

RNTPC Paper No. A/YL-MP/335A  
For Consideration by the  
Rural and New Town  
Planning Committee  
on 5.5.2023

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

**APPLICATION NO. A/YL-MP/335**

<b><u>Applicant</u></b>	: Topfit HK Investment Limited represented by Allgain Land Administrators (Hong Kong) Limited
<b><u>Site</u></b>	: Lot 3250 S.B ss.49 (Part) in D.D. 104, Mai Po, Yuen Long
<b><u>Site Area</u></b>	: About 175m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Mai Po & Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<b><u>Zoning</u></b>	: “Residential (Group C)” (“R(C)”)
<b><u>Application</u></b>	: Proposed Temporary Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services at the application site (the Site)<sup>1</sup> for a period of 3 years (**Plan A-1**). According to the Note of the OZP, ‘Shop and Services’ is a Column 2 use which require planning permission from the Town Planning Board (the Board). The Site is currently served as a footpath.
- 1.2 As shown in **Plan A-2**, the Site abuts Fairview Park Boulevard. **Drawing A-1** shows the layout plan of the proposed development, which involves five single-storey container structures (3m in height) with a total gross floor area of about 78m<sup>2</sup> for temporary shop and services use. No vehicle parking space or loading/unloading space will be provided within the Site. The operation hours

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<sup>1</sup> A minor portion of the Site (i.e. 7m<sup>2</sup> / 4%) encroaches onto the adjacent “OU(CDWRA)” zone on the approved Nam Sang Wai OZP No. S/YL-NSW/8, which can be regarded as minor boundary adjustment as provided in the Covering Notes of the OZP.

of the proposed use are between 9:00 a.m. and 8:00 p.m. from Mondays to Sundays, including public holidays.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with attachments received on 28.11.2022 and supplementary information (SI) received on 1.12.2022 **(Appendix I)**
- (b) Further information (FI) received on 5.1.2023\* **(Appendix Ia)**
- (c) FI received on 15.3.2023\* **(Appendix Ib)**
- (d) FI received on 3.4.2023\* **(Appendix Ic)**

Remarks: \* accepted and exempted from publication and recounting requirements.

1.4 On 13.1.2023, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer a decision on the application as requested by the applicant to allow time for the applicant to address departmental comments.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form with attachments, SI and FI submissions at **Appendices I to Ic**. They can be summarized as follows:

- (a) The proposed use is in line with the planning intention of “R(C)” and “OU(CDWRA)” zones (Column 2 use in both zones) and can serve the needs of nearby residents.
- (b) The temporary application for 3 years, which is short term in nature, will not frustrate the long term planning intention of the “R(C)” and “OU(CDWRA)” zones.
- (c) The proposed use is considered not incompatible with the surrounding environment comprising a number of shops.
- (d) Two ingress/egress points of 6m and 1.5m wide respectively will be maintained (**Plan A-2 and Drawing A-1**) to allow vehicular and pedestrian entrance to the car park and plant nursery at the adjoining sites. A pedestrian access with width of at least 1.2m will be maintained within the Site (**Plan A-4**). It will not be fenced off and the existing route 36 green minibus station will not be obstructed by the proposed development (**Drawing A-1**). No parking spaces or loading/unloading area will be provided in the Site. No adverse traffic impact is anticipated.

- (e) No tree felling will be involved in the proposed development. No adverse landscape and visual impacts are anticipated.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Town Planning Board Guideline**

According to 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, the Site falls within the Wetland Buffer Area (WBA). Relevant extracts of the Guidelines is at **Appendix II**.

### **5. Background**

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

### **6. Previous Application**

There is no previous application covering the Site.

### **7. Similar Applications**

7.1 During the past five years since 2018, there are four similar applications (No. A/YL-MP/270, 273, 295 and 324) within the same “R(C)” zone on the OZP, which were all approved by the Committee mainly on the consideration that the approval of the applications on a temporary basis would not frustrate the long-term planning intention of the “R(C)” zone; the developments were not incompatible with the surrounding land uses; relevant departmental concerns could be addressed by approval conditions; and approval of the applications were in line with the previous decisions of the Committee.

7.2 Details of the applications are summarized 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) a private lot abutting Fairview Park Boulevard;
- (b) hard paved and used as a local footpath; and
- (c) located within the WBA of Deep Bay Area.

8.2 The surrounding areas are intermixed with residential developments and structures, vehicle parks, storage yards and vacant land:

- (a) to its north and northwest across Fairview Park Boulevard and Fairview Park Road South Road are a vehicle park, vacant land and a petrol filling station;
- (b) to its east are a local access, vacant land and Yau Pok Road. To its further east across the nullah are Kam Pok Road, a cycle track, and a storage yard;
- (c) to its south are a storage yard, a vehicle park, a restaurant and existing residential structures; and
- (d) to its west are a plant nursery, a vehicle park, offices, a storage yard, a sport ground and a school. To its further west across Bauhinia Road East is the residential development Fairview Park.

## **9. Planning Intention**

The “R(C)” zone on the Mai Po & Fairview Park OZP is intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Town Planning Board.

## **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 6.12.2022, the application was published for public comments. During the statutory publication period, five comments were received from San Tin Rural Committee and individuals (**Appendix VI**) raising objections to or raising concern on the application that the proposed development would result in adverse traffic impact, environmental pollution and increase in fire risk, thereby affecting the living quality and safety of the

nearby residents; and it would induce traffic congestion and create safety concerns to the pedestrians.

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

- 12.1 The application is for proposed temporary shop and services for a period of 3 years at the Site falling within the “R(C)” zone which is intended for low-rise, low-density residential developments where commercial uses such as shops and services serving the residential neighbourhood may be permitted by the Board on application. The proposed use is not entirely in line with the planning intention of “R(C)” zone. However, according to the applicant, the proposed temporary shop and service is to serve the needs of nearby residents. Approval of the application on a temporary basis of a period of 3 years would not frustrate the long-term planning intention of the “R(C)” zone as there is no immediate permanent development proposal at the Site.
- 12.2 Given the small scale (total floor area of about 78m<sup>2</sup>) and the temporary nature of the proposed use, it is considered not incompatible with the surrounding land uses, comprising mainly residential dwellings, open storage yards, vehicle parks and vacant land (**Plan A-2**).
- 12.3 Although the Site falls within the WBA of the TPB PG-No. 12C, the guidelines also specify that planning applications for temporary uses are exempted from the requirement of ecological impact assessment. DAFC has no comment on the application.
- 12.4 While the Site is an existing footpath, the proposed development will not affect pedestrian traffic as a pedestrian access with width of at least 1.2m will be maintained within the Site and C for T has no comments on the application. Other concerned government departments including DEP, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no adverse comments on 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.
- 12.5 Since 2018, the Committee has approved four similar applications for temporary shop and services use within the “R(C)” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 Five public comments were received during the statutory application period objecting to or raising concern on 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 has no objection to the application.
- 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 until 5.5.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval Conditions

- (a) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 5.11.2023;
- (b) in relation to (a) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 5.2.2024;
- (c) 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 5.11.2023;
- (d) in relation to (c) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Service or of the Town Planning Board by 5.2.2024;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) if the above planning condition (e) 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
- (g) if any of the above planning condition (a), (b), (c) or (d) 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**.

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

the development is not in line with the planning intention of the "R(C)" zone 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 renewal of the planning 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**

<b>Appendix I</b>	Application form with attachments received on 28.11.2022 and SI received on 1.12.2022
<b>Appendix Ia</b>	FI received on 5.1.2023
<b>Appendix Ib</b>	FI received on 15.3.2023
<b>Appendix Ic</b>	FI received on 3.4.2023
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 12C
<b>Appendix III</b>	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>	Layout plan
<b>Plan A-1</b>	Location plan with similar applications
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
MAY 2023**