

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/TM-LTY Y/408**

- Applicant** : Senior Plan Development Limited represented by Metro Planning & Development Company Limited
- Site** : Lot 3040 (Part) in D.D. 124 and Adjoining Government Land (GL), Chung Uk Tsuen, Tuen Mun, New Territories
- Site Area** : About 320 m<sup>2</sup> (including GL of about 250 m<sup>2</sup> or 78%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plans** : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTY Y/10 (LTY Y OZP) and  
Draft Tong Yan San Tsuen OZP No. S/YL-TYST/13 (TYST OZP)
- Zonings** : “Village Type Development” (“V”) (about 85%) on LTY Y OZP  
and  
*[Restricted to a maximum building height of 3 storeys (8.23m)]*  
“Residential (Group D)” (“R(D)”) (about 15%) on TYST OZP  
*[Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]*
- Application** : Proposed Temporary Shop and Services 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 shop and services for a period of 3 years (**Plan A-1**). The Site largely falls within an area zoned “V” (about 85%) on the LTY Y OZP and partly falls within an area zoned “R(D)” (about 15%) on the TYST OZP. According to the Notes for “V” and “R(D)” zones on both OZPs, ‘Shop and Services’ is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is currently vacant (**Plans A-2 and A-4**).
- 1.2 The Site was involved in one previous application (No. A/TM-LTY Y/345) for proposed temporary shop and services (real estate agency) at the same site for a period of 3 years which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 16.3.2018 (**Plan A-1**). However, the planning permission was revoked on 16.8.2020 due to non-compliance of time-limited approval conditions on implementation of drainage, fire services installations (FSIs) and

landscape proposals. Details of the previous application are summarised in paragraph 5 below and **Appendix II**.

- 1.3 According to the applicant, the proposed development will be used for real estate agency. The Site is accessible from Tin Tei Yan Road connecting Castle Peak Road – Hung Shui Kiu (**Plans A-2 and A-3**). No vehicle is allowed to enter/park at the Site. The proposed layout plan, landscape plan, drainage plan and FSIs proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 A comparison of the major development parameters of the last approved application and current application is as follows:

<b>Major Development Parameters</b>	<b>Last Approved Application No. A/TM-LTY/345</b>	<b>Current Application No. A/TM-LTY/408</b>	<b>Differences (b) – (a)</b>
Applied Use	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	Proposed Temporary Shop and Services for a Period of 3 Years	No Change
Site Area	About 320 m <sup>2</sup> (including GL of about 250 m <sup>2</sup> )		No Change
Total Floor Area (Non-domestic)	About 103 m <sup>2</sup>		No Change
No. and Height of Structure	1 for real estate agency with toilet (not exceeding 1 storey (4.5 m))	1 for real estate agency with toilet (not exceeding 1 storey (6 m))	+1.5 m (+ 33%)
Operation Hours	9:00 a.m. to 8:00 p.m. daily (including Sundays and public holidays)		No Change

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 17.11.2020 and Supplementary Information received on 19.11.2020 (**Appendix I**)
  - (b) Further Information (FI) providing responses to Transport Department's (TD's) comments received on 11.12.2020 (**Appendix Ia**)
  - (c) FI providing clarifications on the retaining wall at the adjacent site received on 5.1.2021 (**Appendix Ib**)  
*[(b) and (c) 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 Ib**. They can be summarised as follows:

- (a) The proposed use is in line with the planning intentions of the “V” and “R(D)” zones and the proposed ‘Shop and Services’ use is under Column 2 of the zones.
- (b) The proposed use is compatible with the surrounding environment.
- (c) Noise, environmental, drainage, landscape and traffic impacts are not envisaged. The proposed use would be enclosed, u-channel, trees would be provided at the Site. No vehicle is allowed to enter/park at the Site.
- (d) There are previous (No. A/TM-LTY Y/345) and similar applications for the same use in the “V” and “R(D)” zones approved by the Board.
- (e) The retaining wall at the adjacent site has been completed according to Buildings Department’s (BD’s) requirements.
- (f) The revocation of the last permission (No. A/TM-LTY Y/345) was due to the need of the construction of a retaining wall at the adjacent site as required by District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD). The applicant is ready to implement the proposals because the retaining wall at the adjacent site has been completed.

