

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/TM-LTYYY/397

- Applicant** : Roosendall International Investment Limited
- Site** : Lot 694 S.L RP in D.D. 130 and adjoining Government Land (GL), Lam Tei, Tuen Mun, New Territories
- Site Area** : About 41.01 m² (including 9.7 m² of GL)
- Lease** : Block Government Lease (demised for agricultural or garden use)
- Plan** : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP)
No. S/TM-LTYYY/10
- Zoning** : Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval under Application No. A/TM-LTYYY/334
for Temporary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for temporary office for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “V” on the approved OZP. Although the proposed use is neither a Column 1 nor 2 use in the “V” zone, the Covering Notes of the OZP stipulate that temporary use or development of any land or buildings not exceeding a period of 3 years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently being used for the applied use with a valid planning permission.
- 1.2 The Site was involved in four previous applications No. A/TM-LTYYY/73, 75, 309 and 334. The last application No. A/TM-LTYYY/334 was approved by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 26.5.2017. All approval conditions have been complied with. The planning permission is valid until 26.5.2020. Details of the previous applications are summarized at paragraph 6 below and at **Appendix III**.

- 1.3 The major development parameters of the current application are the same as the approved application (No. A/TM-LTY Y/334):

Site area	About 41.01m ² (including about 9.7 m ² GL)
Total floor area	41.01m ²
No. of structures	1 for Temporary Office
Height of structures	1-storey (3.8m)
Parking spaces	None
Operation hours	8:00 a.m. to 9:00 p.m. from Mondays to Sundays, including public holidays

- 1.4 According to the applicant, there is no change to the site boundary and all parameters comparing to the previously approved application (No. A/TM-LTY Y/334). The Site is accessible via Lam Tei Main Street. **(Plan A-2)**.
- 1.5 The lot index plan, floor plan, existing fire services installations (FSIs) plan and drainage proposal are at **Drawings A-1 to A-5** respectively.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 17.3.2020 **(Appendix I)**
 - (b) Supplementation Information providing a Certificate of Fire Service Installation (FSI) and Equipment (FS 251) on 20.3.2020 **(Appendix Ia)**
 - (c) Further Information (FI) received on 8.4.2020 confirming that the development proposal, parameters, layout and use are the same as those under application No. A/TM-LTY Y/334 **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
 - (d) FI received on 21.4.2020 providing clarifications on the traffic and pedestrian flow implications **(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 at **Appendices I to Ic**. They can be summarised as follows:

- (a) The applicant would like to continue the office use at the Site in order to continue serving the customers and local villagers in Lam Tei who live nearby.

- (b) The development proposal, parameters, layout and use are of the same under the previous application No. A/TM-LTYYY/334.
- (c) No vehicle would be involved in the operation and large pedestrian flow is not anticipated, thus no adverse impact to the traffic and pedestrian flow to the surrounding environment.

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. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No.34C) are relevant to this application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site was involved in four previous applications (No. A/TM-LTYYY/73, 75, 309 and 334) submitted by the same applicant. Application No. A/TM-LTYYY/73, 309 and 334 were for the same applied use as the current application while application No. A/TM-LTYYY/75 was for retail use. Details of the previous applications are summarised at **Appendix III** and shown on **Plan A-1**.
- 6.2 All previous applications were approved with conditions by the Committee for a period of 3 years each on 16.3.2001, 30.3.2001, 13.5.2016 and 26.5.2017 respectively on the considerations that the proposed development would serve nearby villagers, not adversely affect the existing character of the villages, not incompatible with the surrounding uses, no adverse impact on the area and no adverse comment from relevant government departments. However, application No. A/TM-LTYYY/306 was revoked on 13.2.2017 due to non-compliance with approval conditions including drainage and fire safety aspects. For the last approved application No. A/TM-LTYYY/334, all the approval conditions have been complied with. The planning permission of the last application is valid until 26.5.2020.
- 6.3 Compared with the last approved application (No. A/TM-LTYYY/334), the current application is submitted by the same applicant for the same use on the same site with the same development parameters and same layout.

7. Similar Application

There is no similar application within the same “V” zone on the OZP.

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

8.1 The Site is:

- (a) occupied by a single-storey building for office, with valid permission under application No. A/TM-LTY Y/334; and
- (b) accessible from via Lam Tei Main Street, which is a one-way street. **(Plan A-2).**

8.2 The surrounding areas have the following characteristics:

- (a) Lam Tei Main Street is predominantly occupied by shops, restaurants and local stores intermixed with residential dwellings on both sides;
- (b) to the immediate south are a godown and a restaurant which are suspected unauthorized developments (UD). To the further south are village-type developments and vacant land;
- (c) to its immediate east are vacant land and commercial/residential uses and restaurant. To the further east are Lam Tei Market cum Hawker Bazaar, a public toilet and a refuse collection point;
- (d) to its immediate west are restaurant and commercial uses. To the further west are Castle Peak Road – Lam Tei Section and some commercial uses which are suspected UD; and
- (e) to the north across Lam Tei Main Street are village type developments and to the further north is the Miu Fat Buddhist Monastery.

9. Planning Intention

The planning intention of “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

10. **Comments from Relevant Government Departments**

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

Land Administration

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

- (a) The Site falls within Lot No. 694 S.L RP in D.D. 130 (“the Lot”) and adjoining GL. The Lot is Old Schedule 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. The Lot was sub-divided from Lot No. 694 S.L. in D.D. 130 (“the Mother Lot”). Short Term Waiver (STW) No. 758 and Short Term Tenancy (STT) No. 1261 were issued to the Mother Lot and the adjoining GL respectively for erection of structures thereon.
- (b) An application for cancelling STW No. 758 and STT No. 1261 and re-issue of a new STW and a new STT on the Site was approved by his office subject to the approval of application No. A/TM-LTY Y/309. However, due to the non-compliance with the approval conditions of aforesaid planning application, the said planning permission was revoked on 23.2.2017 and the application was rejected. Subsequently, application No. A/TM-LTY Y/334 was approved by the Committee on 26.5.2017 and all approval conditions have been complied with. The applicant submitted the applications for a new STW and a new STT on 26.8.2019 to regularize the existing structures.
- (c) Site inspection revealed that the existing structures on the Site deviate from those permitted under STW No. 758 and STT No. 1261. They were used for temporary office. No permission has been given for the change of the area/user of the structure nor has any permission been given for the additional occupation of GL concerned. Applications for a new STW and STT to cover the existing structure for temporary office purposes on the Lot and the adjoining GL is under process by his office. The layout and configuration of existing structure tally with the proposal.
- (d) The Site is accessible via a strip of GL leading from Lam Tei Main 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.
- (e) If planning permission is given by the Board, processing of the above applications for a new STW and a new STT would be continued by his office to regularize the existing structures on the Lot and the adjoining GL. However, there is no guarantee

that the applications will be approved and he reserves his right to take any actions 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 applications are approved, they would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, rent, deposit and administration fee etc.

- (f) Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations of structures affected 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

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

- (a) He has no objection in principle to the application but has the following comments from highways maintenance point of view.
 - (i) The applicant shall be required to vacate the road verge at their own cost to facilitate inspection, maintenance improvement or repair works of public highways, street furniture and the like upon prior notification from his department.
 - (ii) The applicant shall be required to vacate the road verge without any prior notice in emergencies and his department would not be responsible for any damage done to their properties in case they are removed due to emergencies.
 - (iii) The applicant should take all necessary measures to avoid causing any damage to public roads/street furniture and make good any damage done at his own expenses to his satisfaction arisen from the applicant's activities.
 - (iv) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and exclusive road drains.

Environment

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

- (a) The proposed temporary office within a "V" zone is not anticipated to have adverse environmental implications and he has no objection to the application. The applicant should refer to the "Code of Practice on Handling the Environmental Aspects of

Temporary Uses and Open Storage Sites” (CoP) issued by DEP to minimize any potential environmental nuisances.

- (b) Effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge licence under the WPCO should be obtained before a new discharge is commenced. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures.
- (c) There has been no environmental complaint concerning the Site received in the past 3 years.

Drainage

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

- (a) It is noted that the applicant intended to adopt the drainage facilities, which is as per the applicant’s submission had been accepted in previous application No. A/TM-LTYT/334. In this regard, he has no objection in principle to the application from public drainage point of view.
- (b) Should the application be approved, conditions should be included to request the applicant to maintain the drainage facilities as per the drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area and to submit a condition record of existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board.
- (c) The applicant should be reminded to incorporate the following comments when submitting their drainage proposal.
 - (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 applicant to make drainage connection to public drainage to discharge runoff from the Site. According to his records, there is no DSD maintained facility 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) Details of the proposed u-channel and catchpits and how it would be connected to the existing drainage system should

be clarified and clearly shown in the proposed drainage proposal.

- (iv) Peripheral drainage channels should be provided to intercept the surface runoff from the uphill catchment so as to avoid the Site from overland flow influence.
- (v) The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owners 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.
- (vi) 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.
- (vii) The proposed work should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.

Fire Safety

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

He has no objection in principle to the application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Landscape

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

Significant change to the landscape character arising from the continued use of the Site under the application is not envisaged.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points.

- (i) If the existing structures (not being a NTEH) are erected on leased land without the approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designed 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, 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.
 - (iii) For UBW erected on leased land, enforcement action may be taken by 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.
 - (iv) Fire barriers with sufficient fire resistance rating should be provided to separate the building and the adjacent unit under Regulation 90 of the Building (Construction) Regulations at the building plan submission stage.
 - (v) The proposed office should be provided with windows in compliance with Building (Planning) Regulations 30 and 31.
- (c) Detailed comments will be provided at the building plans submission stage.

Others

- 10.1.8 Comments of the Chief Town Planner/Housing and Office Land Supply, Planning Department (CTP/HOLS, PlanD) and the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

The Site falls within the Study Site of the on-going Preliminary Land Use Study for Lam Tei Quarry and the Adjoining Areas (the Study) jointly commissioned by CEDD and PlanD. They have no specific comment on the application as far as the Study is concerned.

District Officer's Comments

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

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

10.2 The following government departments have no comment on the application

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

11. Public Comment Received During the Statutory Publication Period

During the first three weeks of the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The subject application is for renewal of planning approval for temporary office for a period of 3 years at a site zoned “V” on the OZP. The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. Whilst the applied development is not entirely in line with the planning intention of the “V” zone, there is no Small House application at the Site. The applied development could provide office use to meet any such demand in the area. Approval of the application on a temporary basis for a period of 3 years would not jeopardise the long-term planning intention of the “V” zone.
- 12.2 The Site is situated on Lam Tei Main Street. It is surrounded by shop, restaurants and local stores (**Plan A- 2**). The development under application is not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with TPB PG-No. 34C in that there is no material change in planning circumstances since the previous temporary approval was granted; adverse planning implications arising from the renewal of the planning approval are not envisaged; all conditions under previous approval have been complied with; and the approval period sought is the same as the previous approval.

- 12.4 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 comment 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 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority.
- 12.5 The Committee has approved three previous applications for the same use at the Site. Approval of the application is in line with the previous decisions of the Committee.
- 12.6 There is no public comment received during the publication period.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary office could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the renewal shall be valid on a temporary basis for a period of 3 years, and be renewed from 27.5.2020 to 26.5.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) a minimum horizontal clearance of 500mm from Lam Tei Main Street and a minimum vertical clearance of 3.5m over the road verge shall be maintained at all time during the planning approval period to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the existing drainage facilities on the Site shall be maintained at all times during the approval period;
- (d) the submission of a condition record of the existing drainage facilities on the site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 27.8.2020;
- (e) the existing fire service installations implemented on the Site should be maintained in efficient working order at all times during the planning approval period;

- (f) if the above planning conditions (a), (b), (c) or (e) 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 the above planning condition (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.

[Approval conditions (a) and (b) are the same as the previous application No. A/TM-LTYT/334, conditions (c) to (e) have been revised to accord with the latest departmental comments and the reinstatement clause is deleted.]

Advisory clauses

The recommended advisory clauses are attached at **Appendix IV**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with attachments received on 17.3.2020
Appendix Ia	Supplementation Information received on 20.3.2020
Appendix Ib	FI received on 8.4.2020
Appendix Ic	FI received on 21.4.2020
Appendix II	Extract of Town Planning Board Guidelines No.34C on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No.34C)
Appendix III	Previous Applications Covering the Site
Appendix IV	Advisory Clauses
Drawing A-1	Lot Index Plan
Drawing A-2	Layout Plan
Drawing A-3	Existing FSIs Plan
Drawings A-4 and A-5	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2020**