

RNTPC Paper No. A/YL-MP/304A
For Consideration by
the Rural and New Town
Planning Committee
on 24.9.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/304

<u>Applicant</u>	: EIS International Pre-school Limited represented by Wilson Lee & Associates Limited
<u>Site</u>	: Lots 2261 S.S RP (Part), 2261 S.S ss.8 (Part), 2262 RP (Part), 2265 S.A, 2265 S.B, 2265 S.C, 2265 S.D and 2265 S.E RP (Part) in D.D. 104, Ha San Wai, Yuen Long
<u>Site Area</u>	: About 1,091m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<u>Zoning</u>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Temporary School (Kindergarten cum Child Care Centre) 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 school (kindergarten cum child care centre) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘School’ is a Column 2 use within “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for an existing kindergarten operated by the applicant.
- 1.2 Part of the Site is the subject of a previous application (No. A/YL-MP/245) for a permanent school (kindergarten) submitted by a different applicant (**Plan A-1**) which was approved by the Rural and New Town Planning Committee (the Committee) on 22.1.2016. The operator of the kindergarten at the Site has subsequently changed to the current applicant in 2019. The applicant intends to also provide child care centre within the existing kindergarten premises which

necessitate the current application.

- 1.3 As shown on **Drawing A-2** and **Plan A-2**, the proposed development involves the existing premises of the kindergarten (the school site) with area of about 991m² and a newly proposed ancillary car parking area with an area of about 100m², which is about 52m to the southeast of the school site (**Plan A-2**). The school premises is accessible via a 5.4m wide ingress/egress from a local track to the south leading from Castle Peak Road – Tam Mi. A pedestrian entrance is located in the eastern part of the school site. As shown on **Drawing A-1**, there are 5 existing single-storey structures (not more than 7m high) with a total gross floor area (GFA) of about 391.37m², including 5 classrooms (each for 28 students) and associated play area (Classroom No. 1 to 5), a child care centre (for 28 students) with a play area for kindergarten use (Room 6), and a pantry and boy and girl toilet (next to Classroom 5). The central area within the school premises will be used as outdoor playground, flowerbed and 2 parking spaces for 24-seater school buses. The proposed car parking area to the southeast outside the school site will provide 1 private car parking space, 4 lay-bys for taxis and cars and 3 lay-bys for school buses. Under the current registration of the kindergarten, a maximum of 140 pupils are permitted for half day session and 28 pupils for each 1.5 hours session is proposed for the child care centre.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with justification report received (**Appendix I**) on 31.3.2021 and supplementary letter received on 12.4.2021 clarifying the site area of the proposed development
 - (b) Further Information (FI) received on 30.7.2021 with (**Appendix Ia**) a revised justification report including the responses to departmental comments [#]
 - (c) FI received on 15.9.2021 clarifying the gross floor (**Appendix Ib**) area (GFA) of the proposed development ^{*}

[#] not exempted from publication requirement

^{*} exempted from publication requirement

2. **Justifications from the Applicant**

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

- (a) The school site has been used for school use since 1934. The current applicant has obtained a provisional school (kindergarten) license from Education Bureau (EDB) on 14.7.2020 and the existing school premise is a purposely-built school as per EDB's record. The Site is suitable for operating as the use under application. The school site with village type building provides suitable

environment which meets the nature-based learning principle adopted by the applicant to promote the theme.

- (b) The proposed kindergarten and child care centre meets the strong demand from the nearby community.
- (c) 2 school bus lay-bys will be provided within the Site and off-site car parking space will be provided to serve the proposed development. The parking arrangement complies with the relevant requirement as stipulated in Hong Kong Planning Standards and Guidelines.
- (d) Staff members will take public transport to the Site. Advance booking or special approval by senior management of the school would be required for the use of parking space off site. The applied kindergarten will generate about 56 trips per hour and the proposed child care centre will generate about 11.5 trips per hour. As the tentative school hours for kindergarten (i.e. 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m.) and child care centre (i.e. 10:00 a.m. to 11:30 a.m. and 2:00 p.m. to 3:30 p.m.) will not overlap, adverse traffic impact on the surrounding road network is not expected.
- (e) The 5 existing structures at the school site are maintained in good conditions and no extension or structural alteration are required. Adequate number of exit has been provided which complies with the building and fire safety requirements.
- (f) The proposed development will not generate adverse impacts to the surrounding environment. Extensive landscape will be provided and all trees within the school site are well-preserved and no tree felling is involved. Adequate fire service installations (FSIs), drainage works and sanitary fitments in compliance with relevant requirements will be provided for the proposed kindergarten and child care centre.

