

RNTPC Paper No. A/YL-MP/334
For Consideration by
the Rural and New Town
Planning Committee
on 9.12.2022

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-MP/334

<u>Applicant</u>	: Ms. TSOI Wai Ling
<u>Site</u>	: Lot 3250 S.B ss.44 (Part) in D.D. 104, Mai Po, Yuen Long
<u>Site Area</u>	: About 420 m ²
<u>Lease</u>	: Block Government Lease (demised 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)”): 295m ² (about 70% of the site area) [Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m).] “Commercial/Residential” (“C/R”): 125m ² (about 30% of the site area) [Restricted to a maximum plot ratio of 0.4, a maximum site coverage of 20% and a maximum building height of 3 storeys (9m).]
<u>Application</u>	: Renewal of Planning Approval for Temporary Car Trading Use for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary car trading use for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied uses with planning permission under application No. A/YL-MP/288 valid until 13.12.2022.

- 1.2 As shown in **Plan A-2**, the Site is accessible to Fairview Park Boulevard via private land to the south of the Site which is currently used as a vehicle repair workshop. According to the layout plan (**Drawing A-1**) submitted by the applicant, there is one existing structure (single storey, not exceeding 3.1m in height with a gross floor area (GFA) of 36m²) for auxiliary office. Seven private car parking spaces are provided. The operation hours proposed by the applicant are 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays, 10:00 a.m. to 5:00 p.m. on Sundays and no operation on public holidays.
- 1.3 The Site (in part or in whole) is subject to seven previous applications for temporary car trading use (**Plan A-1**). The last application (No. A/YL-MP/288) submitted by the same applicant was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 13.12.2019 for a period of 3 years from 14.12.2019 until 13.12.2022. All approval conditions had been complied with. The current application is same as the last approved application No. A/YL-MP/288 in terms of applied use, site area/boundary, floor area, number of structures and site layout.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 11.10.2022 and (**Appendix I**) supplementary information received on 17.10.2022
 - (b) Further information (FI) received on 16.11.2022 (**Appendix Ia**) clarifying the number and types of vehicles in the proposed development *

Remarks: * accepted and 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 in the application form and appendices at **Appendix I**. They can be summarized as follows:

- (a) Previous applications were approved and all the relevant approval conditions were complied with.
- (b) The temporary use aims to serve the households in Fairview Park as car trade is a necessary service for them.
- (c) Traffic generated from the temporary use is very minimal. The customers will park their private cars at the visitor parking spaces and will not cause any problem to the traffic of Fairview Park Boulevard.

- (d) Relevant Government departments have no objection to the previous planning applications.
- (e) The Site is the residual portion of a larger “R(D)” zone to its immediate north which is separated by an existing nullah. Temporary use should be the interim use for the Site.
- (f) The Site has been paved since the 1980s and used for car trading for over 21 years. There are similar car trading uses in the “C/R” zone along Fairview Park Boulevard.

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 TPB Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by giving notification to the “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time Limit for Compliance with Planning Conditions’ (TPB PG-No. 34D) are relevant to the application. Relevant extracts of the Guidelines is at **Appendix II**.

5. Background

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

6. Previous Application

- 6.1 The Site (in part or in whole) is the subject of 7 previous applications (No. A/YL-MP/96, 135, 163, 187, 227, 253 and 288) for temporary car trading uses submitted by the same applicant, all of which were approved by the Board upon review or the Committee between 2001 and 2019, mainly on the grounds that the development were considered not incompatible with the surrounding land uses, were generally in line with relevant Town Planning Board Guidelines and adverse impacts arising from the proposed developments were not anticipated. All approval conditions have been complied with.
- 6.2 Details of the applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. Similar Applications

There is no similar application for temporary car trading use within the same “R(D)” and “C/R” zones.

