

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

**APPLICATION NO. A/YL-MP/359**

<b><u>Applicant</u></b>	: EIS International Pre-school Limited represented by Wilson Lee & Associates Limited
<b><u>Site</u></b>	: Lots 2261 S.S ss.8 (Part), 2261 S.S RP (Part), 2262 RP (Part), 2265 S.A, 2265 S.B, 2265 S.C, 2265 S.D and 2265 S.E RP (Part) in D.D. 104, Ha San Wai, Yuen Long
<b><u>Site Area</u></b>	: About 1,542.8m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Draft Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/7 ( <i>currently in force</i> )  Approved Mai Po and Fairview Park OZP No. S/YL-MP/6 ( <i>at the time of submission</i> )  [The zoning and development parameters of the application site (the Site) remain unchanged on OZP No. S/YL-MP/7]
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	: Proposed Temporary School (Kindergarten cum Child Care Centre) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary school (kindergarten cum child care centre) for a period of three years at the Site which falls within an area zoned “V” on the draft Mai Po and Fairview Park OZP No. S/YL-MP/7 (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘School’ and ‘Social Welfare Facility’ are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is currently used as a kindergarten (**Plans 4a-4c**) with a valid Certificate of Registration of a School issued by Education Bureau (EDB) on 13.5.2021.
- 1.2 The Site comprises the school portion and the ancillary car parking area (**Drawings A-1 and A-2**). The school portion includes (i) five existing one-

storey structures (all not more than 7m high) with a total floor area of about 451.5m<sup>2</sup> for five classrooms, a child care centre, play area, a pantry and toilet; and (ii) an outdoor playground and two car parking spaces serving as lay-bys for 24-seater school buses located at the middle part of the portion. This portion is accessible by vehicles through a local access off Castle Peak Road - Tam Mi via an ingress/egress at the southeast. Students and visitors could also access to this portion through a pedestrian entrance at the east (**Drawing A-2 and Plan A-2**). The kindergarten and child care centre would accommodate a maximum of 140 pupils for a half-day session and 28 pupils for each 1.5 hours session respectively, with a maximum of 12 staff members. The operation hour of the proposed uses are from 8:30 a.m. to 6:00 p.m. from Mondays to Saturdays excluding public holidays.

- 1.3 The ancillary car parking area is located to the further southeast of the school portion, and is also accessible through a local access off Castle Peak Road – Tam Mi (**Plan A-2**). A total of one private car parking space, four lay-bys for taxis and cars and three lay-bys for school buses are provided in the area (**Drawing A-2**). Students would be escorted by teachers/nannies or parents between the school portion and the ancillary car parking area.
- 1.4 The Site is the subject of two previous applications (No. A/YL-MP/245 and 304) for the same or similar uses. The last application for the same proposed uses submitted by the same applicant with a similar layout was approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2021 but was subsequently revoked in 2023 due to non-compliance with an approval condition (see details under paragraph 5 below).
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form and Justification Report received on 31.8.2023 (**Appendix I**)
  - (b) Further Information (FI) received on 22.12.2023\* (**Appendix Ia**)
  - (c) FI received on 25.4.2024\* (**Appendix Ib**)
  - (d) FI received on 24.5.2024 and 27.5.2024\* (**Appendix Ic**)
  - (e) FI received on 18.6.2024\* (**Appendix Id**)Remarks: \* accepted and exempted from publication and recounting requirements.
- 1.6 On 27.10.2023 and 16.2.2024, the Committee of the Board agreed to the applicant's requests to defer making a decision on the application for two months each 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 Justification Report and FIs at **Appendices I to Id**. They can be summarised as follows:

- (a) The school portion of the Site had been used for school use since 1934 to 2004,

and from 2017 until now. The applicant had obtained a provisional school (kindergarten) license from EDB on 14.7.2020. A Certificate of Registration of a School was also issued by the EDB on 13.5.2021 for the existing kindergarten. The existing school premises are a purposely-built school as per EDB's record. The Site is suitable for operating as the proposed uses, which could meet the strong demand from the nearby community. The school portion of the Site with village type buildings provides a suitable environment which meets the nature-based learning principle adopted by the applicant to promote the theme.