### **3. Compliance with the “Owner’s Consent/Notification” Requirements**

For the private land of the Site, the applicant is the “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. For GL portion of the Site, the requirements as set out in TPB PG-No. 31A are not applicable.

### **4. Background**

The Site is not subject to planning enforcement action.

### **5. Previous Application**

- 5.1 The Site was involved in one a previous application No. A/TM-LTY Y/345 for the same use, which was approved with conditions for a period of 3 years by the Committee on 16.3.2018 on the major considerations that the proposed use was not incompatible with the surrounding areas; would not jeopardise the long-term planning intentions of “V” and “R(D)” zones; no Small House application at the site; the proposed use was unlikely to cause significant environmental, traffic, drainage and visual impacts to the surrounding areas and no adverse comments were received from relevant government departments. However, the planning permission was revoked due to non-compliance with approval conditions on the implementation of drainage and FSIs proposals. Details of the application is summarised at **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 Compared with the last application No. A/TM-LTY Y/345, the current application is submitted by the same applicant for the same use on the same site with the same layout and similar development parameters except for a slight increase in the proposed building height (from not exceeding 4.5 m to 6 m).

## **6. Similar Applications**

- 6.1 There are 12 similar applications (No. A/TM-LTY Y/210, 245, 264, 268, 296, 321, 350, 382 and 387 and A/YL-TYST/713, 819 and 887) for temporary shop and services which were intended for the use of real estate agencies within the subject “V” zone on the LTY Y OZP and the subject “R(D)” zone on the TYST OZP. The applications were all approved by the Committee/the Board. Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

### *Approved Applications within “V” zone on the LTY Y OZP*

- 6.2 Applications No. A/TM-LTY Y/210, 245, 264, 268, 296, 321, 350, 382 and 387 for temporary shop and services (convenience store and/or real estate agency) uses were approved between 2011 and 2019 on a temporary basis for 3 years on the major considerations that the proposed use was not incompatible with the surrounding areas; would not jeopardise the long-term planning intention of “V” zone; no Small House application at the site; the proposed use was unlikely to cause significant environmental, traffic, drainage and visual impacts to the surrounding areas and no adverse comments were received from relevant government departments.

### *Approved Applications within “R(D)” zone on the TYST OZP*

- 6.3 The remaining three applications (No. A/YL-TYST/713, 819 and 887) for temporary shop and services (real estate agency) use were approved between 2015 to 2018 on a temporary basis for 3 years on the major considerations that the proposals would not jeopardise the long-term planning intention of the “R(D)” zone; not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions.
- 6.4 Amongst these approved applications, five applications (No. A/TM-LTY Y/210 and 245 and A/YL-TYST/713, 819 and 887) were subsequently revoked due to non-compliance with time-limited approval conditions.

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

- 7.1 The Site is:

- (a) currently vacant (**Plan A-2 and A-4**); and
- (b) accessible from Castle Peak Road – Hung Shui Kiu via Tin Tei Yan Road (**Plan A-2**).

- 7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to the immediate east is a piece of vacant land and southeast is a warehouse, and a nullah. To the further east across the nullah are residential dwellings and a logistics warehouse;
- (b) to the immediate south is unused land. To the further south are car park, unused land, residential dwellings and fallow agricultural land;

- (c) to the immediate west are warehouses and to the further west are village type developments; and
- (d) to the immediate north are warehouses. To the further north are a store, open storage yards, warehouse, village type developments and residential development named Bauhinia Garden.

## **8. Planning Intentions**

- 8.1 The planning intention of the “V” zone on the LTYO OZP 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 New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.
- 8.2 The “R(D)” zone on the TYST OZP is intended 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.

