

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYYY/389

- Applicant** : Land Zone Limited
- Site** : Lots 449 S.B RP and 449 S.C RP (Part) in D.D. 130, San Hing Tsuen, Tuen Mun, New Territories
- Site Area** : About 490.3 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYYY/10
- Zoning** : “Residential (Group E)” (“R(E)”)
[restricted to a maximum plot ratio of 1.0, a maximum site coverage of 40% and a maximum building height of 4 storeys over single-storey car park (15m)]
- Application** : Proposed Temporary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary office for a period of 3 years (**Plan A-1**). According to the Schedule I of the Notes for the “R(E)” zone of the OZP, ‘Office’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for a period of 3 years. The Site is currently occupied by vacant container structures with some storage of motorcycles.
- 1.2 The Site is involved in a previous application (No. A/TM-LTYYY/94) for temporary workshop for assembly of goods vehicle body (installation of enclosed refrigerated compartments) for a period of 3 years which was approved by the Board upon review on 19.7.2002. However, the approval was subsequently revoked on 19.1.2003 due to non-compliance with approval condition. Details of the previous application are summarised at paragraph 5 below and at **Appendix II**.

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

Site Area	About 490.3 m ²
Non-domestic Gross Floor Area	About 430.66 m ²
No. of Structures (Non-domestic)	3 container structures for offices (Office 1: 12.2m x 10m Office 2: 12.2m x 8.5m Office 3: 12.2m x 6.4m)
Height of Structures	Offices 1 and 2: 2 storeys (6.1m) Office 3: 1 storey (3m)
Parking Spaces	2 for Private Car 2 for Motorcycle
Operation Hours	9:30 a.m. to 5:30 p.m. (Mondays to Fridays) (except Saturdays, Sundays and Public Holidays)

1.4 According to the Applicant, the Site is accessible from San Hing Road. The applicant intends to use the proposed use for import/export business and would accommodate 4 to 6 no. of staff. The proposed use will be used for conducting clerical, administrative, documenting and other business or industrial related work. No vehicle repair, dismantling, car beauty, car washing and workshop use will be carried out at the Site. No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers will be parked/stored on or enter/exit the Site.

1.5 The vehicular access plan and the proposed layout plan are at **Drawings A-1 to A-2** respectively.

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

- (a) Application Form with attachments received on **(Appendix I)** 17.10.2019
- (b) Further information (FI) providing clarification on the trip generation rates and trip attractions from/to the Site received on 26.11.2019 **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
- (c) FI providing clarification on the operation and responses to public comment received on 28.11.2019 **(Appendix Ib)**
(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 at **Appendix I**. They can be summarised as follows:

- (a) The applicant purchased the subject property in 2007. At the point of purchase, there was a temporary structure located at the eastern side.
- (b) The purpose of this application is for temporary office use of 3 years, which is a place of business and for conducting clerical, administrative, documenting and

other business or industrial related work. The property is zoned as “R(E)” on the approved Lam Tei and Yick Yuen OZP No. S/TM-LTYYY/10. Office use is in “Schedule 1” and under Column 2. There is no contradiction to long term planning intention. The proposed use is compatible with surrounding land uses.

- (c) The subject property will be used for administrative documentation, product showcase, photo-shooting, client meeting, dry kitchen area (pantry), washroom and lounge spaces.
- (d) The structure will follow the codes from the Buildings Department. It is his priority to make his neighbours feel safe and harmony.
- (e) The proposed use is to support the applicant’s import/export business. Since the Site is small in scale, no adverse traffic, drainage 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 is not subject to planning enforcement action.

5. Previous Application

The Site is the subject of a previous application No. A/TM-LTYYY/94 for temporary workshop for assembly of goods vehicle body (installation of enclosed refrigerated compartments) for a period of 3 years which was approved by the Board upon review on 19.7.2002 subject to the incorporation of an approval condition on implementation of environmental mitigation measures. However, the approval was subsequently revoked on 19.1.2003 due to non-compliance with approval condition. Details of the application are summarized in **Appendix II**.

