

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/373

- Applicant** : Mr. LAM Tung Man represented by R-riches Property Consultants Limited
- Site** : Lot 2972 in D.D. 104, Yau Mei San Tsuen, Mai Po, Yuen Long
- Site Area** : 223 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** : “Recreation” (“REC”)
- Application** : Temporary Shop and Services with Ancillary Facilities for a Period of 5 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services with ancillary facilities for a period of five years and associated filling of land at the application site (the Site) which falls within an area zoned “REC” on the draft Mai Po & Fairview Park OZP No. S/YL-MP/7 (**Plan A-1a**). According to the Notes of the OZP for the “REC” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Filling of land within “REC” zone also requires planning permission from the Board. The Site is currently fenced-off and occupied by the applied use with valid planning permission under application No. A/YL-MP/347 until 14.7.2028 (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the applied use is for a showroom of ‘smart home system’ and electrical appliances. It comprises one two-storey structure (about 7m) with a total gross floor area (GFA) of about 216m² for shop and services, ancillary office and washroom at the Site (**Drawing A-1**). No parking spaces nor loading/unloading spaces will be provided within the Site. The operation hours of the applied use are from 9:00 a.m. to 9:00 p.m. daily including public holidays. The Site is accessible from its northeast via a local access connecting to Castle Peak Road – Tam Mi (**Plan A-2**). Associated filling of land covering the entire Site with a depth of not more than 0.2 m at a site level of 4.1 mPD, which has already been approved in the previous application No. A/YL-MP/347, is also included in the

current application (**Drawing A-2**). According to the applicant, the Site has already been hard-paved and no further filling of land is required.

- 1.3 The Site, in part or in whole, is the subject of three previous applications (No. A/YL-MP/279, 290 and 347) for the same applied use submitted by the same applicant of the current application. The last application (No. A/YL-MP/347) with the same development parameters (except a smaller GFA (decrease by 54m² as compared with the current application)) for the same applied use with a similar layout as the current application was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 14.7.2023 (detailed in paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on (Appendix I)
18.6.2024
 - (b) Further Information (FI) received on 26.7.2024* (Appendix Ia)
 - (c) FI received on 9.8.2024* (Appendix Ib)
**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 (**Appendices I and Ia**). They can be summarised as follows:

- (a) The current application has the same applied use with the previously approved application. Notwithstanding, the current application involves a larger GFA (increase by 54m²) as compared with the previously approved application No. A/YL-MP/347 to meet the operational needs of the existing shops at the Site, while the operation mode remains unchanged (**Drawing A-1**).
- (b) The Site is the subject of three previously approved planning applications (No. A/YL-MP/279, 290 and 347) for proposed temporary shop and services uses (electronic goods showroom). Approval of the current application would not set an undesirable precedent within the “REC” zone.
- (c) The Site has uneven site levels and has been hard-paved to site level at 4.1mPD and no further filling is required to facilitate the applied use. The applicant will reinstate the Site to an amenity area after the planning approval period.
- (d) The applied use is small in scale and could serve the nearby locals. Only five staff and 15 visitors are expected at the Site per day.
- (e) No parking and loading/unloading space is provided within the Site. Goods to support the daily operation of the Site are hand-carried by staff. The applied use is to serve the nearby residents and locals, and visitors will access the Site on foot. No adverse traffic impact is expected. Also, a fire service installations (FSIs) proposal and drainage proposal have been submitted to demonstrate that the applied use would not create significant nuisances to the surrounding areas.

- (f) The applicant will strictly comply with all environmental protection/pollution control ordinances. The applicant will also follow relevant mitigation measures and requirements stipulated in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (CoP) in order to minimise the adverse environmental impacts and nuisance to the surrounding area.

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

The applicant is one of the “current land owners” and 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. 31B) by obtaining consent from the remaining “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Site is located in the Wetland Buffer Area (WBA) (**Plan A-1a**) in 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 this application. Relevant extracts of the Guidelines are at **Appendix II**.

5. Background

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

6. Previous Applications

- 6.1 The Site (in whole or in part) is the subject of three previous applications (No. A/YL-MP/279, 290 and 347) for the same applied use with a similar layout submitted by the current applicant. Applications No. A/YL-MP/279 and 290 involving a smaller site area were approved with conditions by the Committee for a period of three years in 2019 and 2020 respectively. The last application No. A/YL-MP/347 involving a smaller GFA was approved with conditions by the Committee for a period of five years on 14.7.2023. All three applications were approved mainly on the considerations that the proposed use would not frustrate the long term planning intention of the “REC” zone; it was considered not incompatible with the surrounding land uses and the rural character of the area; and adverse impacts on the surrounding area were not anticipated. The planning permission of applications No. A/YL-MP/279 and 290 were subsequently revoked in 2019 and 2022 respectively due to non-compliance with time-limited approval conditions on implementation of drainage and FSIs proposals. For the last application No. A/YL-MP/347 which planning permission is valid until 14.7.2028, all time-limited approval conditions have not yet been complied with.
- 6.2 Details of the previous applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1b**.

7. Similar Application

During the past five years, there was no similar application within the same “REC” zone.

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

8.1 The Site is:

- (a) accessible from its northeast via a local access connecting to Castle Peak Road – Tam Mi;
- (b) currently paved and occupied by the applied use for showroom of electronic household goods; and
- (c) located within the WBA of Deep Bay Area.

8.2 The surrounding areas are rural fringe in character comprising residential dwellings intermixed with storage yards, vehicle parks, a restaurant, plant nursery, rehabilitation centre and religious facilities, vacant land, grass land and agricultural land. Some of these uses are suspected unauthorised developments subject to planning enforcement action.

9. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

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 the Statutory Publication Period

On 28.6.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received (**Appendix VI**). One of them raised objection to the application on the grounds that the applied use is not in line with the planning intention of the “REC” zone and would induce adverse traffic and drainage impacts to the surroundings. The remaining one expressed concerns on the status of compliance with the approval conditions of the previous planning approvals.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary shop and services with ancillary facilities for a period of five years and associated filling of land. According to the applicant, the applied use is to provide shop and services for electronic household goods to serve the local community. Although the applied use is not entirely in line with the planning intention of the “REC” zone, there is no known long-term development proposal for the Site. Approval of the current application on a temporary basis for five years would not frustrate the long-term planning intention of the “REC” zone.
- 12.2 Filling of land within the “REC” zone requires planning permission from the Board. According to the applicant, the applied use at the Site involves associated filling of land with concrete of not more than 0.2 m in depth of the entire Site (about 223 m²) to 4.1 mPD. The applied associated land filling works was approved under application No. A/YL-MP/290 and has subsequently been implemented. No further filling of land is required. In this regard, the 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 respectively.
- 12.3 The applied use and associated filling of land are considered not incompatible with the surrounding uses which mainly comprises residential dwellings, storage yards, vehicle parks, vacant land and agricultural land. The Chief Town Planner/Urban Design and Landscape, Planning Department has no objection to the application from landscape planning perspective and considers that further significant landscape impact is not anticipated.
- 12.4 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.
- 12.5 Other relevant government departments including the Commissioner for Transport, Director of Fire Services (D of FS) and Director of Electrical and Mechanical Services have no objection to or no adverse comment on the application from traffic, fire safety and electricity/town gas safety perspectives respectively. Should the application be approved, the technical requirements of the concerned departments can be addressed through approval conditions recommended in paragraph 13.2 below. Besides, the applicant will be advised to follow latest CoP issued by DEP to minimise any potential environmental nuisance on the surrounding areas.
- 12.6 As detailed in paragraph 6 above, the Site is the subject of three previously approved applications for the same applied use with a similar layout submitted by the current applicant. Two of the applications were revoked in 2019 and 2022 respectively due to non-compliance with time-limited approval conditions. For the last application No. A/YL-MP/347 with valid planning permission until 14.7.2028, the approval conditions have yet to be complied with. Nevertheless, the applicant has submitted a FSI's proposal and a drainage proposal in support of the current application which are considered acceptable by D of FS and CE/MN, DSD respectively. Approval of the current application is in line with the previous decisions of the Committee.

- 12.7 Regarding the public comments as stated in paragraph 11 above, the planning considerations and departmental comments 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 five years until 16.8.2029. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 16.5.2025;
- (b) the implementation of the accepted 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 16.5.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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
- (e) if any of the above planning condition (a) or (b) 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 "REC" zone is intended primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. 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 18.6.2024
Appendix Ia	FI received on 26.7.2024
Appendix Ib	FI received on 9.8.2024
Appendix II	Relevant Extracts of TPB PG- No. 12C
Appendix III	Previous Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2024**