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

8.1 The Site is:

- (a) accessible at the south from Fairview Park Boulevard via private land in the south currently used as a vehicle repair workshop;
- (b) paved and fenced off; and
- (c) currently used for the applied use with valid planning permission under application No. A/YL-MP/288 until 13.12.2022.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northeast across an existing nullah and Ha San Wai Road are a residential development and an open storage yard of construction materials and parking of tractors and vehicles respectively;
- (b) to its immediate east is a residential development, namely Villa Camellia;
- (c) to its immediate south are a retail shop and a vehicle repair workshop. To its further south and southwest across Fairview Park Boulevard are a residential development, namely Royal Camellia, and vehicle repair workshops, a car beauty shop and a retail shop respectively; and
- (d) to its west are a residential development, namely Helene Terrace, a retail shop, a storage and a vehicle repair workshop.

9. Planning Intention

- 9.1 The “R(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 also intended for low-rise, low-density residential developments subject to planning permission from the Board.

- 9.2 The “C/R” zone is intended primarily for commercial and/or residential development. A selected range of commercial uses are always permitted to serve the local community.

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 Comment Received During Statutory Publication Period

On 18.10.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.11.2022, one comment was received (**Appendix VI**) objecting to the application on the grounds that the development will result in adverse traffic impact, environmental pollution and increase in fire risk, thereby affecting the living quality and safety of the community.

12. Planning Considerations and Assessments

- 12.1 The application is for the renewal of planning approval for temporary car trading use for a period of 3 years. The Site mainly falls within “R(D)” zone and partly “C/R” zone, which are primarily for low-rise, low-density residential developments and commercial and/or residential development respectively. Although the temporary car trading use is not in line with the planning intentions, 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)” and “C/R” zones as there is no known development proposal for this part of the zones. The applied use, which would serve the residential neighbourhood and local community, is considered not incompatible with the surrounding land uses including retail shops along Fairview Park Boulevard (**Plan A-2**).
- 12.2 The renewal application is generally in line with the TPB PG-No. 34D. There have been seven previous approvals for temporary car trading use since 2001 and the applicant complied with all the approval conditions under previously approved applications. Since the last approval, there has been no major change in planning circumstances and adverse planning implications arising from the renewal of the planning approval are not expected. Concerned government departments including C for T, DEP, CTP/UD&L, PlanD, CE/MN, DSD and D of FS have no adverse comments on traffic, environmental, landscape, drainage and fire safety aspects respectively, and their technical concerns/requirements could be addressed by approval conditions as recommended in paragraph 13.2 below.

- 12.3 One public comment was received during the statutory application period objecting to the application as stated in paragraph 11 above. In this regard, relevant departments' comments as well as the planning assessments and considerations stated above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comment in paragraph 11, the Planning Department considers that the applied use could be tolerated for a further period of 3 years.
- 13.2 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 and be renewed from 14.12.2022 to 13.12.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation between 5:00 p.m. and 10:00 a.m. on Sundays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no operation on public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes) including container trailers/tractors as defined in the Road Traffic Ordinance are allowed to be parked/stored on the site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (f) the maintenance of paving and boundary fencing within the Site at all times during the planning approval period;
- (g) the existing fire services installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (h) the existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;

- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) 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;

[The above approval conditions are similar to those under the last approved Application No. A/YL-MP/288, except those on deletion of the submission and implementation of fire service installations proposal, the submission of photographic records of the existing drainage facilities and the maintenance of the landscape planting, and the addition of maintenance of the existing fire service installations on the site based on the latest comments of CE/MN of DSD, CTP/UD&L of PlanD and D of FS.]

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

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

the continual occupation of the site for car trading use is not in line with the planning intention of the "R(D)" zone which is primarily for low-rise, low-density residential developments. No strong planning justification has been given in the submission to justify 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 applicants.

15. Attachments

Appendix I

Application form received on 11.10.2022 and supplementary information received on 17.10.2022

Appendix Ia	FI received on 16.11.2022
Appendix II	Relevant extracts of TPB PG-No. 34D
Appendix III	Previous applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Site layout plan
Drawing A-2	Landscape and drainage facilities plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
DECEMBER 2022**