6. Similar Application

There is no similar application within the same “R(E)” zone on the OZP.

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

7.1 The Site is:

- (a) currently occupied by vacant container structures with some storage of motorcycles; and
- (b) accessible from San Hing Road.

7.2 The surrounding areas have the following characteristics:

- (a) To the east are warehouses, storage of recycling materials which are suspected unauthorised developments (UDs) and some residential

dwellings;

- (b) to the south and west are warehouses, vacant land and some residential dwellings; and
- (c) to the north are residential dwellings, vacant land and car parks which are suspected UDs.

8. Planning Intention

The planning intention of the “R(E)” zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Town Planning Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) The Site falls within Lot Nos. 449 S.B RP and 449 S.C RP (Part) in D.D.130 (“the Lots”). The Lots are Old Schedule 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.
- (b) Site inspection revealed that the fence on the northern side of the Lots was erected outside its boundary while a number of containers were erected within the Lots and some of the containers may have encroached onto the adjoining government land (GL). Depending on the on-site situation, these containers may be regarded as structures. No permission has been given for the erection of the structures nor has any permission been given for the occupation of the GL concerned. The erection of the proposed offices and the existing structures will be in breach of the lease conditions unless prior approval is obtained. As the layout of the existing structures does not tally with the proposal, the applicant should clarify whether the existing containers and structures will be removed and replaced with the proposed structures.
- (c) The Site is accessible via a strip of footpath leading from San Hing Road. His office does not carry out maintenance works for the said footpath nor guarantee that right-of-way will be given to the Site.

- (d) If planning permission is given by the Board, the lot owner may consider submitting a formal application to his office for a Short Term Waiver to permit erection of the proposed structures on the Lot. However, there is no guarantee that the application will be approved and he reserves his right to take any action as may be appropriate. The application will be considered by 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.
- (e) Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions of structures within the Lots irrespective of whether planning permission will be given or not. Enforcement action will also be taken should any structures are found erected without any prior approval given by his office or any unauthorized occupation of GL.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

He has no comment on the application from the traffic engineering viewpoints.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed vehicular access at San Hing Road should be commented by TD;
- (b) If the proposed vehicular access at San Hing Road is agreed by TD, the applicant should construct the run-in/out in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134, and H5135, whichever set is appropriate to match with the existing adjacent pavement; and
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) Should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimise potential environmental impacts on the surrounding environment.
- (b) Sewage arising from the subject site should be directed to nearby public sewer.

- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

He has no in-principle objection to the application subject to the following conditions from public drainage and sewerage viewpoints.

- (a) The Site is located at an area where public drainage facility is available for connection. Should the application be approved, a condition should be stipulated requiring the applicant to submit a drainage proposal for the development and to implement and maintain the drainage facilities proposed in the drainage proposal to the satisfaction of his department.
- (b) The Site is located at an area where public sewerage facility is available for connection. Should the application be approved, a condition should be stipulated requiring the applicant to submit a sewerage proposal for the development and to implement and maintain the sewerage facilities proposed in the sewerage proposal to the satisfaction of his department. Environmental Protection Department (EPD), the planning authority of sewerage infrastructure, should be consulted regarding the sewerage treatment/disposal aspects of the development.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed 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.
- (c) However the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

9.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

With reference to the site visit conducted by his office on 5.11.2019, the Site is hard paved with a tree at the centre of the southern boundary outside the Site. The applied use appears to be already in operation. The Site is situated in an area of village landscape character predominated by temporary structures and open storage yards. Significant change to the landscape character arising from the application is not envisaged.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) 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.
- (b) The applicant's attention is drawn to the following points:-
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by the BA 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.
 - (iii) Before any new building works (including open sheds as temporary buildings) are to be carried out on the application site, the prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
 - (iv) The temporary converted containers for site office/storage are considered as temporary buildings are subject to control under the Building (Planning) Regulations Pt. VII.
 - (v) Detailed comments under the BO will be provided at building plan submission stage.

