

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

**APPLICATION NO. A/YL-MP/283**

- Applicant** : Mission Ark Limited
- Premises** : First Floor, Lot 4620 in D.D.104, Mai Po, Yuen Long, New Territories
- Total Floor Area of Premises** : 174 m<sup>2</sup>
- Lease** : New Grant No. 1149  
(a) To expire on 30.6.2047  
(b) For clinic, chapel and staff accommodation purposes  
(c) 1/F of the Building: may be used for school in week-days and drug dependent persons treatment and rehabilitation centre (as per a waiver)
- Plan** : Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
- Zoning** : “Recreation” (“REC”)
- Application** : Temporary Social Welfare Facility (Drug Dependent Persons Treatment and Rehabilitation Centre) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) (**Plan A-1**) for temporary social welfare facility (drug dependent persons treatment and rehabilitation centre) for a period of 3 years. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years require planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Premises occupies 1/F of an existing 2-storey church building at Lot 4620 in D.D. 104 in Mai Po (the Site). The Premises is currently used for the applied use without valid planning permission.
- 1.2 The Premises is the subject of 4 approved previous applications (Nos. A/YL-MP/127, 186, 226 and 256) (**Plan A-1**) for the same use submitted by the same applicant. The last Application No. A/YL-MP/256 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of

the Board on 23.12.2016 for a period of 3 years. The planning permission was subsequently revoked on 23.9.2018 due to non-compliance of approval conditions on the submission and implementation of fire service installations (FSIs).

- 1.3 As shown on the site plan at **Plan A-2**, the Premises is accessible at the south of the Site via an existing track leading from Castle Peak Road –Tam Mi. The layout of the Premises is at **Drawing A-1**. The major development parameters of the current application are the same as the last approved Application No. A/YL-MP/256. They are summarized below:

<b>Major Development Parameters</b>	<b>Current Application No. A/YL-MP/283</b>
Applied Use	Temporary social welfare facility (drug dependent persons treatment and rehabilitation centre) for a period of 3 years
Total Floor Area	174m <sup>2</sup>
No. of Rooms	11 (including 4 dormitories, 1 staff dormitory, 2 resting rooms, 2 offices and 2 toilets)
Accommodation	20 residents (maximum) and 9 inhabitant places for staff/volunteers

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

- (a) Application Form received on 23.5.2019 **(Appendix I)**
- (b) Further Information dated 12.7.2019 with minor clarification on justifications and copy of the funding application for FSIs works **(Appendix Ia)**

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) Mission Ark Limited is a non-profit making and non-Government subvention Christian organization, geared towards meeting the special needs of drug addicts and substance abusers. The organization is a gospel-based ministry for reclaiming the lives of those suffering from substance abuse and drug addiction.
- (b) A Certificate of Exemption of Treatment Centre (Certificate No. 0407) has been granted by the Director of Social Welfare. The subject centre has been in operation since March 2002 and there are a lot of drug abusers requiring the services.
- (c) Since 2004, the centre has been granted planning approvals and all approval conditions (except for the last application) had been complied with. The last planning application No. A/YL-MP/256 was revoked as the submission of FSIs proposal and the implementation works have been delayed due to problem on centre's tenancy and over budget of the works. The problem has been resolved as a tenancy between the applicant and owner of the Premises was signed in

December 2018, allowing the applicant to use the Premises until August 2022. The applicant has already sought quotation from FSI contractor and applied funding for FSI works. They commit to comply with all approval conditions before the specified deadlines should the application be approved.

- (d) The proposed use will not have traffic impact on the surrounding as necessities including furniture, electric appliances and medicines were all transported to the Site by cart via a local track. The Premises has a gross floor area of 174m<sup>2</sup> and a net floor area of 120.63m<sup>2</sup>.

### **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 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 sending registered mail to the current Premises owner. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Town Planning Board Guidelines**

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 falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized 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 a subject of any active planning enforcement action.

### **6. Previous Applications**

- 6.1 The Premises is the subject of 4 previous applications (Nos. A/YL-MP/127, 186, 226 and 256) for the same use submitted by the same applicant. These applications were approved with conditions by the Committee on 16.4.2004, 29.10.2010, 13.12.2013 and 23.12.2016 respectively for periods of 3 years, considering that the proposed use was within an existing church building and not incompatible with the surrounding uses, the centre was run by a non-profit making organisation and concerned Government departments had no adverse comments. All approval conditions were on submission and implementation/provision of FSIs

and they were all complied with for the first 3 applications (Nos. A/YL-MP/127, 186 and 226). The last application No. A/YL-MP/256 was revoked on 23.9.2018 due to non-compliance of approval conditions on the submission and implementation of FSIs arising from problem on tenancy renewal issue as detailed in paragraph 2(c) above.

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

## 7. **Similar Application**

There is no similar application within the same “REC” zone on the OZP.

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

8.1 The Premises is:

- (a) located on the 1/F of an existing 2-storey church building. The G/F is currently used as a worship place, church’s office and canteen;
- (b) accessible at the south of the Site via an existing track leading from Castle Peak Road – Tam Mi; and
- (c) located within WBA of Deep Bay.

