

RNTPC Paper No. A/YL-KTN/606
For Consideration by
the Rural and New Town
Planning Committee
on 15.6.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/606

- Applicant** : Year Master Limited represented by R-Riches Property Consultants Limited
- Site** : Lots 216 S.S ss.2 RP, 216 S.S RP, 237 S.B RP, 237 S.B ss.3 RP, 237 S.B ss.3 S.A, 237 S.B ss.4 S.A, 237 S.B ss.4 S.B, 237 S.B ss.4 RP, 237 S.B ss.5 RP (Part), 237 S.B ss.12 RP, 237 S.B ss.13 RP and 237 S.B ss.14 RP in D.D.103 and Adjoining Government Land, Ko Po Tsuen, Kam Tin, Yuen Long
- Site Area** : About 1,575m² (including about 743.5m² of Government land)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Village Type Development” (“V”) (95%)
[maximum building height of 3 storeys (8.23m)]

“Residential (Group B)” (“R(B)”) (5%)
[maximum domestic gross floor area of 79,497m², a maximum non-domestic gross floor area of 2,215m² and the maximum building height of 12 storeys]
- Application** : Temporary Shop and Services and Eating Place (Outside Seating Accommodation of a Restaurant) with Ancillary Parking Spaces for a Period of 3 Years

1. The Proposal

- 1.1 The applicant sought planning permission to use the application site (the Site) for temporary shop and services and eating place (outside seating accommodation of a restaurant) with ancillary parking spaces for a period of 3 years. Majority of the Site fall within “V” zone and the remaining part is within “R(B)” zone. According to the Notes of the OZP, ‘Shop and Services’ and ‘Eating Place’ are Column 2 uses under “V” and “R(B)” zones which require planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission (**Plans A-2 and A-4**).

- 1.2 The Site was the subject of 19 previous applications (No. A/YL-KTN/4, 26, 68, 102, 126, 145, 227, 280, 309, 315, 334, 368, 372, 408, 411, 412, 416, 497 and 537) for various temporary open storage, vehicle park, eating place (outside seating area) and shop and services uses. The last 2 applications covered different parts of the Site. Application No. A/YL-KTN/497 for temporary outside seating area and ancillary parking spaces covering most of the outside seating area and parking space of the Site was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 22.4.2016 and the approval was revoked on 22.7.2017 due to non-compliance of approval conditions related to the submission and implementation of drainage, landscape and tree preservation and fire service installations (FSIs) proposals. Application No. A/YL-KTN/537 for temporary shop and services covering the shop and services part of the Site was approved with conditions by the Committee on 14.10.2016 and the approval was revoked on 14.1.2017 due to the non-compliance of approval condition on the submission of drainage record of the existing drainage facilities on the Site.
- 1.3 According to the information provided by the applicant, the development involved four 1-storey structures of which structures A to C are for outside seating accommodation of a restaurant along the eastern boundary of the Site and structure D for shop and service use along the northern boundary of the Site (**Drawing A-1**). The dimension of each structure are listed in the table below:

Structure	Use	Covered Area (m ²)	Height (m)
A	Covered outside seating area	155.9	6.9
B	Covered outside seating area	38.5	4.5
C	Covered outside seating area	79.2	3.9
D	Shop and Service	242.3	3.94
Total:		515.9	N/A

The operation hours are between 7 a.m. and 11 p.m. daily. The Site is accessible to Ying Ho Road and Kam Tin Road via local track. 17 private car parking spaces and 1 loading/unloading space for light goods vehicles are provided. No vehicle exceeding 5.5 tonnes will be entered the Site. The applied shop and services and eating place (outside seating accommodation of a restaurant) and the ancillary parking space are located at the “V” zone. The area of “R(B)” zone is currently a local track connecting Kam Tin Road. Installation of bollards to prohibit vehicle accessing the local track from Kam Tin Road is proposed to enhance pedestrian and road safety. The layout, drainage and fire service installations proposals and the vehicular access plans as submitted by the applicant are at **Drawing A-1 and Drawing A-4**.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information and (**Appendix I**) plans received on 2.5.2018.

