

RNTPC Paper No. A/YL-MP/318
For Consideration by
the Rural and New Town
Planning Committee
on 26.11.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/318

<u>Applicant</u>	: Mr. TAM Chan Fai represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 3250 S.B ss.16 RP and 3250 S.B ss.17 RP in D.D. 104, Mai Po, Yuen Long
<u>Site Area</u>	: About 1,571 m 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>	: “Residential (Group D)” (“R(D)”)
<u>Application</u>	: Proposed Temporary Shop and Services and Public Vehicle Park 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 and public vehicle park for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “R(D)” on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6. According to the Notes of the OZP, ‘Shop and Services’ and ‘Public Vehicle Park (excluding container vehicle)’ are Column 2 uses within “R(D)” zone which require planning permission from the Town Planning Board (the Board). The Site is currently used as a vehicle park.
- 1.2 As shown in the site layout plan at **Drawing A-1** and **Plan A-2**, the Site is accessible from Fairview Park Boulevard via Kam Pok Road from its west. Five structures of 1 to 2 storeys (3m to 7m), are proposed within the Site, which include a site office at Structure B1, a 2-storey shop and services at Structure B2 with site office on 1/F, a 1-storey shop and services at Structure B3 and two 1-storey ancillary structures comprising a store room at Structure B4 and a rain shelter at

Structure B5, with a gross floor area (GFA) of about 609m². The uncovered area of the Site are used for parking and circulation space. 23 private car parking spaces and one loading/unloading (L/U) space for light goods vehicle (LGV) are provided at the Site. There will be a maximum of about 40 visitors per day and about 15 staff members on the Site. The operation hours will be from 9:00 a.m. to 10:00 p.m. daily.

- 1.3 In support of the application, the applicant has submitted the Application Form received on 6.10.2021 and supplementary letter received on 18.10.2021 (**Appendix I**).

2. Justifications from the Applicant

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

- (a) The ‘shop and services’ and ‘public vehicle park’ are Column 2 uses within the “R(D)” zone. The temporary application will not jeopardise the long term planning intention of the “R(D)” zone.
- (b) The proposed retail shops, which include but not limited to retail shop, convenient store, fast food shop, clinic, real estate agency, etc. are interchangeable. Together with the proposed public vehicle park for private cars, the proposed development will serve the nearby locals.
- (c) The Site is accessible from Fairview Park Boulevard via Kam Pok Road. Sufficient space is provided for vehicle manoeuvring to/from and within the Site to ensure no queuing and turning back outside the Site. There will be on average 12 traffic trips per hour, including 10 traffic trips generated by private cars and 2 traffic trips generated by LGV. No medium or heavy goods vehicles, including container trailers/tractors is allowed to be parked/stored on or enter/exit the Site. Therefore, adverse traffic impact is not expected.
- (d) The applicant will follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department (EPD) during operation of the proposed development and will follow the Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPNs) for sewage treatment at the Site to minimise adverse environmental impacts and nuisance to the surrounding area.
- (e) The development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Drainage, fire service installations and landscape proposals will be provided after the planning approval is obtained to mitigate any adverse impact arising from the development.

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 San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is the subject of an active planning enforcement case (No. E/YL-MP/240) (**Plan A-2**) for unauthorized development (UD) for parking of vehicles and office use at the Site. Enforcement action will be taken against the UD by the Planning Authority.

5. Previous Applications

There is no previous application covering the Site.

6. Similar Applications

6.1 There is no similar planning application for shop and services and public vehicle park within the same “R(D)” zone on the OZP.

6.2 However, there were two applications for temporary private car park for exhibition of used cars (Application No. A/YL-MP/148) and temporary shop and services (sale of household plants, aquarium fish, clothes and agency for car repairing service) (Application No. A/YL-MP/176) for a period of 3 years which were approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2005 and 2009 respectively mainly on the considerations that there were no adverse comments from government departments on the applications; approval of the applications on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone and the developments were not incompatible with the surrounding land uses. Nevertheless, the planning permissions of both applications were revoked on 23.6.2007 and 19.12.2009 respectively due to non-compliance with approval conditions on the submission and/or implementation of the landscape and tree preservation, drainage and FSI proposals, installation of perimeter channels and hard paving of the site. Details of these applications are summarised at **Appendix II**.

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

7.1 The Site is:

- (a) connected to Fairview Park Boulevard from its west via Kam Pok Road and abutted Ha San Wai Road in the south; and
- (b) currently occupied by a vehicle park with site office under temporary structures.