8.2 The surrounding areas mainly comprise residential dwellings, ponds, plant nursery, unused land and open storage yards. Some open storage yards are suspected unauthorized developments which may be subject to enforcement action by the Planning Authority:

- (a) to its north are scattered residential dwellings and open storage yards;
- (b) to its west are vacant and cultivated land, ponds and some residential dwellings;
- (c) to its immediate east are a plant nursery and some residential dwellings; and to its further east is Castle Peak Road – Tam Mi; and
- (d) to the immediate south is a cluster of low-rise residential developments viz. Yau Mei San Tsuen as well as unused and vacant land to its further south.

## 9. **Planning Intention**

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. Uses in support of the recreational developments may be permitted subject to planning permission.

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

10.1 The following Government departments have been consulted and their views 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 is governed by New Grant No. 1149 dated 4.4.1966 as modified by a Modification Letter dated 30.9.1970 (hereinafter referred to as “the New Grant”) for a term of 99 years less the last 3 days commencing from 1.7.1898 as extended to 30.6.2047 by the New Territories leases (Extension) Ordinance (Cap. 150).
- (b) According to Special Condition No. 4 of the New Grant:
  - (i) the lot shall be used for clinic and chapel purposes. At least 50 per cent of the total gross floor area of any building erected on the lot shall be used solely for clinic purposes, and 20 per cent may be used for residential accommodation solely for the housing of staff employed on the premises; and
  - (i) the first floor of the building erected on the lot may be used as a school during week-days in addition to the purposes stated in (i) above provided that the grantee shall comply with any requirements of the Director of Education and any regulation which he may impose.
- (c) A waiver letter has been issued on 13.4.2005 in respect of the whole first floor of the building erected on the lot so as to permit the Premises to be used for the purposes of a drug dependent persons treatment and rehabilitation centre. The waiver term is three years commencing from 1 Feb 2002 and thereafter quarterly.
- (d) The lot is not affected by the Shek Kong Airfield Restrictions.

### **Social Welfare**

10.1.2 Comments of the Director of Social Welfare (D of SW):

- (a) Mission Ark Limited is operating Yuen Long Centre with a licensing capacity of 20. It is a self-financing residential drug treatment and rehabilitation centre (DTRC) with a Certificate of Exemption (CoE) under the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (the Ordinance) at the subject premises, covering the period from 1 January 2019 to 31 December 2019. Its CoE will be renewed annually.

- (b) To comply with Social Welfare Department (SWD)'s licensing requirements under fire safety, Mission Ark Limited plans to install the hose reel system and has again applied funding support from The Board of Management of the Chinese Permanent Cemeteries 2019 for installations of the hose reel and other fire services equipment. While awaiting a result from the said fund, Yuen Long Centre continues admitting drug abusers to help them abstain from taking drugs.
- (c) Considering that Yuen Long Centre is providing drug treatment and rehabilitation services for needy persons, we have no objection to the application for the use of the said premises as a temporary social welfare facility (drug dependent persons treatment and rehabilitation centre) from service perspective so as to facilitate its continual operation. To maintain Yuen Long Centre's operation, from licensing perspective, Mission Ark Limited should ensure that the building safety, fire safety, land use, operation and management and/or other conditions of Yuen Long Centre are in compliance with the statutory licensing requirements in accordance with the Ordinance and the Code of Practice for DTRC.
- (d) It is noted that the total floor area (i.e. 174 sq. m) of the premises submitted by Mission Ark Limited in the current application does not accord with the one approved by D of SW. According to the latest layout plan approved by the Licensing Office of Drug Dependents Treatment Centres of SWD on 30 December 2016, the total licensing area of Yuen Long Centre, Mission Ark Limited is 120.63 sq.m.

10.1.3 Comments of the Commissioner for Narcotics, Security Bureau (C for Narcotics, SB):

- (a) The applicant, Mission Ark Limited has been operating a self-financing drug treatment and rehabilitation centre (DTRC) at the Premises since 2002. It is operating on CoE issued by the SWD. It is noted that there are four previous planning applications Nos. A/YL-MP/127, 186, 226 and 256, and the last planning permission was revoked on 23.9.2018 due to non-compliance of approval conditions. Mission Ark Limited now submits a fresh application for planning permission for temporary social welfare facility (DTRC) for a period of 3 years. We also understand from Mission Ark Limited that the existing tenancy agreement allows for the use of the Site up to August 2022 and it would try to seek further extension from the property owner in due course.
- (b) From the anti-drug policy perspective, he has no objection to the application submitted by Mission Ark Limited.

## **Traffic**

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

There is no vehicular access to the Site. He has no comments on the planning application from traffic engineering point of view.

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

He notes that no vehicular access is proposed or to be granted under the application. He has no comment from highways maintenance point of view. If the application is approved, the applicant is advised to note that the application is approved on the understanding that there is and will be no vehicular access to/from the Site.

