

RNTPC Paper No. A/YL-MP/364A
For Consideration by the
Rural and New Town
Planning Committee
on 7.6.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/364

- Applicant** : Leung Yau Kam represented by FiBi International Project Consultancy Co. Limited
- Site** : Lot 2933 in D.D. 104, Mai Po, Yuen Long, New Territories
- Site Area** : About 1,225m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Mai Po & Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/7
(*currently in force*)
- Approved Mai Po & Fairview Park OZP No. S/YL-MP/6
(*at the time of submission*)
- [The zoning of the application site remains unchanged on OZP No. S/YL-MP/7]
- Zoning** : “Open Space” (“O”)
- Application** : Proposed Temporary Shop and Services (Foot Massage Parlour), Public Vehicle Park (excluding container vehicle) with Ancillary Electric Vehicle Charging Facilities and Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (foot massage parlour), public vehicle park (excluding container vehicle) with ancillary electric vehicle (EV) charging facilities and office for a period of three years at the application site (the Site) which is zoned “O” on the draft Mai Po & Fairview Park OZP No. S/YL-MP/7 (**Plan A-1**). According to the Notes of the OZP for “O” zone, ‘Shop and Services’ and ‘Public Vehicle Park (excluding container vehicle)’ are Column 2 uses which require planning permission from the Town Planning Board (the Board), while there is no provision for ‘Office’ use. According to the covering Notes of the OZP,

temporary use or development not exceeding a period of three years, notwithstanding that the use or development is not provided for in terms of the OZP, requires planning permission from the Board. The Site is currently hard-paved and fenced-off, and mainly vacant with a temporary structure erected (**Plans A-2, A-4a and A-4b**).

- 1.2 The proposed uses involve five structures of 1 to 2 storeys (about 3.5m to 7.5m in height) with a total gross floor area of about 280m² (including four structures for EV charging facilities and one structure for foot massage parlour and office uses) (**Drawing A-1**). 15 private car parking spaces (including 9 parking spaces with EV charging facilities) and a loading/unloading space for light goods vehicle will be provided. The Site is accessible via an ingress/egress (about 11m wide) at its eastern boundary from Castle Peak Road – Mai Po (**Plan A-2**). The operation hours will be 24 hours daily (including public holidays).
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on 26.1.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 6.3.2024 [#] (**Appendix Ia**)
 - (c) FI received on 11.4.2024 [#] (**Appendix Ib**)

[#] *exempted from publication requirement*
- 1.4 On 15.3.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ib**. They can be summarised as follows:

- (a) The proposed temporary uses for a period of three years, which are intended to serve the nearby residents, would not jeopardise the long-term planning intention of the "O" zone;
- (b) The proposed uses would not generate significant amount of traffic. Adequate vehicle manoeuvring space would be provided within the Site. Only private cars and light goods vehicles would be allowed to enter the Site. Besides, all existing trees within the Site will be retained. Surface U-channel will also be provided at the Site;
- (c) The proposed foot massage parlour does not involve any operation under the Massage Establishments Ordinance (Cap. 266);

- (d) The applicant will comply with the approval conditions should the application be approved by the Board. The applicant would also remove the unauthorised structures at the Site and will submit Short Term Waiver application to Lands Department (LandsD) for the erection of the proposed structures.

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

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

4. **Town Planning Board Guidelines**

The Site is located within the Wetland Buffer Area (WBA) (**Plan A-1**) of Deep Bay Area. 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 extracts of the Guidelines are at **Appendix II**.

5. **Background**

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

6. **Previous Application**

- 6.1 The Site is the subject of two previous applications (No. A/YL-MP/54 and 292). Details of the applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-MP/54 for temporary open storage of timber and plywood, which was rejected by the the Committee in 1999, is not relevant to the current application.
- 6.3 Application No. A/YL-MP/292 submitted by a different applicant for proposed temporary eating place with private vehicle park for three years was approved by the Committee in 2020 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “O” zone; the proposed uses were considered not incompatible with the surrounding land uses and could serve the need of local residents; and there was no objection to or no adverse comment from relevant departments. However, the planning permission was subsequently revoked on 24.10.2021 due to non-compliance with the time-limited approval conditions on the submission of a fire service installations proposal and implementation of a revised drainage proposal.

7. **Similar Applications**

- 7.1 There is no similar application for temporary public vehicle park/office within the same “O” zone on the OZP in the past five years. However, there are 12 similar applications for temporary shop and services use within the same “O” zone on the OZP in the past five years. All applications (No. A/YL-MP/280, 298, 300, 302, 306, 311, 319, 321, 325, 329, 348 and 351) were approved by the Committee between 2019 and 2023 mainly on similar considerations as stated in paragraph 6.3.
- 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 from Castle Peak Road – Mai Po;
 - (b) hard-paved and fenced-off, and mainly vacant with a temporary structure erected; and
 - (c) located within the WBA in Deep Bay Area.
- 8.2 The surrounding areas are rural in character intermixed with residential dwellings, open storage yards, vehicle park, grass land and ponds. Two sites for temporary shop and services and/or eating place with valid planning permissions (No. A/YL-MP/302 and 348) are located to the north of the Site.