- (b) Further Information (FI) received on 29.5.2018 **(Appendix Ia)** clarifying the parking provision, traffic arrangement, trip generation
(accepted and exempted from publication and recounting requirement)
- (c) FI received on 1.6.2018 providing revised layout plan **(Appendix Ib)**
(accepted and exempted from publication and recounting requirement)
- (d) FI received on 8.6.2018 reducing the site area, **(Appendix Ic)** clarifying the vehicle types, traffic arrangement and trip generation, and providing justification
(accepted and exempted from publication and recounting requirement)
- (e) FI received on 11.6.2018 providing revised vehicular **(Appendix Id)** access plan
(accepted and exempted from publication and recounting requirement)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement in **Appendices I and Ic**. They can be summarized as follows:

- (a) The applied use is a Column 2 use under “V” and “R(B)” zones. The applied use will not involve land filling and excavation of land as to minimize adverse environmental impacts to the surrounding areas.
- (b) The Site is involved in various previous planning approvals which were submitted by the same applicant as the current application. The current application involves combination of two different applications and enlarges the application area for parking spaces.
- (c) To address Transport Department’s concern, the applicant proposed to install bollards to prohibit vehicular access from Kam Tin Road to the local track in order to enhance pedestrian and road safety.

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. 31) by posting site notice and sending notification letter to the

Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Eating Place within "Village Type Development" Zone in Rural Areas under Section 16 of the Town Planning Ordinance (TPB PG-No. 15A) are relevant to this application. Extract of the Guidelines is attached at **Appendix II**. The relevant assessment criteria as set out in the Guidelines are extracted as follows:

- (a) The eating place use should not create any environmental nuisance or cause inconvenience to the residents nearby. Such use should preferably be located at the fringe of a village area, e.g. area abutting the main road. For any eating place use that is situated amidst the existing village houses, sympathetic consideration may only be given if there are no objections from local residents.
- (b) The eating place use should not have any adverse traffic impact on its surrounding areas nor should it affect any pedestrian circulation in the area.
- (c) Sympathetic consideration may also be given to any application which would not have adverse impacts on drainage, sewage disposal facilities or fire safety aspects.
- (d) For any application on open ground as an extension to ground floor eating place in a NTEH or as a free-standing development, the eating place use should not adversely affect the land availability for village type development. For application sites with configurations/dimensions which are not suitable to be delineated separately for village type development or which are considered not suitable for village type development (e.g. within 20m of public roads constructed/maintained by the Highways Department or 15m of other local public roads), sympathetic consideration may be given by the Board on individual merits.
- (e) All other statutory or non-statutory requirements of relevant Government departments should be met.

5. Background

The Site is being used as the applied use. Subject to the collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken in due course.

6. Previous Applications

- 6.1 The Site was involved in 19 previous applications (No. A/YL-KTN/4, 26, 68, 102, 126, 145, 227, 280, 309, 315, 334, 368, 372, 408, 411, 412, 416, 497 and 537)

for various temporary open storage, vehicle park and shop and services uses. All the applications, except applications No. A/YL-KTN/4, 309 and 315, were approved with conditions by the Committee or the Board on review. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plans A-1b and A-1c**.

Temporary Open Storage (Plan A-1b)

- 6.2 Applications No. A/YL-KTN/4 and 315 for temporary open storage of construction excavators and left-hand-drive car for 12 months and temporary open storage of vehicles for sale for one year were rejected by the Committee on 5.5.1995 and 9.1.2009 respectively on the grounds that the developments were not in line with the planning intention of the “V” zone; not compatible with the nearby residential development; there was insufficient information to demonstrate that the development would not generate adverse environmental, drainage and landscape impacts; and the approval of the applications would set undesirable precedents.
- 6.3 Applications No. A/YL-KTN/68, 102 and 126 for temporary open storage of vehicles (private cars) with or without a canteen were approved with conditions by the Committee or the Board on review on for a period of 1 year/3 years 18.12.1998, 17.12.1999 and 24.11.2000 respectively mainly for the reasons that that there were no adverse comments from relevant Government departments and/or the same use had already been granted. However, the planning approvals for Applications No. A/YL-KTN/102 and 126 were revoked on 17.9.2000 and 24.8.2001 respectively due to non-compliance with approval conditions in relation to landscape and drainage facilities.
- 6.4 Application No. A/YL-KTN/334 for temporary open storage of vehicles (medium goods vehicles) was approved with conditions by the Board on review on 5.2.2010 for a period of 1 year to allow time for the applicant to relocate the use to another suitable location. The application was approved on the consideration that the temporary planning permission would not frustrate the planning intention of the “V” zone; and the owners of the two Small Houses adjoining the application site did not object to the application.

Temporary Public Car Park (Plan A-1b)

- 6.5 Application No. A/YL-KTN/26 for temporary public car park for a period of 3 years was approved with conditions by the Committee on 14.3.1997 for a period of 18 months mainly for the reasons that the proposed public car park would serve the need of the local villagers prior to the implementation of the Improvement to Kam Tin Road- Stage I project.
- 6.6 Applications No. A/YL-KTN/145, 227, 280, 411 and 412 for temporary public car/vehicle park with or without ancillary container site office were approved with conditions by the Committee on 10.5.2002, 24.6.2005, 14.12.2007 and

16.8.2013 (for No. A/YL-KTN/411 and 412) respectively for 1 to 3 years mainly for the reasons that the developments would serve the need of the local villagers and were subject to previous approvals, the developments were considered not incompatible with the surrounding land uses and there were no adverse departmental comments. However, Application No. A/YL-KTN/280 was revoked on 14.3.2008 due to non-compliance with approval condition in relation to submission of fire service installations proposal.

- 6.7 Application No. A/YL-KTN/309 for temporary public vehicle park (excluding container vehicle and trailer) was rejected by the Committee on 19.9.2008 for the grounds that the development was not in line with the planning intention and the applicant did not provide sufficient information to demonstrate the development will not cause any adverse environmental impact to the surroundings.

Eating Place (outside seating area) with ancillary car parking spaces (Plan A-1c)

- 6.8 Application No. A/YL-KTN/368 (covering a small piece of land of about 9.5 m²) for temporary eating place (outside seating area) and Application Nos. A/YL-KTN/416 and 497 (submitted by the same applicant of the current application) for temporary outside seating area with ancillary parking spaces mainly covering the eastern and middle portions of the Site were approved with conditions by the Committee on 16.12.2011, 27.9.2013 and 22.4.2016 respectively for a period of 3 years mainly for similar reasons that the site and the surrounding were not subject to Small House application; temporary approval of the application would not jeopardize the planning intention of the “V” zone; the applied use was in line with the TPB PG-No. 15A in that it was located at the fringe of residential clusters of Ko Po Tsuen and was readily accessible from Kam Tin Road and would unlikely cause inconvenience to the residents nearby. For Application Nos. A/YL-KTN/416, all the approval conditions have been complied with. However, application No. A/YL-KTN/497 was revoked on 22.7.2017 due to non-compliance of approval conditions on the submission and implementation of drainage, landscape and tree preservation and FSIs proposals.

Shop and Services (Plan A-1c)

- 6.9 Application No. A/YL-KTN/372 for proposed temporary shop and services (retail shop) and the two applications No. A/YL-KTN/408 and A/YL-KTN/537 submitted by the same applicant of the current application for proposed temporary shop and services (real estate agency and convenience store) and proposed temporary shop and services (real estate agency, pet salon, bicycles sales store and convenience store) respectively all covering the shop and services portion of the Site were approved with conditions by the Committee on 24.2.2012 and 2.8.2013 and 14.10.2016 mainly for the reasons that the temporary planning permission would not frustrate the planning intention of the “V” zone on the OZP; the environmental nuisance generated by the development would unlikely be significant and there was no adverse departmental comment. Application No. A/YL-KTN/372 was revoked on 24.11.2012 due to non-compliance with

approval conditions related to the submission of drainage proposal and fire service installations proposal. All the approval conditions for application No. A/YL-KTN/408 have been complied with. Application No. A/YL-KTN/537 was revoked on 14.1.2017 due to non-compliance of approval condition on the submission of the condition records of the existing drainage facilities on the site.

7. Similar Applications

- 7.1 There is one similar application (No. A/YL-KTN/574) for temporary shop and services (wheelchair accessible vehicles showroom) within the same “V” zone on the OZP. The application was approved with conditions by the Committee on 22.9.2017 for a period of 3 years mainly for the reasons that the approval of the application will not jeopardize the planning intention of the “V” zone; the proposed development is considered not incompatible with the surrounding land use; the proposed development is unlikely to generate significant environmental nuisances and relevant departments consulted have no adverse comment on the application. Detail of the application is summarized in **Appendix IV** and the location is shown on **Plan A-1a**.
- 7.2 There are two similar applications for proposed eating place and shop and services (Application No. A/YL-KTN/526) and proposed eating place (Application No. A/YL-KTN/457) within the same “R(B)” zone which were approved with conditions by the Committee on 15.7.2016 and 16.1.2015 respectively. Both applications are located at the commercial portion of the residential estate, i.e. the Riva. The applications were approved for the reasons that the development does not contravene the planning intention of the “R(B)” zone; the proposed use can serve some of the local demand of eating places and shop and services users; the development is not incompatible with the surrounding land uses; the development is unlikely to generate significant environmental nuisance and relevant departments consulted have no adverse comment on the application. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
- (a) located at the fringe of Ko Po Tsuen. Canopy structures for outside seating area serving the existing restaurants on the ground floor of adjoining New Territories Exempted Houses (NTEH) occupy the eastern part while shop and services uses occupy the northern part of the Site. Parking areas are also located at the middle portion of the Site. These facilities are located within the “V” zone;
 - (b) the “R(B)” zone is currently a local track connecting Kam Tin Road; and
 - (c) abutting Kam Tin Road on the south.

- 8.2 The surrounding areas are rural in character predominated by residential development, village houses, site with works in progress, restaurants/eating places mainly at the ground floor of village houses, shop and services, workshops, open storage yards, parking of vehicles and a sitting-out area.
- (a) to its immediate east are two residential dwellings/village houses with restaurants on ground floors. Residential developments including Kam Fung Terrace and Kam Po Garden, and a site subject to planning application No. A/YL-KTN/574 for shop and services (wheelchair accessible vehicle showroom) approved with conditions by the Committee on 22.9.2017 are located to the further east;
 - (b) to its north are village houses, restaurants on ground floor of some houses and parking of vehicles. To its northeast are home for the elderly and site with works in progress;
 - (c) to its west and northwest across Ying Ho Road is a residential development, i.e. the Riva and vacant/unused land. Two ground floor shops/restaurants within the residential development under applications Nos. A/YL-KTN/457 and 526 were approved with conditions by the Committee in 2015 and 2016 respectively; and
 - (d) to its immediate south is a sitting out area adjoining the Site. To its further south across the Kam Tin Road are storage/ open storage yard and workshops which are suspected unauthorized developments subject to enforcement action by the Planning Authority.

9. Planning Intentions

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

The planning intention of the “R(B)” zone is intended primarily for sub-urban medium density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application 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 Government Land (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) Within the Site, some of the private lots are currently covered by Short Term Waiver (STW) whereas part of the GL therein is covered by the Short Term Tenancy (STT), details of which are listed below:

STW/STT No.	Lot No./ GL in D.D. 103	Permitted Use
STW 2941	216 S.S ss.2 RP, 216 S.S RP	Ancillary use to motor vehicle park (excluding heavy goods vehicles and container trailers and tractors)
STW 4668	237 S.B ss.3 RP, 237 S.B ss.12 RP, 237 S.B ss.13 RP, 237 S.B ss.14 RP	(i) Temporary eating place (outside seating areas) and ancillary parking spaces (ii) Temporary shop and services (real estate agency, pet salon, bicycle sales store and convenience store)
STT 3032	GL	Temporary eating place (outside seating areas) and ancillary parking spaces
STT 3041	GL	(i) Temporary shop and services (real estate agency, pet salon, bicycle sales store and convenience store) (ii) Temporary eating place (outside seating areas) and ancillary parking spaces

- (c) No permission is given for occupation of the GL not covered by STT No. 3032 and STT 3041 (“the remaining GL”) (about 486.7m² subject to verification) included in the Site (about 743.7m²). Any occupation of GL without Government’s prior approval is not allowed.
- (d) The Site is accessible from Ying Ho Road to Kam Tin Road via GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (e) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (f) There is no Small House application(s) approved or under processing at the Site.
- (g) Should the application be approved, the STW and STT holder(s) will need to apply to his office for modification of the STW/STT conditions if there is any irregularities on site. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularise any irregularities on site. Furthermore, the applicant has to either exclude the remaining GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL portion without STT. Such application(s) will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) 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 the LandsD.

