and landscape proposal
- (7) Provision of boundary fencing
- (8) Revocation clauses
- (9) Reinstatement clause

Detailed Comments of Drainage Services Department

The applicant should be reminded to incorporate the following comments when submitting their condition record of the existing drainage facilities:

- (i) The applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website: http://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html.
- (ii) Details of the proposed u-channel and catchpit should be clarified and clearly shown on the drawing.
- (iii) The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works.
- (iv) The applicant should implement the drainage facilities on site in accordance with in the drainage proposal.
- (v) The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system.
- (vi) The proposed development should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.
- (vii) Environmental Protection Department, the planning authority of sewerage infrastructure, should be consulted to verify whether Sewage Impact Assessment is required to be carried out by the applicant for the subject proposed development.

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) shorter compliance periods are imposed in order to closely monitor the progress of compliance with approval conditions. Should the applicant fail to comply with any of the approval conditions again resulting in the revocation of planning permission, sympathetic consideration would not be given to any further application;
- (c) to note the comments of District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that the Site falls within Lots Nos. 3839 RP (Part) and 3840 RP (Part) in D.D. 124 (“the Lots”). The Lots are Old Schedule Agricultural Lots 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. Site inspection revealed that the existing structures for retail shops are still vacant. The proposal does not entirely tally with the Built Over Area (“B.O.A.”) of the existing structures and the permitted B.O.A. and use of retail shop for pet food and potted plants as approved in Short Term Waiver No. MR 17003. The Site is accessible via a strip of government land leading from Shun Tat Street. His Office does not carry out maintenance works for the said road nor guarantee that right-of-way will be given to the Site. The lot owner is required to submit application to his Office for revision of the B.O.A. and user of Short Term Waiver No. MR17003. He would advise that the proposal will only be considered upon his receipt of formal application. The application, if received, will be considered Lands Department acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, deposit and administration fee etc. However, there is no guarantee that the application will be approved and he reserves his comment on such. Notwithstanding the above, his Office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations of structures on the Site or any unauthorized occupation of Government land irrespective of whether planning permission will be given or not;
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that there is no record of approval by the Building Authority for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application. Before any new building works (including structures and toilet as temporary buildings and connection of drains) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD’s enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO. The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of B(P)R at the building plan submission stage. Formal submission

under the BO is required for any proposed new works, including any temporary structures. Details comments will be provided at the building plan submission stage;

- (e) to note the comments of the Director of Environmental Protection (DEP) that the applicant is reminded to refer to the revised “*Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites*” (the COP) to minimize the potential environmental impact;
- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that the proposed access from the Site to Shun Tat Street is not and will not be maintained by HyD. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and the Chief Engineer/Project Management, Drainage Services Department (CE/PM, DSD) that the applicant should be reminded to incorporate when submitting their condition record of the existing drainage facilities: (i) the applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website: http://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html; (ii) details of the proposed u-channel and catchpit should be clarified and clearly shown on the drawing; (iii) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works; (iv) the applicant should implement the drainage facilities on site in accordance with the drainage proposal; (v) the applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system; (vi) the proposed development should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas; and (vii) Environmental Protection Department, the planning authority of sewerage infrastructure, should be consulted to verify whether sewerage impact assessment is required to be carried out by the applicant for the subject proposed development;
- (h) to note the comments of the Director of Fire Services (D of FS) that the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to his department for approval. In addition, the applicant should also be advised on the following points: (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans. However, the applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
- (i) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that approval of the S.16 application by the Board does not imply the approval of tree works (such as felling/transplanting or pruning) and/or requirements under lease. Tree works applications should be submitted direct to DLO for approval.