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**

- 10.1 Apart from the government department as set out in paragraph 10.2 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 IV and V** respectively.

10.2 The following Government departments have concerns/views on the application:

Land Administration

10.2.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):

- (a) He has adverse comments on the application.
- (b) He has reservation on the planning application since there is/are unauthorized structure(s) or uses on the private lot which is/are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/regularize the lease breaches as demand by LandsD.
- (c) The Site comprises Old Schedule Agricultural Lot No. 2933 in D.D. 104 held under Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (d) If the application is approved, the lot owner(s) shall apply to his office for a Short Term Waiver (STW) to permit the structure(s) erected within the said private lot. The application(s) for STW will be considered by the LandsD acting in the capacity of the landlord and there is no guarantee that they will be approved. The application(s) for STW, if approved, will be subject to such terms and conditions, including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be allowed.
- (e) Advisory comments as detailed in **Appendix V**.

Open Space Provision

10.2.2 Comments from the Director of Leisure and Cultural Services (DLCS):

- (a) he has no in-principle objection to the application since the application is for three years only; and
- (b) there is no plan to develop the Site into public open space in upcoming three years.

11. Public Comments Received During Statutory Publication Period

On 2.2.2024, the application was published for public comment. During the statutory public inspection period, two public comments from individuals were received (**Appendix VI**). One comment raises concerns on the application that although the proposed temporary uses are considered more compatible with the “O” zone than the previous application, more stringent approval conditions on fire and drainage aspects should be imposed as the previous application was revoked due to non-compliance of approval conditions related to drainage and fire aspects. Another comment indicates no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services (foot massage parlour), public vehicle park (excluding container vehicle) with ancillary EV charging facilities, and office for a period of three years. The Site falls within the “O” zone which 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. Although the proposed uses are not entirely in line with the planning intention of the “O” zone, DLCS has no objection to the application as there is no plan to develop the Site into a public open space in upcoming three years. Regarding the proposed public vehicle park with ancillary EV charging facilities, the Secretary for Environment and Ecology and Commissioner for Transport have no adverse comment from EV charging and traffic engineering perspectives. In view of the above, it is considered that approval of the application on a temporary basis for three years would not frustrate the long-term intention of the “O” zone.
- 12.2 The Site is located at the fringe of the “O” zone with access connected to Castle Peak Road – Mai Po, and is currently hard-paved, fenced-off and vacant. The proposed uses with five 1-2 storeys structures are not incompatible with the surrounding land uses with scattered residential dwellings, open storage yards, vehicle park, shop and services and grass land. The Chief Town Planner/Urban Design and Landscape of Planning Department has no comment on the application.
- 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. The Director of Agriculture, Fisheries and Conservation has no comment on the application from nature conservation point of view.
- 12.4 DLO/YL, LandsD has reservation on the application in view of the existing unauthorised structure at the Site. In this regard, the applicant states that the

unauthorised structure at the Site will be removed and a STW application to the LandsD would be submitted for the erection of the proposed structures should the current application be approved. Relevant advisory clause on need for application to the LandsD for regularisation of structure(s) on the Site is recommended.

- 12.5 Other concerned government departments, including Director of Environmental Protection (DEP), Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Fire Services (D of FS) have no objection to the application and their technical requirements, if any, can be addressed by imposing approval conditions recommended in paragraph 13.2 below as appropriate. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP to minimise any potential environmental impacts on the surrounding areas.
- 12.6 As detailed in paragraphs 6 and 7 above, the Site is the subject of a previous approval for temporary eating place with public vehicle park submitted by a different applicant and there were 12 similar approved applications for temporary shop and services uses within the same "O" zone in the past five years. Although the last previous approval at the Site was subsequently revoked due to the non-compliance with time-limited approval conditions, the current application is submitted by a different applicant for a different use, whom has committed to comply with all approval conditions should the application be approved by the Committee. Approval of the current application is in line with the previous decisions of the Committee.
- 12.7 Regarding the public comments as detailed in paragraph 11, the planning assessment and departmental comments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11, the Planning Department considers that the proposed temporary uses could be tolerated for a period of three 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 three years until 7.6.2027. 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 the Site at any time during the planning approval period;
- (b) 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 7.12.2024;
- (c) in relation to (b) 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 7.3.2025;
- (d) in relation to (c) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) the submission of a fire services 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 7.12.2024;
- (f) in relation to (e) above, the implementation of the fire services 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 7.3.2025;
- (g) if any of the above planning condition (a) and (d) 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
- (h) if any of the above planning condition (b), (c), (e) or (f) 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**.

- 13.3 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. 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 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 applicant.

15. Attachments

Appendix I	Application form received on 26.1.2024
Appendix Ia	FI received on 6.3.2024
Appendix Ib	FI received on 11.4.2024
Appendix II	Extract of TPB PG-No. 12C
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Layout plan
Plan A-1	Location plan with previous and similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to 4b	Site photos

**PLANNING DEPARTMENT
JUNE 2024**