

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

**APPLICATION NO. A/YL-MP/288**

- Applicant** : Ms. TSOI Wai-ling
- Site** : Lot 3250 S.B ss.44 (Part) in D.D. 104, Mai Po, Yuen Long, New Territories
- Site Area** : About 420m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
- Zonings** : “Residential (Group D)” (“R(D)”): 295m<sup>2</sup> (about 70% of the site area)  
[Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m).]
- “Commercial/Residential” (“C/R”): 125m<sup>2</sup> (about 30% of the site area)  
[Restricted to a maximum plot ratio of 0.4, a maximum site coverage of 20% and a maximum building height of 3 storeys (9m).]
- Application** : Temporary Car Trading Use for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary car trading use for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls mainly within “R(D)” and partly within “C/R” zones on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site has been paved and fenced off, and is currently used for the

applied use with valid planning permission under application No. A/YL-MP/253 (valid until 17.12.2019).

- 1.2 The Site forms part of a larger application site which was subject to 6 previously approved applications, all for temporary car trading use for a period of 3 years (**Plan A-1**). The last application No. A/YL-MP/253 submitted by the same applicant was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 25.11.2016 for a period of 3 years from 18.12.2016 to 17.12.2019. All approval conditions have been complied with.
- 1.3 As shown on **Plan A-2**, the Site is accessible to Fairview Park Boulevard via private land to the south of the Site which is currently used as a vehicle repair workshop. As compared with the last application No. A/YL-MP/253, the current application mainly involves reduction in site area, total floor area, number of structures and number of private car parking spaces (**Drawing A-1**). Same as the last approval, the operation hours proposed by the applicant are 9 a.m. to 7 p.m. from Mondays to Saturdays, 10 a.m. to 5 p.m. on Sundays and no operation on public holidays. A comparison of the major development parameters under the previous and the current application is as follows:

<b>Major Development Parameters</b>	<b>Last Application No. A/YL-MP/253 (a)</b>	<b>Current Application No. A/YL-MP/288 (b)</b>	<b>Difference (b) – (a)</b>
Site Area (about)	938m <sup>2</sup>	420m <sup>2</sup>	-518m <sup>2</sup> (-55.22%)
Total Floor Area (about)	72.24m <sup>2</sup>	36m <sup>2</sup>	-36.24m <sup>2</sup> (-50.17%)
Structure	3 one-storey converted containers for office and storage uses (with a height not exceeding 3m)	1 one-storey converted container for office use (with a height not exceeding 3.1m)	-2
No. of Private Car Parking Spaces	16 (11 for visitors and 5 for trading purpose)	7 (4 for visitors and 3 for trading purpose)	-9

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

- (a) Application form received on 25.10.2019 **(Appendix I)**
- (b) Supplementary planning statement received on 25.10.2019 **(Appendix Ia)**
- (c) Further information (FI) received on 3.12.2019 **(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 supplementary planning statement at **Appendix Ia** and FI at **Appendix Ib**. They can be summarized as follows:

- (a) Previous planning approvals were granted by the Board and all the relevant approval conditions were complied with.
- (b) The temporary use aims to serve the households in Fairview Park as car trade is a necessary service for them.
- (c) Traffic generated from the temporary use is very minimal. Only 3 private cars are displayed and traded at the Site at one time and there are only about 4 to 5 customers from Fairview Park daily. The customers will park their private cars at the visitor parking spaces and will not cause any problem to the traffic of Fairview Park Boulevard.
- (d) Relevant Government departments have no objection to the previous planning applications.
- (e) The Site is the residual portion of a larger “R(D)” zone to its immediate north which is separated by an existing nullah. The planning intention of “R(D)” zone at the Site cannot be realized. Temporary use should be the interim use for the Site.
- (f) The Site has been paved since the 1980s and used for car trading for over 19 years. There are similar car trading uses in the “C/R” zone along Fairview Park Boulevard. Car trading is a clean use and has brought improvements to the environment at the Site since previous planning approvals.
- (g) The entrance of 6.5m wide is enough for car entry and there is sufficient manoeuvring space within the Site for vehicles.

## **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 TPB Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by giving notification to the “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 Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13E) provides guidelines for open storage and port back-up uses. The Site falls within Category 3 areas under the guidelines. The following criteria are relevant:

Category 3 areas: within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications falling within Category 3 areas would normally not be favourably considered unless the applications are on sites with previous planning approvals. In that connection, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions, planning permission could be granted on a temporary basis up to a maximum period of 3 years.

## 5. **Background**

The Site is not subject to any active enforcement action.

## 6. **Previous Applications**

6.1 The Site is the subject of 6 previous applications for temporary car trading uses on larger sites submitted by the same applicant, all of which were approved by the Board upon review or the Committee between 2001 and 2016 for periods of 3 years, mainly on the grounds that the developments were considered not incompatible with the surrounding land uses, were generally in line with TPB PG-No. 13E and adverse impacts arising from the proposed developments were not anticipated. All approval conditions of the previous applications were complied with during the respective planning approval periods.

6.2 Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

## 7. **Similar Application**

There is no similar application for temporary car trading use within the same “R(D)” and “C/R” zones.

## 8. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plan A-4)

8.1 The Site is:

- (a) accessible to Fairview Park Boulevard via private land to the south of the Site currently used as a vehicle repair workshop;
- (b) paved and fenced off; and

- (c) currently used for the applied use with valid planning permission under application No. A/YL-MP/253 until 17.12.2019.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northeast across an existing nullah and Ha San Wai Road are a construction site and an open storage yard of construction materials and parking of tractors and vehicles respectively;
- (b) to its immediate east is a residential development, namely Villa Camellia;
- (c) to its immediate south is a commercial/residential use and a vehicle repair workshop;
- (d) to its further south and southwest across Fairview Park Boulevard are a residential development, namely Royal Camellia, and vehicle repair workshops, a car beauty shop and a retail shop respectively; and
- (e) to its west are a residential development, namely Helene Terrace, a retail shop, a storage and a vehicle repair workshop.

## **9. Planning Intentions**

9.1 The “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9.2 The “C/R” zone is intended primarily for commercial and/or residential development. A selected range of commercial uses are always permitted to serve the local community.

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

10.1 The following Government departments have been consulted and their views on the application and on the public comment received are summarized as follows:

### **Land Administration**

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.

- (b) The Site is accessible from Fairview Park Boulevard through private land. His office does not guarantee any right-of-way to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given, the lot owner will need to apply to his office to permit the structures to be erected or regularize any irregularity on the Site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

### **Traffic**

#### 10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no adverse comment on the application from traffic engineering point of view. The applicant has provided information to demonstrate the ingress/egress point and space for vehicle manoeuvring at the Site.
- (b) The Site is connected to the public road network via a section of private lot(s) and Fairview Park Boulevard which are not managed by Transport Department. As there is no information about the vehicular access at the private lot(s) to the Site, he presumes the applicant would arrange by themselves if necessary, and should seek the relevant land owner(s) on the right of using the vehicular access.
- (c) Should the application be approved, condition should be included that no vehicle is allowed to queue back to or reverse onto/from the Site to the public road at any time during the planning approval period.

#### 10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) He advised that part of Fairview Park Boulevard is maintained by his Department.

- (b) The access arrangement to the Site from Fairview Park Boulevard should be commented by Transport Department.
- (c) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and the part of Fairview Park Boulevard maintained by HyD. Presumably, the relevant departments will provide their comments to the applicant, if any.
- (d) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

As the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any railway systems, he has no comment on the application from railway development point of view.

**Environment**

10.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) The applicant is advised to follow the environmental mitigation measures as recommended in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the potential environmental impacts on the adjacent area.
- (b) There is no environmental complaint case related to the Site in the past three years.

**Landscape**

10.1.6 Comments from the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

It is noted that the Site does not fall within landscape sensitive zonings and no significant landscape impact is envisaged.

**Drainage**

10.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application.
- (b) Should the application be approved, conditions should be included to request the applicant to maintain the drainage

facilities implemented under application No. A/YL-MP/253 and to submit records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

### **Building Matters**

10.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.
- (b) His advisory comments are at **Appendix IV**.

### **Nature Conservation**

10.1.9 Comments from the Director of Agriculture, Fisheries and Conservation (DAFC):

Noting that the Site is paved and disturbed, he has no comment on the application from nature conservation point of view.

### **Fire Services**

10.1.10 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to fire service installations being provided to his satisfaction.
- (b) His advisory comments are at **Appendix IV**.

### **Others**

10.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH):

If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

### **District Officer's Comments**

10.1.12 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):



His office has no comment on the application and the local comments shall be submitted to the Board directly, if any.

10.2 The following Government departments have no comment on or no objection to the application:

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Project Manager (West) (PM(W)), CEDD;
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Leisure and Cultural Services (DLCS);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (f) Commissioner of Police (C of P).

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

On 1.11.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 22.11.2019, 1 public comment was received from San Tin Rural Committee objecting to the application for the reasons that the applied use would cause adverse environmental and visual impacts to the surroundings, affecting pedestrian/road safety and the applied use is incompatible with the surrounding areas which are rural in character (**Appendix III**).

## **12. Planning Considerations and Assessments**

12.1 The Site falls within Category 3 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

The Category 3 areas: within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications falling within Category 3 areas would normally not be favourably considered unless the applications are on sites with previous planning approvals. In that connection, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions, planning permission could be granted on a temporary basis up to a maximum period of 3 years.

12.2 The application is for temporary car trading use for a period of 3 years. The Site mainly falls within “R(D)” zone and partly “C/R” zone, which are primarily for low-rise, low-density residential developments and commercial and/or residential development respectively. Although the temporary car trading use is not in line

with the planning intentions, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “R(D)” and “C/R” zones as there is no known development proposal for this part of the zones. The applied use, which would serve the residential neighbourhood and local community, is considered not incompatible with the surrounding land uses including retail shops along Fairview Park Boulevard (**Plan A-2**).

- 12.3 The application is considered generally in line with TPB PG-No. 13E in that there have been 6 previous approvals for temporary car trading use since 2001; the applicant complied with all the approval conditions under previously approved applications; Government departments concerned have no objection to or adverse comment on environmental, traffic, fire safety, drainage and landscape aspects; and the concerns of relevant Government departments could be addressed through the imposition of approval conditions.
- 12.4 To mitigate potential environmental impacts on the surrounding area and address technical concerns of the concerned departments, approval conditions restricting the operation hours as proposed by the applicant, prohibiting parking of medium and heavy goods vehicles, vehicle repairing and washing activities, and requiring maintenance of existing drainage facilities, existing trees, paving and boundary fencing, and provision of fire service installations are recommended in paragraph 13.2 (a) to (k) below. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 12.5 The Site is the subject of 6 approved previous applications all for temporary car trading uses as stated in paragraph 6. The last application No. A/YL-MP/253 for renewal of planning approval for temporary car trading use was approved by the Committee on 25.11.2016 for a period of 3 years. Approval of the current application is in line with the previous decisions of the Board.
- 12.6 There is one public comment received during the statutory publication period raising objection to the application mainly on grounds of adverse environmental and visual impacts, safety of pedestrians and incompatibility of the applied use (**Appendix III**). The planning assessments and departmental comments above are of relevance.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12 and having taking into account the public comment in paragraph 11, the Planning Department considers that the temporary car trading use could be tolerated for a period of 3 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 3 years until 13.12.2022. The following conditions of approval and advisory clauses are also

suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no operation from 5:00 p.m. to 10:00a.m. on Sundays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (c) no operation on public holidays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (d) no medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes) including container trailers/tractors as defined in the Road Traffic Ordinance are allowed to be parked/stored on the site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from the site to the public road at any time during the planning approval period;
- (f) the maintenance of paving and boundary fencing on the site at all times during the planning approval period;
- (g) the maintenance of landscape planting on the site at all times during the planning approval period;
- (h) the maintenance of existing drainage facilities on the site at all times during the planning approval period;
- (i) the submission of records of the existing drainage facilities on site within **3** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **13.3.2020**;
- (j) the submission of fire service installations proposal within **6** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by **13.6.2020**;
- (k) in relation to (j) above, the implementation of fire service installations proposal within **9** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by **13.9.2020**;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (h) 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;
- (m) if any of the above planning conditions (i), (j) or (k) 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

Advisory clauses

The recommended advisory clauses are attached at **Appendix IV**.

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

the continual occupation of the site for car trading use is not in line with the planning intention of the "R(D)" zone which is primarily for low-rise, low-density residential developments. No strong planning justification has been given in the submission to justify 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 received on 25.10.2019
<b>Appendix Ia</b>	Supplementary Planning Statement received on 25.10.2019
<b>Appendix Ib</b>	FI received on 3.12.2019
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Public Comment
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	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-4</b>	Site Photos