Others

9.1.9 Comments of the Chief Engineer/Housing Project 2, Civil Engineering and Development Department (CE/HP2, CEDD):

- (a) CEDD is conducting a consultancy study titled “Agreement No. CE68/2017(CE) – Site Formation and Infrastructural Works for the Development at San Hing Road & Hong Po Road, Tuen Mun – Feasibility Study” for the Government. The consultancy study commenced in February 2018 scheduled for completion in Q1 2020.
- (b) According to the latest development layout plan prepared by CEDD’s consultants, in collaboration with HD, the lots are found encroaching on the north boundary of the proposed Phase 2 public housing development site at San Hing Road.
- (c) It is considered that the programme of land resumption should follow the project programme notwithstanding the validity period of the planning permission to be granted. An advisory clause of ‘The Site might be subject to land resumption for the implementation of the San Hing Road and Hong Po Road Public Housing Development which might take place at any time before the expiry of the temporary planning permission’ will be incorporated to remind the applicant that the land might be resumed at any time during the planning approval period. CEDD will give sufficient advance notice to relevant department(s) if early termination of the Site is found necessary.

9.1.10 Comments of the Director of Housing (D of Housing):

He has no supplement on CE/HP2, CEDD's comment.

District Officer’s Comments

9.1.11 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

He has distributed consultation letters to the concerned locals and understand that they will provide their comments (if any) to the Board direct.

9.2 The following government departments have no comment on the application:

- (a) Director of Leisure and Cultural Services (DLCS);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Director of Food and Environmental Hygiene (DFEH);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC).
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (f) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO); and
- (g) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 25.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 15.11.2019, 1 public comment was received. A group of villagers of San Hing Tsuen object to the application on the ground of safety as the structures are near the footpath and vehicular access. There is a dispute on the land ownership of the Site (**Appendix III**). Subsequently, one of the villagers who signed the public comment at **Appendix III** has withdrawn his signature.

11. Planning Considerations and Assessments

- 11.1 The Site falls within an area zoned “R(E)” which is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem. The proposed temporary office is not entirely in line with the planning intention of “R(E)” zone. As advised by CE/HP2, CEDD, according to the latest development layout plan the lots are found encroaching on the north boundary of the proposed Phase 2 public housing development site at San Hing Road. It is considered that the programme of land resumption should follow the project programme notwithstanding the validity period of the planning permission to be granted. Approval of the application on a temporary basis for a period of 3 years would not jeopardise the long-term planning intention of the “R(E)” zone.
- 11.2 The Site is in an area mixed with warehouses, residential structures, vacant land, parking of vehicles and structures for storage use (**Plan A-2**). The proposed development is considered not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including C for T, CE/MN of DSD, CTP/UD&L of PlanD and DEP have no objection to or no adverse comments on the application. The proposed development will unlikely create significant adverse traffic, drainage, landscape and environmental impacts on the surrounding areas. There has been no environmental complaint concerning the Site received in the past 3 years. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 Regarding the public comment, the planning considerations and assessments in paragraphs 11.1 to 11.3 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment 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 3 years until 13.12.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:30 p.m. and 9:30 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 13.6.2020;
- (c) in relation to (b) above, the implementation of 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 13.9.2020;
- (d) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.6.2020;
- (e) in relation to (d) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.9.2020;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the submission of a sewerage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.6.2020;
- (h) in relation to (g) above, the implementation of the sewerage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.9.2020;
- (i) in relation to (h) above, the implemented sewerage facilities shall be maintained at all times during the planning approval period;
- (j) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.6.2020;
- (k) in relation to (j) 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 13.9.2020;
- (l) if any of the above planning conditions (a), (f) or (i) 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

- (m) if any of the above planning conditions (b), (c), (d), (e), (g), (h), (j) or (k) 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 development is not in line with planning intention of the "R(E)" zone which is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. 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

Appendix I	Application Form with attachments received on 17.10.2019
Appendix Ia	Further information providing clarification on the trip generation rates and trip attractions from/to the Site received on 26.11.2019
Appendix Ib	Further information providing clarification on the operation received on 28.11.2019
Appendix II	Previous s.16 Application Covering the Application Site
Appendix III	Public Comment received during statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos