

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/370

Applicant : Mr. FUNG Hok Lan represented by R-riches Property Consultants Limited

Site : Lot 1297 S.B (Part) in D.D. 105, Mai Po, Yuen Long

Site Area : 781 m² (about)

Lease : Block Government Lease (demised for agricultural use)

Plan : Draft Mai Po & Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/7

Zoning : “Village Type Development” (“V”)

[Restricted to a maximum building height (BH) of 3 storeys (8.23m)]

Application : Proposed Temporary Shop and Services and Public Vehicle Park (excluding container vehicle) for a Period of 5 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services and public vehicle park (excluding container vehicle) for a period of five years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) and public vehicle park (excluding container vehicle) are Column 2 uses which require planning permission from the Town Planning Board (the Board). Any filling of land within the “V” zone also requires planning permission from the Board. The Site also falls within the Wetland Buffer Area (WBA) 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). The Site is currently occupied by parking of vehicles and partially paved with three temporary structures without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Mai Po Road via a local track (**Drawing A-1, Plans A-2 and A-3**). According to the applicant, the proposed shop and service use is for a convenience store and the proposed public vehicle park is to serve the nearby residents. As shown on the proposed layout plan at **Drawing A-1**, three temporary structures with a total floor area of about 79m² and building height of 1 storey (2.5m to 3.5m) for shop and services, canopy and storeroom are proposed at the Site. 18

private car parking spaces will be provided. The applicant proposes filling of land at the entire site with a depth of about 0.1m using gravel for site formation for structures and provision of circulation space. The operation hours of the proposed shop and services use will be from 9:00 a.m. to 8:00 p.m. daily, including Sundays and public holidays while the proposed public vehicle park (excluding container vehicle park) will be operated 24-hours daily including public holiday. According to the applicant, no car beauty, washing, repairing, dismantling or other workshop activities will be carried out at the Site. Also, no medium or heavy goods vehicles exceed 5.5 tonnes, including container tractors/trailers, will be allowed to enter and park at the Site. Should the application be approved, the proposed development would be completed in December 2024. Plans showing the vehicular access leading to the Site, site layout and extent of land filling submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

- (a) Application form and supplementary statement received (Appendix I) on 6.5.2024
- (b) Further Information (FI) received on 2.7.2024* (Appendix Ia)

**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 (Appendix I). They can be summarised as follows:

- (a) the proposed shop and services and public vehicle park are temporary in nature and would not jeopardise the long-term planning intention of the “V” zone. They could meet local demand for shop and services use and vehicle park;
- (b) the proposed uses are not incompatible with the surrounding environment. Similar applications for shop and services have been approved by the Board in the vicinity of the Site; and
- (c) the proposed development will not result in significant nuisance to the surrounding areas. Adequate mitigation measures identified by the drainage and fire service installations proposal to be submitted will mitigate any adverse impact.

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 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 this application. Relevant extract of the Guidelines is at **Appendix II**.

5. Background

The Site is not subject to any active planning enforcement action

6. Previous Application

The Site is not involved in any previous application.

7. Similar Applications

There are three similar planning applications (No. A/YL-MP/320, 340 and 343) for various temporary shop and services with/without other uses and with/without associated land filling/excavation of land within the subject “V” zone during the past five years. All three applications were approved by the Rural and New Town Planning Committee (the Committee) of the Board on the considerations that approval of the development on a temporary basis would not frustrate the long-term planning intention of the “V” zone; the proposed development was not incompatible with the surrounding uses; there were no adverse impacts and the concerned government departments had no adverse comments on/no objection to the application. However, planning application No. A/YL-MP/320 was subsequently revoked on 24.6.2024 due to non-compliance with time-limited approval conditions. Details of the applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible from Mai Po Road via a local track (**Plans A-2 and A-3**);
- (b) occupied by parking of vehicles and partially paved with three temporary structures without valid planning permission (**Plans A-2 to A-4b**); and
- (c) located within the WBA in Deep Bay Area.

8.2 The surrounding areas are rural in character comprise predominantly village houses and residential dwellings of Mai Po San Tsuen intermixed with open storage/storage yard and parking of vehicles, unused land and vacant land/structures which some of them are suspected unauthorized developments (UDs). (**Plans A-2 and A-3**)

9. Planning Intention

- 9.1 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. Other commercial, community and recreational uses may be permitted on application to the Town Planning Board.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land/pond and excavation of land may cause adverse drainage impacts on the areas and adverse impacts on the environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department’s comment 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 department have specific comments on the application:

Traffic

10.2.1 Comments of the Commissioner for Transport (C for T):

- (a) She supports the planning application as the temporary public vehicle park could meet the public demand of vehicle parking spaces; and
- (b) Advisory comments as detailed in **Appendix V**.

11. Public Comments Received During the Statutory Publication Period

On 14.5.2024, the application was published for public inspection. During the statutory public inspection period, five public comments were received (**Appendix VI**). Four of them raised objections to the application on the grounds that the proposed development would have adverse traffic, drainage, environmental and safety impacts to the surrounding. The remaining one expressed concern on the status of the current use at the Site.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services and public vehicle park (excluding container vehicles) for a period of five years and associated land filling at the Site 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. Whilst the proposed use is not entirely in line with the planning intention of the “V” zone, it could serve any such need for shop and services and vehicle parking demand in the area. C for T supports the application as the temporary public vehicle park could meet the public demand of vehicle parking spaces. According to District Lands Officer/Yuen Long, Lands Department, there is currently no Small House application approved/under processing at the Site. As such, approval of the application on a temporary basis for a period of five years would not jeopardise the long-term planning intention of the “V” zone.
- 12.2 The requirement for planning permission for filling of land within the “V” zone is to address the possible drainage impact on the adjacent areas and adverse impacts on the environment. In this regard, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives. Approval conditions would also be imposed to address CE/MN, DSD’s requirements on the drainage aspect.
- 12.3 The surrounding area comprises predominantly village houses and residential structures intermixed with open storage/storage yards and parking of vehicles (**Plan A-2**). The proposed use is generally not incompatible with the surrounding areas. The Chief Town Planner/Urban Design and Landscape of Planning Department has no comment on the application from landscape perspective.
- 12.4 Although the Site falls within the WBA of the TPB PG-No. 12C, planning applications for local and minor uses (including temporary uses) are exempted from the requirement of ecological impact assessment. In this regard, the Director of Agriculture, Fisheries and Conservation has no comment on the application from nature conservation point of view.
- 12.5 Concerned government departments, including CE/MN, DSD, DEP and Director of Fire Services have no objection to/no adverse comment on the application. The proposed use will unlikely create significant drainage, environmental and fire safety impacts on the surrounding areas. There was no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental impact on the surrounding areas.
- 12.6 The Committee approved three similar applications within the subject “V” zone for similar shop and services use in the past five years, approval of the current application is generally in line with the Committee’s previous decisions.

- 12.7 Regarding the public comments objecting to and expressing concern on the application as summarized in paragraph 11 above, the planning assessment and departmental comments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, 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 five years until 5.7.2029. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 5.1.2025;
- (b) in relation to (a) 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 5.4.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 5.1.2025;
- (e) in relation to (d) above, the implementation of the 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 5.4.2025;
- (f) if the above planning condition (c) 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), (d) or (e) 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 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 proposed use is not in line with the planning intention of the “V” zone, which is primarily to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within “V” 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.

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

Appendix I	Application Form with attachments received on 6.5.2024
Appendix Ia	FI received on 2.7.2024
Appendix II	Relevant Extracts of TPB PG- No. 12C
Appendix III	Similar Applications
Appendix IV	Government Departments’ General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Location Plan with Vehicular Access
Drawing A-2	Site Layout Plan
Drawing A-3	Excavation Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
JULY 2024**