

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

**APPLICATION NO. A/YL-MP/329**

<b><u>Applicant</u></b>	: Mr HUI Kwing Wing represented by Goldrich Planners and Surveyors Limited
<b><u>Site</u></b>	: Lot 29 in D.D. 101, Mai Po, Yuen Long
<b><u>Site Area</u></b>	: About 574 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<b><u>Zoning</u></b>	: “Open Space” (“O”)
<b><u>Application</u></b>	: Proposed Temporary Shop and Services (Retail Shop for Hardware Groceries) with Ancillary Facilities for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services with ancillary facilities for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and fenced off.
- 1.2 The Site forms part of a previous Application No. A/YL-MP/268. As shown in **Plan A-2**, the Site is accessible from the southeast via a local track leading from Castle Peak Road – Mai Po. The site layout plan is shown on **Drawing A-1** and the drainage proposal is shown on **Drawing A-2**. The proposal includes two structures (1-2 storeys of about 3.5m-8m high) made up of converted containers under open sheds with a total gross floor area (GFA) of about 264m<sup>2</sup> for shop and services (i.e. retail shop for hardware groceries) and ancillary office at the Site. Besides, one parking space for light goods vehicles (LGV) is provided. The operation hours of the Site are from 8:30 a.m. to 6:30 p.m. daily, including Sunday and public holiday.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 6.6.2022 (Appendix I)
- (b) Further Information (FI) received on 22.7.2022 (Appendix Ia)  
clarifying the proposed use within the Site<sup>#</sup>

<sup>#</sup> *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 Application Form at **Appendix I**. They can be summarised as follows:

- (a) The proposed development can serve the need of local residents for hardware groceries. Planning permission for the proposed ‘shop and services’ use can be sought within the “O” zone. The development is temporary in nature for a period of three years only and it will not involve government land.
- (b) The proposed development is only for retail use. No workshop activities (including cutting of metal) and no open storage use will be carried out on the Site.
- (c) The proposed development will not have adverse traffic impact as there is only one LGV parking space for logistic purpose. No heavy goods vehicle will be used for accessing the Site.
- (d) Surface runoff from the Site will be collected by U-channels and catch pits and discharged to the existing public channel to the east of the Site (**Drawing A-2**). No adverse drainage impact is expected.
- (e) Similar applications for ‘Shop and Services’ use have been approved in the vicinity of the Site.

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

The applicant is not a “current land owner” of 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 the notice to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

#### **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C) is relevant to the application. Relevant extract of the Guidelines is at **Appendix II**.

#### **5. Background**

The Site is part of a larger site that is the subject of an active enforcement case (No. E/YL-MP/236) for unauthorised development (UD) on storage use including deposit of containers (**Plan A-2**). Enforcement Notice (EN) for the case was issued requiring discontinuation of the UD on or before 30.1.2022. The concerned area is currently under monitoring and will be subject to prosecution action by the Planning Authority as necessary.

#### **6. Previous Application**

The Site is part of a larger site covering land mainly within the subject “O” zone with a minor portion falling within the adjoining “Village Type Development” (“V”) zone which is the subject of a previous Application No. A/YL-MP/268 for proposed temporary open storage of construction machinery and equipment with ancillary converted container office and staff common room for a period of three years, which was rejected on review by TPB on 27.7.2018. The application is not relevant to the subject application and the detail is at **Appendix III**.

#### **7. Similar Applications**

7.1 During the past five years, there are 14 applications for similar temporary shop and services use within the same “O” zone on the OZP. All applications were approved by the Committee mainly on the considerations that there were no implementation programme for the concerned “O” zone at that time and temporary approval would not affect the long term planning intention of the “O” zone; the developments were not incompatible with the surrounding land uses; and the concerns of government departments could be addressed by approval conditions.