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

The applicant is not a “current land owner” of the private lots within the Site 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 Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active planning enforcement action.

5. Previous Applications

Part of the Site is the subject of a previous application. Application No. A/YL-MP/245 submitted by a different applicant for a permanent school (kindergarten) was approved by the Committee on 22.1.2016 mainly on the considerations that the development would help serve the need of the local community, it was not incompatible with the surrounding land uses and concerned government department had no adverse comments. The development commenced on 31.8.2017. Details of the previous application are summarised at **Appendix II**.

6. Similar Application

There is no similar planning application for kindergarten cum child care centre within the same “V” zone on the OZP.

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

7.1 The Site is:

- (a) accessible from a local track leading to Castle Peak Road – Tam Mi; and
- (b) currently used as a kindergarten at the school site and an open area used for parking purpose.

7.2 The surrounding areas are the village area of Ha San Wai mainly comprise village houses, vehicle parks, storage/open storage and vacant land:

- (a) to its north and northwest are village houses/village house under construction, vacant land and sites for car service and open storage use. To its further north is the village area of Sheung San Wai Tsuen;
- (b) to its immediate east is a local track connecting to the Castle Peak Road – Tam Mi. Further east is San Tin Highway, San Tam Road and residential developments (Kadoorie Villas and Ian Court); and
- (c) to the south and west of the school site are village houses in Ha San Wai village, vehicle park, an open storage of construction materials, some storage use and unused land.

8. Planning Intention

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 New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to 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/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contain the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The private land Lot No. 2261 S.S RP in D.D. 104 is covered by Short Term Waiver (STW) No. 856 to permit structures for the purpose of “Shop”; and Lots No. 2261 S.S ss. 8 and 2265 S.E RP in D.D. 104 are covered by STWs No. 4384 and No. 4385 respectively to permit structures for the purpose of “School (Kindergarten)”.
- (c) No small house application has been approved or is being processed for the Site.
- (d) Should planning approval be given to the application, the STW holders will need to immediately apply to his office for modification of the STW conditions where appropriate. Moreover, the lot owner(s) of the lots without STW will need to apply to his office for permitting the structures to be erected or regularise any irregularity on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such applications will be approved. If such applications are approved, it will be subject to such terms and conditions, including among others the payment of rent or fees, as may be imposed by LandsD.

Social Welfare

9.1.2 Comments of the Director of Social Welfare (DSW):

The proposed kindergarten-cum-child care centre to be set up at the Site is not a welfare service. He has no objection to the kindergarten operator's proposal to provide a child care centre portion attached to the kindergarten if policy support in setting up the kindergarten has been given by EDB and on the understanding that no financial implication on Social Welfare Department (SWD) will be incurred.

Education

9.1.3 Comments of the Secretary for Education (SED):

He notes that the kindergarten-cum-child care centre comprises two portions, i.e. a kindergarten portion and a child care centre portion, in the same location. He has no comment on the application. He also notes that the SWD will be consulted on the application.

Traffic

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

- (a) The Site is connected to Castle Peak Road – Tam Mi via a section of a local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Having regarded the FI, he has no comment on the application from traffic engineering point of view.
- (c) Should the application be approved, a condition should be incorporated that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Castle Peak Road – Tam Mi should be approved by TD.
- (b) HyD shall not be responsible for the maintenance for any access connecting the Site and Castle Peak Road – Tam Mi.

- (c) Adequate drainage measures should be provided at the Site to prevent surface water running from the Site to nearby public roads and drains.

Environment

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

- (a) The existing kindergarten and the proposed child care centre are both noise sensitive use within the same building structure, which would unlikely be subject to adverse noise impact. For sewage treatment, he notes that the applicant has proposed to connect to the existing septic tank and soakaway pit.
- (b) He has no objection to the application. His advisory comments are at **Appendix IV**.

Landscape

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

In view of the Site does not fall within landscape sensitive zonings and there are existing trees acting as buffer between the Site and Castle Peak Road- Tam Mi, no significant adverse landscape impact is anticipated and it is considered not necessary to impose any landscape condition should the application be approved by the Board.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) FSIs are anticipated to be required in consideration of the design/nature of the proposal. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plan should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. Licensing requirements, if

any, will be formulated upon receipt of formal application via Licensing Authority.

Building Matters

9.1.9 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 (BA) for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BA, they are unauthorised building works (UBW) under BO and should not be designated for any proposed use under the application. For UBW erected on leased land, enforcement action may be taken by BA to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of planning approval should not be constructed as an acceptance of any existing building works or UBW on the Site under BO.
- (b) The proposed kindergarten cum child care centre maybe subject to the issuance of a license/registration if it falls within the meaning of “school” under section 3(1) of the Education Ordinance. Please be reminded that any proposed building works on the Site intended to be used for such purpose is required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority. His detailed comments are at **Appendix V**.

Drainage

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

He has no objection in principle to the proposed development from the public drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, the following conditions should be stipulated in the approval letter requiring the applicant (i) to submit a drainage proposal; and (ii) to implement the drainage proposal and maintain the drainage facilities for the development to the satisfaction of the Director of Drainage Services or of the Board.

Water Supply

9.1.11 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). The developer shall bear the cost of any necessary diversion works affected by the proposed development.
- (c) In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centerline of the water main shown on **Plan A-2** shall be provided to WSD. No structure shall be erected over this waterworks reserve and such area shall not be used for storage purposes. His detailed comments are at **Appendix IV**.

9.2 The following Government departments have no comment on or no objection to the application:

- (a) Commissioner of Police;
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
- (d) Project Manager (West), Civil Engineering and Development Department;
- (e) Director of Electrical and Mechanical Services; and
- (f) District Officer (Yuen Long), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 16.4.2021, the application was published for public comment. During the first 3 weeks of the statutory publication period which ended on 7.5.2021, 11 supporting public comments (**Appendix IV**) were received from individuals on the grounds that the development can meet the demand of the local community for high quality education; and the nature based learning approach adopted by the school operation is unique in Hong Kong and should be supported.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary school (kindergarten cum child care centre) for a period of 3 years. The Site falls within a “V” zone which is intended to designate both existing recognized villages and areas of land considered suitable for land expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Selected commercial, community and recreational uses may be permitted on application to the Board. The proposed development involves an existing kindergarten and a proposed child care centre within the same school premises. The proposed development would help serve the need of the local community. In this regard, SED and DSW have no objection to or no comment on the application from educational and social welfare point of view. DLO/YL of LandsD also advised that there is no Small House application at the Site. Approval of the application on a temporary

basis for a period of 3 years would not frustrate the long term planning intention of the “V” zone.

- 11.2 According to the applicant, the proposed kindergarten cum child care centre under application is to serve local neighbourhood. It is located within the village area of Ha San Wai Tsuen and is considered not incompatible with the surrounding land uses which comprise mainly village houses and vehicle parks.
- 11.3 Other government departments including C for T, DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or adverse comment on traffic, environment, fire safety, drainage and landscape aspects respectively. Adverse impacts on traffic, drainage, fire safety and landscape aspects are not envisaged. Technical requirements of concerned departments could be imposed through approval conditions recommended in paragraphs 12.2 (a) to (g) below.
- 11.4 The Site has been approved for a permanent school (kindergarten) use under Application No. A/YL-MP/245 in 2016 and has been in operation since then. The current application involving a proposed child care centre in addition to a kindergarten has been approved by the Committee before is in line with the previous decision of the Committee.
- 11.5 There are 11 supporting public comments on the application as stated in paragraph 10 above. The planning considerations and departmental comments 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 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 24.9.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (b) the submission of 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 24.3.2022;
- (c) in relation to (b) above, the implementation of fire service installations 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 24.6.2022;

- (d) the submission of 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 24.3.2022;
- (e) in relation to (d) above, the implementation of 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 24.6.2022;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) if any of the above planning conditions (a) or (f) 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 conditions (b), (c), (d) or (e) 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 There is no apparent reason to reject the application.

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 received on 31.3.2021 and supplementary letter received on 12.4.2021
Appendix Ia	FI received on 30.7.2021
Appendix Ib	FI received on 15.9.2021

Appendix II
Appendix III
Appendix IV

Previous Application
Public comments
Recommended Advisory Clauses

Drawing A-1
Drawing A-2
Plan A-1
Plan A-2
Plan A-3
Plan A-4

Layout Plan
Vehicular and Pedestrian Access and Car Parking Spaces
Location Plan
Site Plan
Aerial Photo
Site Photos

PLANNING DEPARTMENT
SEPTEMBER 2021