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

The Premises neither falls within any administrative route protection boundary, gazetted railway scheme boundary, nor railway protection boundary of heavy rail systems. As such, he has no comments on the application from railway development viewpoint.

## **Environment**

### 10.1.7 Comments of the Director of Environmental Protection (DEP):

He has no objection to the application as it will unlikely cause major pollution due to its small scale and nature.

## **Nature Conservation**

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

As the Premises has been developed and occupied for the same applied use as previously approved, he has no comment on the application from nature conservation point of view.

## **Landscape**

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

The application involves the use of the first floor of the existing building as a drug dependent persons treatment and rehabilitation centre. As landscape impact is not involved, landscape condition in the planning permission is not applicable for the application.

## **Fire Safety**

### 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 FSIs being provided to the satisfaction of his Department.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, 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 plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123) or licence is required for the subject treatment centre, 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**

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

- (a) He has no objection in-principle to the application.
- (b) If the applied use under application is subject to the issue of a licence, the applicant is reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
- (c) Before any new building works are to be carried out on the Site, the prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. Should the AP confirm the works fall within Minor Works Control System (MWCS), the applicant may proceed with the works under the MWCS. The applicant may visit BD's website for details of the submission procedure under the MWCS.
- (d) For UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's



enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

### **Drainage**

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

- (a) Given the Premises has an area of only 174m<sup>2</sup> and the development is located in an existing Premises, he has no objection in principle to the proposed development from the public drainage point of view.
- (b) The applicant should note that:
  - (i) the development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.;
  - (ii) the applicant should consult DLO/YL, LandsD and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.

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

10.1.13 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 should be submitted to the Board direct, if any.

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

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

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

On 31.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 21.6.2019, no public comment was received.

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

- 12.1 The application is for temporary social welfare facility (drug dependent persons treatment and rehabilitation centre) for a period of 3 years at the Premises, which occupies the 1/F of a 2-storey building within “REC” zone on the OZP. The planning intention of the “REC” zone is for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Although the proposed use is not in line with the planning intention of the “REC” zone, the use is housed within an existing church building and there is no known proposal for redeveloping the Site for any recreation development. The applied temporary use for a period of 3 years would not jeopardize the long term planning intention of the “REC” zone.
- 12.2 The existing rehabilitation centre at the Premises provides drug treatment and rehabilitation programmes to help drug dependent persons. C for Narcotics, SB has no objection to the application from anti-drug policy perspective and D of SW has no objection to the application to facilitate the centre’s continual operation. The temporary social welfare facility within an existing church is considered not incompatible with the existing church use within the same building, as well as the land uses of the surrounding areas, which are occupied by residential dwellings, ponds, plant nursery, unused land and open storage yards.
- 12.3 Although the Site falls within the WBA of the TPB PG-No. 12C, the guidelines specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no comment on the application from nature conservation perspective as the Site has been developed and the Premises has been occupied for the same applied use as previously approved.
- 12.4 Other concerned departments, including DLO/YL of LandsD, DEP, C for T, CE/MN of DSD and C of P have no objection to or adverse comments on the application from land administration, environmental, traffic, drainage and security perspectives. D of FS has no objection to the application and his requirement could be addressed by approval conditions as recommended in paragraphs 13.2 (a) and (b) below.
- 12.5 The Premises was granted temporary permissions for the same use under 4 approved previous applications (Nos. A/YL-MP/127, 186, 226 and 256) since 2004. The application is for the same use at the same Premises as previously approved. All approval conditions for applications (Nos. A/YL-MP/127, 186 and 226) had been complied with. The last planning application No. A/YL-MP/256 was revoked on 23.9.2018 due to non-compliance of approval conditions on the submission and implementation of FSIs. The applicant explained the delay in the relevant fire service work was due to problem on tenancy agreement, which has been resolved now, and has applied for funding for the FSIs works and committed to comply with the relevant approval condition should the application be approved.

As D of FS has no objection in principle to the application, the application may be given sympathetic consideration. Shorter compliance period for closely monitoring of the progress on compliance with the approval conditions are recommended, should the application be approved. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.

12.6 There is no public comment received during the statutory publication period.

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

13.1 Based on the assessment in paragraph 12, the Planning Department considers that the temporary social welfare facility (drug dependent persons treatment and rehabilitation centre) 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 19.7.2022. The following conditions of approval and advisory clauses are suggested for Members' reference:

#### Approval Conditions

- (a) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.10.2019;
- (b) in relation to (a) above, the implementation 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 19.1.2020; and
- (c) if any of the above planning conditions (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 III**.

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

the proposed development is not in line with the planning intention of the "REC" zone which is intended primarily for recreational developments for the use of the general public. There is no strong planning justification 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**

<b>Appendix I</b>	Application form received on 23.5.2019
<b>Appendix Ia</b>	Further Information dated 12.7.2019
<b>Appendix II</b>	Previous s.16 Applications covering the Site
<b>Appendix III</b>	Recommended advisory clauses
<b>Drawing A-1</b>	First Floor Plan submitted by the applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos