

RNTPC Paper No. A/YL-MP/348A  
For Consideration by the Rural and  
New Town Planning Committee  
on 8.9.2023

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

**APPLICATION NO. A/YL-MP/348**

<b><u>Applicant</u></b>	: Hang Shun Real Estate Strategy Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lot 2905 S.C RP (Part) in D.D.104 and Adjoining Government Land (GL), Mai Po, Yuen Long
<b><u>Site Area</u></b>	: About 574m <sup>2</sup> (including about 205m <sup>2</sup> of GL (about 35.7% of the Site))
<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>	: “Open Space” (“O”)
<b><u>Application</u></b>	: Temporary Shop and Services and Eating Place with Ancillary Facilities for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary shop and services and eating place with ancillary facilities for a period of five years at the application site (the Site) which is zoned “O” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ and ‘Eating Place’ are both Column 2 uses in the “O” zone which require planning permission from the Town Planning Board (the Board). The Site is currently occupied by two 2-storey structures accommodating some shop and services uses without valid planning permission.
- 1.2 The Site is the subject of six previous applications for similar use as the current application, which were all approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between 2010 and 2020. The planning permissions for the last two applications (No. A/YL-MP/267 and 300) were then revoked on 6.9.2020 and 18.5.2023 respectively due to non-compliance with approval conditions in relation to fire service and/or drainage requirements. Details of the previous application are at paragraph 6

below. The applicant has submitted a FSIs proposal and a drainage proposal in support of the current application. A comparison of the major development parameters of the application and the last approved application is set out as follows:

<b>Parameters</b>	<b>Previous Application No. A/YL-MP/300 (a)</b>	<b>Current Application (b)</b>	<b>Difference (b) – (a)</b>
Applied Use	Temporary Shop and Services with Ancillary Staff Canteen and Site Office for a Period of 3 Years	Proposed Temporary Shop and Services and Eating Place with Ancillary Facilities for a Period of 5 Years	+ eating place + 2 years
Site Area	About 531.3m <sup>2</sup> (including about 163.5m <sup>2</sup> of GL)	About 574m <sup>2</sup> (including about 205m <sup>2</sup> of GL)	+42.7m <sup>2</sup> (+8%)
Total Floor Area	About 356.5m <sup>2</sup>	About 379.5m <sup>2</sup>	+23m <sup>2</sup> (+6.5%)
No. of Structures	5 (retail store with ancillary canteen and office, storage of documents, real estate agency with ancillary office and rain shelter)	2 (shop and services, eating place, office and washroom)	-3
Building Height	About 7.5m (1-2 storey)	Not more than 7.5m (2 storey)	--
No. of Car Parking Space	3 private car parking space	4 private car parking space	+1
Operation Hours	9:30 a.m. to 7:30 p.m. daily (including public holidays)	7:30 a.m. to 11:00 p.m. daily (including public holidays)	Longer Operation Hours

1.3 **Drawing A-1** shows the layout plan of the applied development. There are about 10 staff members working at the Site. It is estimated that there will be about 30 visitors per day to the Site and the outdoor dining area will not serve more than eight visitors at the same time. As shown on **Plan A-2**, the Site is accessible from Castle Peak Road – Mai Po via a local access through an ingress/egress (about 7.3m in width) provided at the eastern site boundary.

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

(a) Application Form with attachments and Supplementary Information (SI) received on 24.5.2023, 2.6.2023 and 5.6.2023 respectively **(Appendix I)**

(b) Further Information (FI) received on 7.7.2023\* **(Appendix Ia)**

(c) FI received on 18.7.2023\*

(Appendix Ib)

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

- 1.5 On 14.7.2023, the Committee of the Board decided to defer a decision on the application for two months 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 and FI at **Appendices I to Ib** which can be summarised as follows:

- (a) The applicant has been operating the real estate agency business since 2010 at the Site. The shop and services and eating place could serve nearby residents and workers by meeting their demands.
- (b) The applied uses are considered not incompatible with the surrounding land uses which are mainly residential and commercial uses.
- (c) As there is no known programme to develop the Site into an open space, approval of the temporary application for a period of five years would not jeopardise the long term planning intention of the “O” zone and would better utilise the land resources.
- (d) The applicant has made effort to comply with approval conditions of previous planning permission. FSIs and drainage proposals are submitted in the current application to address departmental comments.
- (e) No loading/unloading space is provided within the Site. Sufficient space is provided for vehicle manoeuvring to ensure no queuing and turning back outside the Site. No light, medium or heavy vehicles including container vehicles, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site. Trip generation and attraction of the applied development is minimal, hence, adverse traffic impact on the surrounding road network is not anticipated.
- (f) The applicant will follow the ‘Control of Oil Fume and Cooking Odour from Restaurant and Food Business’ to control oily fume and cooking odour emissions generated from the applied use. Adequate air pollution control equipment is provided at the kitchen ventilation system for treating cooking fume emissions before being discharged to the outdoor environment, in order to fulfil the requirements of the Air Pollution Control Ordinance. The applicant will strictly comply with all environmental protection/pollution control ordinances and the Professional Persons Environment Consultative Committee Practice Notes (ProPECCPN 5/93) for sewage treatment at the Site.

**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 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. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

**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) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

**5. Background**

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

**6. Previous Applications**

- 6.1 The Site (in whole or in part) is the subject of six previous applications which were all approved with conditions by the Committee of the Board. Application No. A/YL-MP/77 for proposed temporary car park is not relevant to the current application.
- 6.2 The other five applications (No. A/YL-MP/188, 225, 254, 267 and 300) for similar temporary shop and services (real estate agency/retail shop with ancillary site office) use submitted by the current applicant were all approved with conditions by the Committee of the Board for a period of three years between 2010 and 2020 mainly on the considerations that approval of the application would not frustrate the long term planning intention of the “O” zone; the proposed development was considered not incompatible with the surrounding land uses; adverse impacts on the surrounding area were not envisaged and technical concerns of government department could be addressed by approval conditions; and approval of the application was in line with the previous decisions of the Committee. Approval conditions of the first three applications had been fulfilled. Planning permissions of the last two applications (No. A/YL-MP/267 and 300) were revoked on 6.9.2020 and 18.5.2023 due to non-compliance with approval conditions on the implementation of the FSIs proposal and the submission of records of the existing drainage facilities on the site respectively.
- 6.3 Details of the previous applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.

## **7. Similar Applications**

- 7.1 During the past five years, there were 15 similar applications, with 13 of them for temporary shop and services use (No. A/YL-MP/269, 275, 278, 280, 298, 302, 306, 311, 319, 321, 325, 329 and 351) and two for temporary eating place use (No. A/YL-MP/292 and 299) within the “O” zones on the OZP, which were all approved by the Committee of the Board mainly on similar considerations as stated in paragraph 6.2 above.
- 7.2 Details of the 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) accessible at the southeast from Castle Peak Road – Mai Po via a local access; and
  - (b) currently paved and occupied by two 2-storey structures accommodating a number of shop and services; and
  - (c) located within the Wetland Buffer Area (WBA) of Deep Bay Area.
- 8.2 The surrounding areas are a mix of residential developments, commercial/retail uses and workshops:
- (a) to its north are a wooden ware retail shop approved under Application No. A/YL-MP/302, a car repair workshop and a plant nursery.
  - (b) to its west are some residential structures. To its further west is a residential development of Royal Palms;
  - (c) to its south are vacant land, grassland and an open storage yard for construction materials; and
  - (d) to its east are a cycling track, Castle Peak Road – Mai Po, San Tin Highway and Sam Tam Road.

## **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 6.6.2023, the application was published for public inspection. During the statutory publication period, two public comments were received from the Owners' Committee of Royal Palms and an individual objecting to or raising concerns on the environmental hygiene, safety, noise, air, traffic impacts of the development and the non-compliance with approval conditions by the applicant (**Appendix VI**).

**12. Planning Considerations and Assessments**

- 12.1 The application is for temporary shop and services and eating place with ancillary facilities for a period of five years at the Site. 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. Although the applied uses are not entirely in line with the planning intention of the "O" zone, approval of the application on a temporary basis for five years would not frustrate the long-term intention of the "O" zone. DLCS advises that there is no plan to develop the Site into a public open space at present and has no objection to the application.
- 12.2 According to the applicant, the applied shop and services and eating place uses are to serve the local community. The applied uses with two 2-storey (not more than 7.5m in height) structures are considered not incompatible with the surrounding uses which mainly comprises residential developments, commercial/retail use, plant nursery and vacant land.
- 12.3 The Site falls within the WBA of the TPB PG-No. 12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of an ecological impact assessment. Director of Agriculture, Fisheries and Conservation has no comment on the application from nature conservation point of view.
- 12.4 There are no adverse comments from concerned government departments, including Director of Environmental Protection, Commissioner for Transport, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD), Director of Fire Services (D of FS) and Chief Town Planner/Urban Design and Landscape, Planning Department. Technical requirements of the concerned departments are suggested to be imposed through approval conditions as recommended in paragraph 13.2 below. Besides, the applicant will be advised to follow the revised "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Environmental Protection

Department to mitigate any potential environmental impacts on the surrounding areas.

- 12.5 The Site is the subject of six previous applications approved since 2000. The last five applications were for similar real estate agency/retail use with ancillary canteen. The planning permission for the last two applications No. A/YL-MP/267 and 300 were revoked due to non-compliance with approval conditions on the implementation of the FSIs proposal and the submission of records of the existing drainage facilities on the site respectively. The applicant indicated that the last planning approval was revoked due to insufficient time to comply with the conditions. The current application is slightly different from the last approved application in terms of the applied use, site layout and operation hours with addition of a restaurant to the development. The applicant has submitted a FSIs proposal and a drainage proposal to support the current application, which have been accepted by D of FS and CE/MN, DSD respectively. Moreover, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.6 During the past five years, the Committee approved a total of 15 similar applications for temporary shop and services or eating place uses within the “O” zones in the area. Approval of the current application is in line with the previous decisions of the Committee.
- 12.7 Two public comments were received during the statutory publication period objecting to or raising concerns on the application as stated in paragraph 11 above. In this regard, the relevant departments’ comments and planning assessments 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 comments mentioned 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 5 years until 8.9.2028. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval conditions

- (a) no operation between 11.00 p.m. and 7:30 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no light, medium or heavy goods vehicles including container trailers/tractors as defined in the Road Traffic Ordinance, as proposed by

the applicant, are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;

- (c) the implementation of the accepted 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 8.3.2024;
- (d) the submission of records of the existing drainage facilities on the site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.12.2023;
- (e) in relation to (d) above, the existing drainage facilities shall be maintained at all times during the planning approval period;
- (f) if any of the above planning condition (a), (b) or (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;
- (g) if any of the above planning condition (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; and
- (h) upon the expiry of the planning permission, the reinstatement of the site to amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

#### 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 "O" 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. There is no strong planning justification 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 with attachments and SI received on 24.5.2023, 2.6.2023 and 5.6.2023 respectively
<b>Appendix Ia</b>	FI received on 7.7.2023
<b>Appendix Ib</b>	FI received on 18.7.2023
<b>Appendix II</b>	Relevant Extracts 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>	Layout plan
<b>Plan A-1</b>	Location plan with previous and 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  
SEPTEMBER 2023**