7.2 The surrounding areas are a mix of residential developments, with a number of commercial/retail uses and workshops on both sides of Fairview Park Boulevard:

- (a) to its immediate east are residential dwellings. To its further east is an open storage of construction materials, parking of tractors and vehicles;
- (b) to its immediate north is the site of an approved residential development under Application No. A/YL-MP/287 within the “R(D)” zone;
- (c) to its immediate south across Ha San Wai Road is a nullah, areas to the south of the nullah include a restaurant with its adjoining area fronting Ha San Wai Road and Kam Po Road approved for temporary eating place under Application No. A/YL-MP/314, vehicle repair workshop, pet clinic, shops and the residential development of Helene Terrace. To its further south is the Fairview Park Boulevard; and
- (d) to its west are Kam Pok Road, a nullah and vacant land within the “Recreation” zone.

8. Planning Intention

The planning intention of the “R(D)” zone is 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/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) According to the site inspection in October 2021, some converted containers were detected in the Site. According to LandsD’s prevailing policy, no Short Term Waiver application will be considered for domestic use. Therefore, LandsD reserves the right to take enforcement action against any domestic purpose structure in the Site.

- (c) Should planning approval be given to the application, the registered lot owner will need to immediately apply to his office to permit 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.

Traffic

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

- (a) The Site is connected to Kam Pok Road via section of a local access which is not managed by TD. The land status of the local access should be clarified with the LandsD by the applicant. The management and maintenance responsibilities of the local access should be clarified with relevant lands and maintenance authorities accordingly.
- (b) 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.

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

- (a) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Pok Road.
- (b) Adequate drainage measures should be provided at the Site to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise potential environmental impacts on the surrounding areas.
- (b) There was no environmental complaint related to the Site in the past three years.

Landscape

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

- (a) As the Site falls within “R(D)” zone, which is a non-landscape sensitive zoning, no significant landscape impact arising from the proposed development is anticipated.
- (b) Should the application be approved by the Board, it is considered not necessary to impose a landscape condition as no adverse landscape impact arising from the proposed use within the Site is anticipated in the subject “R(D)” zone.

Fire Safety

9.1.6 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 plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of the proposed FSIs 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.

Building Matters

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

There is no record of approval granted 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 BD to effect their removal in accordance with the prevailing 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 BO. His detailed comments are at

Appendix IV.

Drainage

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

- (a) He has no objection in principle to the application from the public drainage point of view.
- (b) 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; (ii) to implement the drainage proposal; and (iii) to maintain the drainage facilities for the development to the satisfaction of the Director of Drainage Services or of the Board.
- (c) His detailed comments are at **Appendix IV**.

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

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

10. Public Comments Received During Statutory Publication Period

On 19.10.2021, the application was published for public comment. During the first three weeks of the statutory publication period which ended on 9.11.2021, two public comments were received from two individuals raising objection to the application for the reasons that the proposed development would cause traffic congestion, environmental pollution and increase in fire risk thereby affecting the safety and living quality of the residents (**Appendix III**); and the application site should be restored as wetland rather than legitimising the existing parking operation.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services and public vehicle park for a period of 3 years at the Site within the “R(D)” zone which is intended

for low-rise, low-density residential developments subject to planning permission from the Board. The proposed shop and services and public vehicle park are not in line with the planning intention of “R(D)” zone. Nevertheless, there is no committed residential development at the Site. It is currently occupied by a vehicle park with site office under temporary structure. Approval of the application on a temporary basis for a period of 3 years would not frustrate the long term planning intention of the “R(D)” zone.

- 11.2 According to the applicant, the proposed shop and services use and the proposed public vehicle park for private cars would serve the nearby locals, which is considered not incompatible with the surrounding land uses including residential developments and retail shops and along Ha San Wai Road and Fairview Park Boulevard.
- 11.3 Relevant 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 no adverse comment on the application. Adverse impacts on traffic, environment, fire safety, drainage and landscape aspects are not envisaged. Should the application be approved, technical requirements of C for T, D of FS and CE/MN of DSD are suggested as approval conditions in paragraphs 12.2 below. Besides, the applicant will be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to mitigate any potential environmental impacts on the surrounding areas.
- 11.4 The Committee has approved two similar applications for private car park and shops and services uses within the same “R(D)” zone on the OZP as detailed in paragraph 6 above. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There are two public comments raising objection to the application as stated in paragraph 10. 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 26.11.2024. 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 **26.5.2022**;
- (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 **26.8.2022**;
- (d) the submission of a 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 **26.5.2022**;
- (e) in relation to (d) above, the implementation of the 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 **26.8.2022**;
- (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 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the "Residential (Group D)" zone 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 intended for low-rise, low-density residential developments subject to planning permission from the Board. No strong planning justification has been given 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 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 6.10.2021
Appendix II	Similar Applications
Appendix III	Public comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Swept Path Analysis
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2021**