- (b) The traffic impact induced by the proposed uses is minimal and insignificant. Two 24-seater school bus lay-bys are provided within the school portion of the Site. Agreement has also been sought from local villagers to use the area to the further southeast of the school portion exclusively as the ancillary car parking area serving the proposed uses. Besides, three school bus routes are provided serving the students from farther areas.
- (c) The five single-storey existing structures at the school portion of the Site are maintained in good conditions and no extension or structural alteration are required. The proposed uses will not generate adverse impacts to the surrounding environment. Adequate number of exits have been provided which comply with the building and fire safety requirements. Extensive landscape is also provided and all the trees within the school portion are well-preserved. No tree felling is required.
- (d) Adequate fire service installations (FSIs) and drainage proposals in compliance with relevant requirements for the kindergarten and child care centre have been provided in the application. The applicant also commits to implement those proposals if the current application is approved by the Board.
- (e) The applicant will rectify the unauthorised building works at the school portion of the Site as soon as possible and will submit Short Term Waiver (STW) application to the Lands Department (LandsD) for the erection of the proposed structures.

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

### **4. Background**

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

## **5. Previous Applications**

- 5.1 The Site in whole or in part is the subject of two previous applications (No. A/YL-MP/245 and 305).
- 5.2 Application no. A/YL-MP/245 submitted by a different applicant for permanent school (kindergarten) was approved by the Committee in 2016 mainly on the considerations that the proposed development would help serve the needs of the local community; the proposed development was not incompatible with the surrounding land uses; and the concerned government department had no adverse comments. A valid Certificate of Registration of a School was also issued by EDB on 13.5.2021 for the current kindergarten. The kindergarten has been in operation since then.
- 5.3 Application no. A/YL-MP/304 submitted by the same applicant for the same temporary uses and ancillary car parking area with similar layout of the current application was approved by the Committee in 2021 for a period of three years mainly on the considerations under paragraph 5.2 above. Subsequently, the planning permission was revoked in 2023 due to non-compliance with the approval conditions on the implementation of FSIs proposal, and the submission and implementation of the drainage proposal.
- 5.4 Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

## **6. Similar Applications**

There was no similar application within the same “V” zone in the past five years.

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

- 7.1 The Site:
  - (a) is currently used as a kindergarten with a valid Certificate of Registration of a School issued by EDB on 13.5.2021; and
  - (b) is accessible via a local access road off Castle Peak Road - Tam Mi.
- 7.2 The surrounding areas are rural in character comprising predominantly village houses/residential dwellings, vehicle parks, scattered temporary structures for storage uses, open storage, car beauty workshop, grass land and vacant land. To the east of the Site are Castle Peak Road – Mai Po, San Tin Highway and San Tam Road. Some of the storage and open storage uses are suspected unauthorised developments subject to planning enforcement action.

## **8. Planning Intention**

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

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

9.1 Apart from the government department’s comment as set out in paragraph 9.2 below, other 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 III** and **IV** respectively.

9.2 The following government bureau/departments have specific comments on the application:

### **Education**

9.2.1 Comments of the Secretary for Education (S for E):

- (a) She has no comment on the application.
- (b) The applicant (i.e. EIS International Pre-school), which provides kindergarten education, was registered under Section 13 of Cap. 279 Education Ordinance on 13.5.2021 with the school premises at the Site.
- (c) She understands that the school operator has applied for the registration of a child care centre under Section 7 of Cap. 243 Child Care Services Ordinance which falls under the scope of Social Welfare Department (SWD).

### **Social Welfare**

9.2.2 Comments of the Director of Social Welfare (DSW):

She has no objection to the application provided that the applicant wishes to provide a child care centre attached to the kindergarten of which policy support from S for E has been given, and the fact that no financial implication will be incurred on SWD.

### **Land Administration**

#### 9.2.3 Comments of the District Lands Officer/Yuen Long, LandsD (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) The private land Lot No. 2261 S.S RP in D.D. 104 is covered by STW No. 856 to permit structures for the purpose of “Shop” and “School (Kindergarten)”; and Lots No. 2261 S.S ss. 8 and 2265 S.E RP in D.D. 104 are covered by STWs No. 4384 and No. 4385 respectively to permit structures for the purpose of “School (Kindergarten)”.
- (c) No small house application has been approved or is being processed for the Site.
- (d) LandsD has grave concerns given that there are unauthorised building works and/or uses on Lots 2265 S.A, 2265 S.B, 2265 S.C and 2265 S.D in D.D. 104 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.
- (e) Advisory comments as detailed in **Appendix IV**.

### **10. Public Comment Received During Statutory Publication Period**

On 13.9.2023, the application was published for public comment. During the statutory publication period, one public comment was received from an individual objecting to the application on the grounds that the approval conditions of a previous approval had not been complied with which could lead to safety and security of the users (**Appendix V**).

### **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary school (kindergarten cum child care centre) for a period of three years at the Site which falls within an area zoned “V” on the OZP. The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Commercial, community and recreational uses may be permitted on application to the Board. The proposed uses for a kindergarten and child care centre would help serve the needs of the local community. In this regard, S for E and DSW have no objection to or adverse comment on the application from education and social welfare point of view. Besides, DLO/YL,

LandsD advises that there is no Small House application being processed/approved at the Site. The proposed uses are temporary in nature which would not adversely affect the land availability for NTEH within the “V” zone in the long term. As such, approval of the application on a temporary basis for a period of three years would not frustrate the long term planning intention of the “V” zone.

- 11.2 The Site is located within the village area of Ha San Wai Tsuen and is currently used as a kindergarten with a valid Certificate of Registration of a School issued by EDB on 13.5.2021. The ancillary car parking area of the proposed uses is located adjacent to an existing parking area for local villagers. The proposed uses are considered not incompatible with the surrounding rural context comprising predominantly village houses/residential dwellings, vehicle parks and vacant land. Chief Town Planner/Urban Design & Landscape, Planning Department has no adverse comment on the application as no significant adverse landscape impact arising from the development at the Site.
- 11.3 DLO/YL, LandsD has reservation on the application in view of the unauthorized building works at parts of the Site. In this regard, the applicant indicated that STW application will be submitted to LandsD for rectifying/regularizing the unauthorised building works under the proposed uses. If the application is approved, relevant advisory clause on the need for application to LandsD for regularization for unauthorized structures or uses is recommended.
- 11.4 Other concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Fire Services (D of FS) have no objection to or no adverse comments on the application. The proposed uses will unlikely cause significant adverse traffic, environmental, drainage and fire safety impacts to the surrounding areas. Technical requirements of the concerned government departments are suggested to be imposed through relevant approval conditions as recommended in paragraph 12.2 below. Besides, the applicant will be advised to follow the requirements of the Environmental Protection Department (EPD)’s Practice Note for Professional Note No. 1/23 “Drainage Plans subject to Comment by EPD” for the design of the septic tank and soakaway system.
- 11.5 As detailed in paragraph 5 above, the Site was involved in two previous approvals for similar/same uses. The last application (No. A/YL-MP/304) for the same proposed uses with similar layout submitted by the same applicant of the current application and was approved with conditions by the Committee in 2021 for a period of three years. Although the last planning permission was revoked due to non-compliance with approval conditions in 2023, the applicant submitted FSIs and drainage proposals under the current application and D of FS and CE/MN, DSD have no objection to the application. The applicant commits to implement both proposals should the current application be approved by the Committee. The approval of the current application is in line with the previous decisions of the Committee. Should the Committee decide to approve the application, 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.

- 11.6 Regarding the public comment as stated in paragraph 10 above, the planning assessment 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 comment mentioned in paragraph 10, 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 three years until 21.6.2027. 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 implementation of the accepted fire service installations proposal 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 **21.3.2025**;
- (c) the submission of a revised 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 **21.12.2024**;
- (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 Services or of the Town Planning Board by **21.3.2025**;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) if any of the above planning condition (a) 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; and
- (g) if any of the above planning condition (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**.

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

the proposed uses are not in line with the planning intention of the "Village Type Development" zone, which is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. 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**

<b>Appendix I</b>	Application Form and Justification Report received on 31.8.2023
<b>Appendix Ia</b>	FI received on 22.12.2023
<b>Appendix Ib</b>	FI received on 25.4.2024
<b>Appendix Ic</b>	FI received on 24.5.2024 and 27.5.2024
<b>Appendix Id</b>	FI received on 18.6.2024
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Government Department's General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comment
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Vehicular and Pedestrian Access Arrangements Plan
<b>Drawing A-3</b>	Internal Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a – 4c</b>	Site Photos