## **9. Comments from Relevant Government Departments**

- 9.1 The following government departments have been consulted and their views on the application are summarised 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 No. 3040 in D.D. 124 (the Lot) and the adjoining GL. The Lot is an 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.
  - (b) A Short Term Waiver (STW) No. 486 and a Short Term Tenancy (STT) No. 823 were granted on Lot and the adjoining GL by his office to permit erection of structures for the use of foundry. However, according to **Appendix I**, the Site is currently vacant.
  - (c) The Site is accessible via a strip of GL leading from Tin Tei Yan Road. No vehicular ingress/egress is proposed for the proposed use. His office does not carry out maintenance works for the said GL nor has granted any right-of-way over the GL to the Site.

- (d) According to the proposed drainage plan, U-channel, pipe and catchpit will be constructed on the Lot and the GL. The applicant would be reminded that if there is any private lot and GL involved in the proposed drainage works, he is required to seek prior consent/approval from the lot owners concerned and this office before commencement of any drainage works on the private lot and the GL if the drainage proposal is acceptable to Drainage Services Department (DSD). Any unauthorised excavation of GL may be subject to enforcement action and prosecution. There is no guarantee that such approval will be given and in the event that approval is given, it will be subject to such terms and conditions, including payment of fees as may be considered appropriate. His office will not provide maintenance works to fee U-channel, pipe and catchpit.
- (e) In the event that planning permission is given by the Board, the lot owner is required to submit applications to his office for a STW and a STT to permit erection of the structures on the Lot and the adjoining GL. However, notwithstanding that planning permission has been given, there is no guarantee that applications will be approved or any right of way will be granted. The applications will be considered by LandsD acting in the capacity as the landlord at its sole discretion. The applications, if approved, would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee and rent from such date as may be appropriate, deposit and administration fee, etc. The Government also reserves the right to take any enforcement action as maybe considered appropriate regarding any unauthorised structures erected on the Site or any encroachment or unauthorised use of GL.

### **Traffic**

- 9.1.2 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):
  - (a) The proposed access from the Site to Tin Tei Yan Road is not and will not be maintained by HyD.
  - (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

- 9.1.3 Comments of the Director of Environmental Protection (DEP):
  - (a) Should the application be approved, the applicant shall be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (“CoP”). The applicant is reminded that it is his obligation to meet the statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures.

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

### **Landscape**

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

- (a) With reference to the site visit conducted by his office, the Site is vacant and without any existing vegetation within the Site. According to the aerial photo of 2020, the Site is situated in an area of urban fringe landscape character predominated by village houses. Significant change to the landscape character arising from the application is no anticipated.
- (b) In view that the previous application (No. A/TM-LTY/345) was revoked due to non-compliance with time-limited approval conditions, including the implementation of a landscape proposal. It is considered appropriate to impose an approval condition requiring the applicant to submit and implement a landscape proposal to the satisfaction of Director of Planning or of the Board.

### **Drainage**

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

- (a) He has no objection in principle to the application from the public drainage point of view.
- (b) Should the application be approved, a condition should be included to request the applicant to submit, implement and maintain a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.
- (c) The applicant should note the detailed comments at **Appendix V**.

### **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 FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to resubmit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should note the detailed comments at **Appendix V**.

### **Building Matters**

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

- (a) The retaining wall mentioned in the applicant's justification is referring to the adjacent site instead of the Site. In regard the Site, there is no record of approval by the Building Authority for the structures 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 should note the detailed comments at **Appendix V**.

### **District Officer's Comments**

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

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

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

- (a) Commission for Transport (C for T);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (e) Head, Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (f) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO);
- (g) Director of Electrical and Mechanical Services (DEMS); and
- (h) Commissioner of Police (C of P).

## **10. Public Comments Received During the Statutory Publication Period**

On 24.11.2020, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals. One of them raised concerns on negative impact to the village character and ecology brought by the proposed development; whilst the other one objected to the proposed development as it is the subject of a previous revoked application and suggested that the Site should be used for the provision of government, institution or community facilities (**Appendices IV-1 and IV-2**).

## **11. Planning Considerations and Assessments**

11.1 The application is for proposed temporary shop and services for a period of 3 years. The majority of the Site falls within an area zoned "V" on the LTYO ZP (about 85%) which is intended for development of Small Houses by indigenous villagers. Commercial, community and recreational uses may be permitted on application to the



Board. The remaining part of the Site falls within an area zoned “R(D)” on the TYST OZP which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. Whilst the proposed development is not entirely in line with the planning intentions of the zones, the development could provide real estate services to serve any such demand in the area. According to DLO/TM, there is currently no Small House application approved or under processing at the “V” zone on LTYO OZP or any known development proposal to implement “R(D)” zone on TYST OZP at the Site. As such, approval of the application on a temporary basis for 3 years would not jeopardise the long-term planning intention of the zones.

- 11.2 The Site is at the fringe of the “V” zone of Chung Uk Tsuen and in an area predominantly occupied by residential dwellings intermixed with warehouses and open storage yards (**Plan A-2**). The proposed development is considered not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including C for T, DEP and CE/MN of DSD have no objection to or no adverse comment on the application. The proposed use will unlikely create significant adverse traffic, environmental and drainage impacts to the surrounding areas. 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 any unauthorised development on the 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 CoP in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The planning permission of the last application No. A/TM-LTYO/345 submitted by the same applicant for the same use at the same site was revoked due to non-compliance with approval conditions on the implementation of drainage, FSIs and landscape proposals. For the current application, the applicant has submitted drainage, FSIs and landscape proposals for the proposed development. In this regard, CE/MN, DSD and D of FS and CTP/UD&L of PlanD have no in-principle objection to the application. Sympathetic consideration may be given to the application. Nevertheless, shorter compliance periods are recommended in order to closely monitor the progress of compliance with approval conditions. Should the application be approved, the applicant should be advised that should the applicant fail to comply with any of the approval conditions again resulting in revocation of planning permission, sympathetic consideration would not be given to any further applications.
- 11.5 In addition to the approved previous application at the Site, the Committee has also approved 12 similar applications for the temporary shop and services use in the subject “V” zone on the LTYO OZP and the subject “R(D)” zone on TYST OZP. Approval of the current application is in line with the Committee’s previous decisions.
- 11.6 There are two public comments received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in the above paragraphs are relevant.

## 12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments 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 8.1.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) the submission of a drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.4.2021;
- (d) in relation to (c) above, the implementation of the 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 8.7.2021;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.4.2021;
- (g) in relation to (f) above, the implementation of the 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 8.7.2021;
- (h) the submission of a landscape proposal within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 8.4.2021;
- (i) in relation to (h) above, the implementation of the landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 8.7.2021;
- (j) if any of the above planning condition (a), (b) 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

- (k) if any of the above planning condition (c), (d), (f), (g), (h) or (i) 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 V**.

- 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 the planning intentions of the "V" zone which is primarily intended for development of Small Houses by indigenous villagers and the "R(D) zone" which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. There is no strong planning justification in the submission for a departure from the planning intentions, 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**

<b>Appendix I</b>	Application Form received on 17.11.2020 and Supplementary Information Received on 19.11.2020
<b>Appendix Ia</b>	FI received on 11.12.2020
<b>Appendix Ib</b>	FI received on 5.1.2021
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Similar Applications
<b>Appendices IV-1 and IV-2</b>	Public Comments Received During the Statutory Publication Periods
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Landscape Plan
<b>Drawing A-3</b>	Proposed Drainage Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan

**Plan A-3**

Aerial Photo

**Plan A-4**

Site Photos

**PLANNING DEPARTMENT  
JANUARY 2021**