

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/495

- Applicant** : Hoi Fu Man Fung Gondola Company Limited represented by Mr. Wong Sun Wo William
- Site** : Lots 1796, 1797, 1798, 1800, 1801 and 1802 in D.D. 129 and Adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 3,355m² (including GL of about 370m² or 11.0%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/11
- Zoning** : “Recreation” (“REC”) (about 99.92%)
“Green Belt” (“GB”) (about 0.08%)¹
- Application** : Proposed Temporary Shop and Services (Selling of Gardening Supplies and Construction Materials) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (selling of gardening supplies and construction materials) for a period of five years at the application site (the Site) (**Plan A-1**) zoned “REC” on the OZP. According to the Notes of the OZP for the “REC” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently hard paved and used for storage/open storage without valid planning permission (**Plans A-2, and A-4a to A-4c**).
- 1.2 The Site is accessible from Deep Bay Road via a local track, with the ingress/egress located at the west of the Site (**Drawing A-2**). According to the applicant, the proposed shop would sell gardening supplies (such as shovels, rakes, hoses, water buckets and sprayers), as well as construction materials (such as greenhouse equipment, screens and hardware accessories). As shown on the layout plan at **Drawing A-1**, six single-storey structures (about 3.5m to 8m in height) with a total floor area of 1,090m² are proposed for shops and toilet uses. Five parking spaces for private cars and two loading/unloading spaces for light goods vehicles will also be provided.

¹ Considered as minor boundary adjustment in zoning boundaries which is permitted under the covering Notes of the OZP.

- 1.3 According to the applicant, the operation hours would be between 8 a.m. to 6 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. Drainage facilities (surface U-channels, pipe and catchpits) would be provided (**Drawing A-3**).
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 12.10.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 18.10.2023 (**Appendix Ia**)
 - (c) Further Information (FI) received on 22.11.2023 (**Appendix Ib**)
[accepted and exempted from publication requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and the SI at **Appendices I and Ia**. They can be summarised as follows:

- (a) there are a lot of gardening enthusiasts amongst the youth. Meanwhile, the surrounding of the Site is predominated by cultivated land. The proposed temporary shop could provide these leisure farmers with the necessary agricultural equipment and seeds, as well as the introduction of agricultural technique; and
- (b) in light of the statutory fire safety requirements, five structures each of about 215m² in area are proposed to reduce construction cost. The shop would be operated solely by the applicant and would not be let to other operators.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Ordinance (TPB PG-No. 31B) by obtaining consent from the “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements as set out in TPB PG-No. 31B are not applicable.

4. Background

The storage use on site would be subject to planning enforcement action.

5. Previous Applications

The Site is involved in two previous applications (No. A/YL-LFS/351 and 400) for temporary open storage (for storage of dump trucks, skip trucks and/or dump boxes) with or without private vehicle park, which were rejected by the Rural and New Town Planning Committee (the Committee) in 2020 and 2021 respectively. The considerations of these previous applications are not relevant to the current application for temporary shop and services. Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 Within/straddling the same “REC” zone, there are five similar applications (No. A/YL-LFS/330, 370, 374, 406 and 420) for temporary shop and services for retail of family goods, radio controlled cars and accessories, or hardware accessories. All of them were approved by the Committee between 2019 and 2022 mainly on considerations that they were not in conflict with or would not frustrate the long-term planning intention of the “REC” zone; they were not incompatible with the surrounding area; there were generally no adverse comments from the concerned government departments; and the technical concerns could be addressed by approval conditions.
- 6.2 Details of the above similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site:
- (a) is largely hard-paved, erected with structures and used for storage/open storage without valid planning permission;
 - (b) falls within the Lau Fau Shan Site of Archaeological Interest; and
 - (c) is accessible from Deep Bay Road via a local track.
- 7.2 A registered man-made slope (No. 2SW-C/C84) falls within the Site.
- 7.3 The surrounding areas are predominated by open storage yards, fallow agricultural land and shrubland. Other uses such as graves (within the Permitted Burial Ground No. YL/59) and residential dwellings (namely Deep Bay Villa) are also located in the vicinity. Some of the uses are suspected unauthorized developments (UDs) subject to planning enforcement action.

8. Planning Intention

The “REC” zone is intended primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

All departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

10. Public Comment Received During Statutory Publication Period

On 20.10.2023, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual (**Appendix V**) was received objecting to the application on ground that the application for temporary shop and services is for disguising the open storage use on site.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (selling of gardening supplies and construction materials) for a period of five years within the “REC” zone of the OZP (**Plan A-1**). Although the proposed use is not in line with the planning intention of the “REC” zone, it can help meet the demand for shop and services use in the area. Besides, there is no known development proposal at the Site. Approval of the application on a temporary basis for a period of five years would not jeopardise the long-term planning intention of the “REC” zone.
- 11.2 The Site is located in an area predominated by open storage yards, fallow agricultural land and shrubland. The proposed use is considered not incompatible with the surrounding land uses.
- 11.3 Concerned government departments including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD), Head of Geotechnical Engineering Office of Civil Engineering and Development Department, Director of Fire Services (D of FS) and Executive Secretary (Antiquities & Monuments) of Antiquities and Monuments Office have no objection to or no adverse comment on the application. The proposed use would unlikely cause significant adverse traffic, environmental, drainage, slope safety, fire safety and archaeological impacts on the surroundings. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions recommended in paragraph 12.2 below. To minimise any possible environmental nuisance, the applicant will be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’.
- 11.4 The Committee has approved five similar applications for temporary shop and services use involving five sites within the same “REC” zone in the past five years. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Regarding the public comment objecting to the application as stated in paragraph 10 above, any UD on the Site would be subject to planning enforcement action.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above 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 five years until **8.12.2028**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container trailer/tractor, as defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (b) the submission of a revised 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 **8.6.2024**;
- (c) in relation to (b) above, the implementation of the revised drainage proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **8.9.2024**;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of a 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 **8.6.2024**;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **8.9.2024**;
- (g) if any of the above planning condition (a) or (d) 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
- (h) if any of the above planning condition (b), (c), (e) or (f) 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 attached 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 use is not in line with the planning intention of the "Recreation" zone, which is primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from the 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 planning 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 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 12.10.2023
Appendix Ia	SI received on 18.10.2023
Appendix Ib	FI received on 22.11.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2023**