7.2 Details of these 14 similar applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently vacant;

- (b) accessible in the southeast via a paved local track off Castle Peak Road – Mai Po; and
  - (c) within the Wetland Buffer Area (WBA) of Deep Bay Area.
- 8.2 The surrounding land uses are mainly residential development, village houses, open storage yards and vacant land:
- (a) to the immediate north and northwest are open storage yards and vehicle park, to the further north are mainly village settlements within the “V” zone;
  - (b) to the immediate east is an open storage of waste materials. To the further east is an existing cycle track, and land across Castle Peak Road – Mai Po, San Tin Highway and San Tam Road is the residential development of Maple Gardens;
  - (c) to the further southeast is an elevated walkway;
  - (d) to the south are an open storage yard of construction materials and vacant land; and
  - (e) to the immediate southwest is a plant nursery, an open storage yard for construction materials and vehicle park. To the further west across Palm Canyon Drive is a residential development, Royal Palms.

## **9. Planning Intention**

The planning intention of the “O” zone is primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

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

All government 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 IV** and **V** respectively.

## **11. Public Comments Received During Statutory Publication Period**

On 14.6.2022, the application was published for public comments. During the first three weeks of the statutory publication period which ended on 5.7.2022, a total of 9 public comments were received from The Estate Owners’ Committee (OC) of Royal Palms of Phase A, The Estate OC of Royal Palms of Phase B and individuals objecting to or raising concerns on the application on grounds that the proposed development will result in traffic congestion, environmental pollution and increasing fire risk thereby affecting the safety and living quality of the local residents; the proposed use is not compatible with the rural character of the surrounding area; there is a health risk should telecommunication facilities be installed on the R/F of the proposed development; there

is no traffic impact assessment on the proposed development in the application; and there is a concern if access to the proposed development is via the access to Royal Palms at Castle Peak Road – Mai Po (**Appendix VI**).

## **12. Planning Considerations and Assessments**

- 12.1 The application is for temporary shop and services use for a retail shop for hardware groceries and ancillary facilities for a period of three years at the Site which falls within an “O” zone intended for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Board. Although the proposed use is not entirely in line with the planning intention of the “O” zone, DLCS has no objection to the application as there is no implementation programme for the planned open space at present. Approval of the application on a temporary basis would not frustrate the long term planning intention of the “O” zone.
- 12.2 According to the applicant, the proposed use under application is a retail shop for hardware groceries. It is considered not incompatible with the surrounding land uses which comprise residential developments, temporary shop and service, plant nursery and open storage yards.
- 12.3 Although the Site falls within WBA of TPB PG-No. 12C, the guidelines also specify that planning applications for temporary uses are exempted from the requirement of EcoIA. In this regard, DAFC has no comment on the application from nature conservation perspective.
- 12.4 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. Technical requirements of C for T, D of FS and CD/MN of DSD could be addressed by approval conditions as recommended in paragraph 13.2 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.
- 12.5 During the past five years, the Committee approved a total of 14 applications for similar shop and services uses within the “O” zones on the OZP as detailed in paragraph 7 above. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the public comments received on the application as detailed in paragraph 11, the proposed use does not involve any installation of telecommunication facilities and the access is not via the access to Royal Palms at Castle Peak Road. Other planning considerations and departmental comments above are also relevant.

### 13. Planning Department's Views

- 13.1 Based on the assessment in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the application:

#### Approval Conditions

- (a) no operation between 6:30 p.m. and 8:30 a.m. daily, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no workshop activities and no open storage use, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (c) no vehicle other than light goods vehicle, as proposed by the applicant, is allowed to access the Site at all time during the planning approval period;
- (d) 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 29.1.2023;
- (e) in relation to (d) above, the implementation of fire service installations proposal within **9** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by 29.4.2023;
- (f) 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 29.1.2023;
- (g) in relation to (f) 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 29.4.2023;
- (h) the implemented drainage facilities within the Site shall be maintained at all times during the planning approval period;
- (i) if any of the above planning conditions (a), (b), (c) or (h) 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
- (j) if any of the above planning conditions (d), (e), (f) or (g) 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 V**.

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

the "Open Space" zone is intended primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. No strong planning justification has been given 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**

<b>Appendix I</b>	Application Form received on 6.6.2022
<b>Appendix Ia</b>	FI received on 22.7.2022
<b>Appendix II</b>	Relevant Extract of TPB-PG No. 12C
<b>Appendix III</b>	Previous and similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comments
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Drainage Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos