

Previous s.16 Application Covering the Application Site

Approved Application

<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
A/TM-LTYYY/320	Proposed Temporary Shop and Services (Real Estate Agency and Local Provisions Store) with Ancillary Storage Area and Office for a Period of 3 Years	25.11.2016 [Revoked on 25.4.2019]	(1), (2), (3), (4), (5) and (6)

Approval conditions

- (1) No night-time operation
- (2) Submission and implementation of drainage proposal and maintain the implemented drainage facilities
- (3) Submission and implementation of water supplies for firefighting and fire service installations proposal
- (4) Submission and implementation of a tree preservation and landscape proposal
- (5) Provision of boundary fencing
- (6) Reinstatement clause

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) the permission is given to the use(s) and development under application. It does not condone any other use(s) and development which currently exist on the Site but not covered by the application. The applicant shall be requested to take immediate action to discontinue such use(s) and development not covered by the permission;
- (c) to note the comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that:
 - (i) the Site falls within Lot Nos. 1211 S.C (Part), 1248 (Part) and 1249 (Part) in DD. 130 (“the Lots”). The Lots concerned 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.
 - (ii) Site inspection revealed that two 2-storey container-converted structures for office as well as storage and toilet were erected on Lot Nos. 1211 S.C and 1249 in DD. 130. No permission has been given for the erection of the structures. It is also noted that a fire pump room and F.S. water tank on Lot No. 1249 in DD. 130 suspected for the proposed shop use have been excluded from the Site. The configuration of the existing structures does not entirely tally with the proposal as shown on Plan 3 of your submission.
 - (iii) The Site is accessible via a strip of government land (GL) and a number of private lots leading from Tat Fuk Road. His office does not carry out maintenance works for the said GL nor guarantee that right-of-way will be given to the Site.
 - (iv) According to para. 9(c) in Appendix I of your submission, 225mm U-channels are proposed on the eastern and southern boundary of the Site. However, they were not indicated on the drainage proposal (Plan 4.1 of your submission). The applicant would be reminded that if there is any private lots and GL involved in the proposed drainage works, he is required to seek prior approval from the lot owners concerned and his office before commencement of any drainage works on the private lots concerned and the GL if the drainage proposal is acceptable to Drainage Services Department (DSD). Nevertheless, there is no guarantee that approval to lay drains on GL will be given.
 - (v) 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 Lots. 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 LandsD 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.
 - (vi) His office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations 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.

- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that the proposed vehicular access (i.e. via Wong Kong Wai Road and Tat Fuk Road) from the public road to the Site is not and will not be maintained by HyD;
- (e) to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department;
- (f) to note the comments of the Director of Environmental Protection (DEP) that sewage arising from the subject site should be directed to nearby public sewer. If septic tank and soakaway system is used in case of unavailability of public sewer, its design and construction should follow the requirements of the ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person (AP);
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that in regards to the proposed drainage proposal, please note his below comments:
 - (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 (https://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html).
 - (ii) Presumably it is the intent of the applicant to make drainage connection to public drainage via proposed catchpit from the Site. According to his records and subsequent site inspection on 24 December 2019, no DSD maintained facilities is observed in the vicinity of the Site. In this regard, the applicant should be reminded to identify such public drainage and consult, as appropriate, the relevant authorities/owners of the existing drainage for consent of the connection works.
 - (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 owner before commencement of the drainage works.
 - (iv) 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.
 - (v) The proposed works should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas;

- (h) to note the comments of the Director of Fire Services (D of FS) that in consideration of the design/nature of the proposal FSIs are anticipated to be required. 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: (a) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and (b) the location of where the proposed FSI to be installed should be clearly marked on the layout plans. 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;
- (i) to note the comments of the Chief Town Planner/Urban Design and Landscape that approval of section 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 relevant authority for approval if necessary; and
- (j) 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. His comments under the Buildings Ordinance (BO) on the application are as follows:
 - (i) if the existing structures are erected on leased land without approval of the Building Authority (BA) (not being a New Territories Exempted House), they are unauthorized under the BO and should not be designated for any proposed use under the application.
 - (ii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An AP should be appointed as the coordinator for the proposed building works in accordance with the BO.
 - (iii) 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.
 - (iv) 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 the Building (Planning) Regulation (B(P)R) at the building plan submission stage.
 - (v) 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 B(P)R respectively.