Traffic

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

- (a) It is noted that the site boundary is revised with new layout plan. He has no objection in principle on the application with the revised layout plan from traffic engineering perspective subject to the inclusion of the following approval conditions:
 - (i) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period; and

(ii) the submission and implementation of a run-in/out proposal to/from Kam Tin Road to the satisfaction of the Commissioner of Transport and Director of Highways or of the Board.

(b) The Site is connected to the public road network via a section of a local access road which may not be managed by the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

(a) He has no comment on the application from highways maintenance point of view.

(b) His department is not and shall not be responsible for the maintenance of Ying Ho Road.

(c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Nature Conservation

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

He has no comment on the application from nature conservation point of view noting that the Site is paved and occupied by temporary structures, and is bounded by village houses/residential areas and the Kam Tin Road.

Environment

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

(a) Two substantiated environmental complaints on light nuisance/pollution were received in 2016.

(b) 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.

- (c) The Site falls within the consultation zone of Au Tau Water Treatment Works which is a Potentially Hazardous Installation. Based on the information provided, he has no comment from chlorine risk perspective.

Landscape

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

- (a) She has no objection to the application from the landscape planning point of view.
- (b) The Site was involved in 19 previous applications for various uses, and she had no objection to the last application (No. A/YL-KTN/537) for the same use from the landscape planning perspective. The Site is located to the northern side of Kam Tin Road adjacent to Ko Po Tsuen. The surrounding area is in rural fringe landscape character occupied by village houses, residential development and tree groups. The proposed use is considered not incompatible with existing landscape setting.
- (c) According to the site inspection on 18.5.2018, existing trees in fair to very good condition are found within the Site. Further significant adverse impact on surrounding landscape character and existing landscape resources is not expected.
- (d) Should the application be approved, approval condition requiring the maintenance of existing trees and landscape plantings in satisfactory condition during approval period should be applied in the planning permission.

Fire Safety

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

- (a) He has no objection in principle to the proposal 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. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed

FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Should the application be approved, approval conditions requiring the submission and implementation of a drainage proposal, and maintenance of the drainage facilities for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Water Supply

10.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Waterworks Reserve of the water main shown on **Plan A-2** shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage purposes.
- (c) The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority.
- (d) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

Building Matters

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

- (a) Before any new building works (including containers/ open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are UBW under the BO and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD 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.
- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (e) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Food and Environmental Hygiene

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

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from the commercial/trading activities,

the applicant should arrange its disposal properly at her own expenses.

- (c) Proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. Whenever the restaurant licensees who wish to include an OSA into their licensed premises, they are required to submit application to FEHD by filling in the application form together with 8 copies of proposed layout cum OSA plan and 5 copies of 1:1000 location map for approval. If the application of OSA is acceptable for further processing, FEHD will refer it to the relevant departments including such as Buildings Department, Transport Department, Fire Services Department, Planning Department, Home Affairs Department, Lands Department for clearance. A Letter of Requirements on the proposal would be issued if no objection was raised by the Departments concerned.

District Officer's Comments

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

His office has not received any locals' comment on the application.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Project Manager/New Territories West, Civil Engineering and Development Department (PM/NTW, CEDD); and
- (c) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 11.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 1.6.2018, one public comment from an individual has been received. The commenter objects the application mainly on the ground that the Site should be used for the intended use in line with the zoning intentions, and temporary use on GL should only be a number of years and a permanent use should be identified.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary shop and services and eating place (outside seating accommodation of a restaurant) with ancillary parking spaces. Major portion of the Site (95%) is zoned “V” and the remaining part (ie. an existing access road) is zoned “R(B)” (5%). The planning intention of “V” zone is intended to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. According to the applicant, the applied use can serve the needs of nearby residents in the area as residential development, i.e. the Riva and Ko Po Tsuen are in close vicinity. Also, DLO/YL, LandsD has no adverse comment on the development and advised that there is no Small House application approved or under processing at the Site. In this regards, it is considered that approval of the application on a temporary basis for a period of 3 years would not jeopardize the planning intention of the “V” zone. For the area falling within “R(B)” zone, it is a local track connecting Kam Tin Road. According to the applicant, installation of bollards is proposed to prohibit vehicle accessing the local track from Kam Tin Road in order to enhance pedestrian and road safety. C for T has no adverse comment on the proposal.
- 12.2 The development is considered not incompatible with the surrounding land uses which are rural in character predominated by residential development, village houses, site with works in progress, restaurants/eating places mainly at the ground floor of village houses, shop and services, workshops, open storage yards, parking of vehicles and a sitting-out area.
- 12.3 The application is in line with the Town Planning Board Guidelines for Application for Eating Place within “Village Type Development” Zone in Rural Areas (TPB PG-No. 15A) in that the applied use is located at the fringe of residential clusters of Ko Po Tsuen and is readily accessible from Ying Ho Road/Kam Tin Road and would unlikely cause inconvenience to the residents nearby. Besides, in view of the scale of the eating place (outside seating accommodations), shop and services uses and p ancillary parking spaces, it would unlikely generate adverse traffic, drainage, sewage disposal and environmental impacts on the surrounding areas. Relevant government departments consulted, including C for T, DFEH, CE/MN of DSD, CTP/UD&L of PlanD, DEP, DAFC and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance generated by the development, approval conditions restricting operation hours and vehicles types are recommended in paragraphs 13.2 (a) to (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning

Authority. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential environmental impact. Moreover, the technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (c) to (k) below.

- 12.4 Part of the Site is subject to previous approved applications for the applied uses. The last two applications covering different areas of the Site, i.e. application No. A/YL-KTN/497 for temporary eating place (outside seating areas) and ancillary parking spaces covering most part of the Site and application No. A/YL-KTN/537 for temporary shop and services (real estate agency, pet salon, bicycle sales store and convenience store) covering the northern part of the Site, were approved with conditions by the Committee on 22.4.2016 and 14.10.2016 respectively. However, application Nos. A/YL-KTN/497 and 537 were revoked on 22.7.2017 and 14.1.2017 respectively due to non-compliance of approval conditions related to the submission and implementation of drainage, landscape and tree preservation and FSIs aspects. Under the current application, the applicant submitted drainage and FSIs proposal. In this regards, the Committee may consider sympathetic consideration for the current application. Shorter compliance periods are recommended to monitor the fulfillment of approval conditions. The applicant would be advised that should he fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.5 During the statutory public inspection period, one public comment objecting to the application was received as mentioned in paragraph 11 above. In this regards, the above planning assessments and considerations are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and taking into account the public comment in paragraph 11, the Planning Department considers that the temporary shop and services and eating place (outside seating accommodation of a restaurant) with ancillary parking spaces 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 15.6.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:
Approval Conditions
- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no medium to heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to enter/exit the site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of a run-in/out proposal to/from Kam Tin Road within **3** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by 15.9.2018;
- (e) in relation to (d) above, the implementation of the run-in/out proposal to/from Kam Tin Road within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by 15.12.2018;
- (f) all existing trees and landscape plantings on the Site shall be maintained in satisfactory condition at all times during planning approval period;
- (g) the submission of a drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.9.2018;
- (h) in relation to (g) above, the provision of drainage facilities 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 15.12.2018;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 15.9.2018;
- (k) in relation to (j) above, the provision of fire service installations within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 15.12.2018;
- (l) if any of the above planning conditions (a), (b), (c), (f) or (i) 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 (d), (e), (g), (h), (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
- (n) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The advisory clauses are in **Appendix V**.

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

the development is not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. 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

- Appendix I** Application form and supplementary information received on 2.5.2018
- Appendix Ia** FI received on received on 29.5.2018 clarifying the parking provision, traffic arrangement, trip generation

Appendix Ib	FI received on 1.6.2018 providing revised layout plan
Appendix Ic	FI received on 8.6.2018 reducing the site area, clarifying vehicle types, traffic arrangement and trip generation, and provided justification
Appendix Id	FI received on 11.6.2018 providing revised vehicular access plan
Appendix II	Relevant extract of Town Planning Board Guidelines for Application for Eating Place within “Village Type Development” Zone in Rural Areas under Section 16 of the Town Planning Ordinance (TPB PG-No. 15A)
Appendix III	Previous applications covering the application site
Appendix IV	Similar Applications within the same “R(B)” zone on the Kam Tin North OZP
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Drawing A-3	Fire Service Installations Plan
Drawing A-4	Vehicular Access Plan
Plan A-1a	Location Plan with similar applications
Plan A-1b	Previous Application Plan for Open Storage and Public Car Park Uses
Plan A-1c	Previous Application Plan for Shop and Services and Eating Place
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**