

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/302

- Applicant** : Chung Fai Wooden Ware Co. represented by R-riches Property Consultants Limited
- Site** : Lots 2907 S.C RP, 2908 RP (Part), 2910 (Part) and 2911 RP (Part) in D.D. 104 and adjoining Government Land (GL), Castle Peak Road – Mai Po, Mai Po, Yuen Long
- Site Area** : About 1,209m² (including about 240.7m² of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
- Zoning** : “Open Space” (“O”)
- Application** : Temporary Shop and Services (Wooden Ware Retail Shop) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (wooden ware retail shop) for a period of 5 years (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “O” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use.
- 1.2 The Site in part is the subject of 2 previous applications. The first one (No. A/YL-MP/76) was submitted by a different applicant. The second one (No. A/YL-MP/264) was submitted by the current applicant for temporary shop and services (metalware retail shop) for a period of 3 years (**Plan A-1**) which was approved by the Rural and New Town Planning Committee (the Committee) on 8.12.2017 and the planning permission lapsed on 9.12.2020.
- 1.3 The current applied use is for the sale of wooden ware. The Site is accessible from

its southeast via a local track leading from Castle Peak Road – Mai Po (**Plan A-2** and **Drawing A-2**). The layout of the development is at **Drawing A-1**. There are 6 structures of 1-2 storeys (about 3-7.2m high) with a total floor area of about 511.5m² (for shop and services, site office, storage of goods, toilet and fire service water tank and control panel), 4 private car parking spaces and 1 loading/unloading bay within the Site. The operation hours of the wooden ware shop are 9:30 a.m. to 7:30 p.m. daily and there will be a maximum of about 15 visitors per day and about 8 members of staff on the Site.

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

(a) Application Form received on 17.12.2020 and clarification letter received on 24.12.2020 **(Appendix I)**

(b) Further Information received on 18.1.2021[#] **(Appendix Ia)**

[#] exempted from publication requirement

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 10 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) The temporary application will not frustrate the long term planning intention of the Site. The Site is the subject of a previously approved application (No. A/YL-MP/264). The applicant would like to continue the shop and services use at the Site. Approval of the current application will not set an undesirable precedent for similar use within the same “O” zone.
- (b) Car parking spaces, loading/unloading space for light goods vehicle and adequate manoeuvring space are provided within the Site to ensure no vehicle queuing and turning back outside the Site. No medium and heavy goods vehicle is allowed to enter/park at the Site.
- (c) The applicant will follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department (EPD).
- (d) The wooden ware shop mainly serves the nearby locals and workshops. The development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Drainage, fire service installations and landscape proposals will be provided after the grant of planning approval to mitigate any adverse impact arising from the development.

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 by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the GL, the “owner’s consent/notification” requirements are not applicable.

4. Town Planning Board Guidelines

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. According to TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarised as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. Background

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

6. Previous Applications

- 6.1 The Site is the subject of 2 previous applications. Application No. A/YL-MP/76 submitted by a different applicant for temporary open storage of scrap metal for a period of 12 months was rejected by the Committee/ the Board on review on 8.9.2000 and 5.1.2001 respectively mainly on the grounds of being not in line with the planning intention of “O” zone, not complying with TPB PG-No. 12C, incompatible with the nearby residential developments and approval of the application would set an undesirable precedent.
- 6.2 Application No. A/YL-MP/264 submitted by the current applicant for temporary shop and services (metalware retail shop) for a period of 3 years was approved by the Committee on 8.12.2017 mainly on considerations that the development was

not incompatible with the surrounding land uses and concerned government departments had no adverse comments. Approval conditions in relation to landscape, drainage and fire safety aspects had been fulfilled and the planning permission lapsed on 9.12.2020.

- 6.3 Details and locations of the 2 applications are summarised at **Appendix II** and shown on **Plan A-1** respectively.

7. Similar Applications

- 7.1 Since 2011, there are 18 applications for similar shop and services uses within the “O” zones on the OZP. All the applications were approved by the Committee mainly on considerations that the developments were not incompatible with the surrounding land uses and the concerns of Government departments could be addressed by imposing approval conditions.

- 7.2 Details of these 18 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) fenced off and currently used as a wooden ware shop;
- (b) accessible from the southeast via a local track off Castle Peak Road – Mai Po; and
- (c) located within the WBA of Deep Bay.

- 8.2 The surrounding areas are a mix of residential dwellings, plant nurseries, shop, eating place and workshop/storage/open storage uses:

- (a) to its northeast is a vehicle repairing workshop;
- (b) to its immediate east is a local track connecting to the Castle Peak Road – Mai Po. Further east is San Tin Highway, San Tam Road and a residential development (Casa Paradizo);
- (c) to its south is a temporary real estate agency with planning approval (No. A/YL-MP/300). To its southwest and further south are unused land, an open storage yard, a temporary eating place with planning approval (No. A/YL-MP/292), a residential dwelling and plant nurseries; and
- (d) to its west and northwest are plant nurseries and open storage yard. The residential development, Royal Palms, is located to its further west.

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 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) The Site comprises GL and 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) No permission is given for occupation of GL of about 240.7m² in area (subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (c) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularity on the Site, if any. The applicant has to either exclude the GL from the application site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the applied use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application 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 rent or fees, as may be imposed by LandsD.

Traffic

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

- (a) The Site is connected to Castle Peak Road – Mai Po via a section of a local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and

maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.

- (b) Should the application be approved, a condition should be incorporated that no vehicle is allowed to queue back to or reverse onto/from 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) The proposed access arrangement of the Site from Castle Peak Road – Mai Po should be approved by TD.
- (b) HyD shall not be responsible for the maintenance for any access connecting the Site and Castle Peak Road – Mai Po.
- (c) Adequate drainage measures should be provided at the Site to prevent surface water flowing from the Site to nearby public roads and drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

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

Environment

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

- (a) The applicant is 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.
- (b) No environmental complaint relating to the Site was recorded in the past 3 years.

Nature Conservation

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

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

Landscape

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

- (a) Based on aerial photos of 2017, 2019 and 2020, the Site is hard paved and surrounded by structures, roads and clusters of trees.
- (b) The planted trees on the Site are of common species and no significant change to the surrounding landscape setting is observed compared to the previous approved planning application. As such, he has no objection to the application from the landscape planning perspective.
- (c) Should approval to the application be given by the Board, all existing trees within the Site should be maintained satisfactorily at all times during the approval period.
- (d) The applicant is advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to LandsD for approval.

Open Space Provision

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

- (a) The Site is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.
- (b) He notes the application period is 5 years and has no in-principle objection to the application.

Fire Safety

10.1.9 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 (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should also be advised on the following points:
 - (i) the layout plan should be drawn to scale and depicted with dimensions and nature of occupancy; and

- (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is advised to observe the requirements under Timber Stores Ordinance (Cap. 464) that a licence is required for timber store operation.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

Building Matters

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are unauthorised building works (UBW) under BO and should not be designated for any applied use under the application. The granting of planning approval should not be constructed as an acceptance of any existing building works or UBW on the Site under BO.
- (b) His detailed comments are at **Appendix V**.

Drainage

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

He has no objection in principle to the applied use from the public drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, the following conditions should be stipulated in the approval letter requiring the applicant (i) to submit a drainage proposal; and (ii) to implement the drainage proposal and maintain the drainage facilities for the development to the satisfaction of the Director of Drainage Services or of the Board.

District Officer's Comment

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 direct, if any.

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

- (a) Commissioner of Police;
- (b) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (CEDD);
- (c) Project Manager (West), CEDD; and
- (d) Chief Engineer/Construction, Water Supplies Department.

11. Public Comments Received During Statutory Publication Period

On 29.12.2020, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 19.1.2021, 2 opposing public comments (**Appendix IV**) were received from individuals raising concern that there is a genuine need for open space in the district to meet the standard provision of 1m² per resident; and that the development would lead to environmental and fire safety problems thereby affecting the safety and living environment of the villagers.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary shop and services (wooden ware retail shop) for a period of 5 years. The Site falls within an “O” zone which is intended 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 applied use is not in line with the planning intention of the “O” zone, there is no implementation programme for the planned open space at present as the Site is not on the priority list for development agreed by Yuen Long District Council. DLCS has no objection to the application. Approval of the application on a temporary basis for a period of 5 years would not frustrate the long term planning intention of the “O” zone.
- 12.2 According to the applicant, the wooden ware retail shop under application is to serve nearby locals and workshops. It is considered not incompatible with the surrounding land uses which comprise residential dwellings, plant nurseries, temporary real estate agency and eating place.
- 12.3 Although the Site falls within WBA of TPB PG-No. 12C, the guidelines also specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no adverse comment on the application from nature conservation point of view as the Site is paved and disturbed.
- 12.4 Other government departments including C for T, DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or adverse comment on traffic, environment, fire safety, drainage and landscape aspects respectively. Adverse impacts on these aspects are not envisaged. Traffic, drainage and fire safety requirements of concerned departments could be imposed through approval conditions recommended in paragraphs 13.2 (b) and (d) to (h) below. As there are

residential developments located in the vicinity of the Site, approval conditions restricting the operation hours and requiring maintenance of boundary fencing at the Site are recommended in paragraphs 13.2 (a) and (c) below to minimise any potential environmental nuisance to nearby residents. Besides, the applicant will be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” if the application is approved.

- 12.5 Temporary planning permission was granted for the current applicant for similar shop and services use at the Site in 2017 as detailed in paragraph 6 above. During the past 10 years, the Committee approved a total of 18 applications for similar shops and services uses within the “O” zones on the OZP as detailed in paragraph 7 above. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There are 2 opposing public comments raising concern on the application as stated in paragraph 11. The planning assessment and departmental comments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 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 5 years until 5.2.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:30 p.m. and 9:30 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the maintenance of boundary fencing and the existing trees on the Site at all times during the planning approval period;
- (d) the submission of 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 5.8.2021;
- (e) in relation to (d) above, the implementation of fire service installations 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 5.11.2021;

- (f) the submission of 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 5.8.2021;
- (g) in relation to (f) above, the implementation of 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 5.11.2021;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) if any of the above planning conditions (a), (b), (c) 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; and
- (j) if any of the above planning conditions (d), (e), (f) or (g) 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 "Open Space" 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 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 17.12.2020 and applicant's clarification letter received on 24.12.2020
Appendix Ia	Further Information received on 18.1.2021
Appendix II	Previous Applications at the Site
Appendix III	Similar s.16 applications within the "O" zones on the Mai Po and Fairview Park Outline Zoning Plan No. S/YL-MP/6
Appendix IV	Public comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Swept Path Analysis
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2021**