

RNTPC Paper No. A/YL-KTN/717A  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 18.12.2020

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

**APPLICATION NO. A/YL-KTN/717**

<b><u>Applicant</u></b>	: Mr. TANG Wai-Ip
<b><u>Site</u></b>	: Lots 594 RP and 595 RP in D.D. 109, Chi Ho Road, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	: 2,560 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	: Proposed Temporary Eating Place and Public Vehicle Park (Excluding Container Vehicle) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary eating place and public vehicle park (excluding container vehicle) for a period of 3 years. According to the Notes of the OZP, ‘eating place’ and ‘public vehicle park (excluding container vehicle)’ are Column 2 uses in “V” zone which require planning permission from the Town Planning Board (the Board). The Site is vacant (**Plans A-2 and A-4**).
- 1.2 The Site is subject to a previous application (No. A/YL-KTN/619) for proposed temporary public vehicle park (excluding container vehicle) which was approved by the Rural and New Town Planning Committee (the Committee) on 17.8.2018 for a period of 5 years up to 17.8.2023.
- 1.3 According to the applicant, a total of 46 private car parking spaces and 5 parking spaces for light good vehicles will be provided within the Site. There will be 3 one to two-storey temporary structures with total floor area of 297.18m<sup>2</sup> and building height of 5.4m to 6.4m for eating place (floor area of 195m<sup>2</sup>), site office and an open shed (covering the site office). The operation hours for public car park is 24 hours daily

and for eating place is from 8:00 a.m. to 10:00 p.m daily (both including public holidays). The Site is accessible via Chi Ho Road. The layout plan submitted by the applicant are at **Drawing A-1**.

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

- (a) Application form with planning statement and plans (**Appendix I**) received on 4.6.2020 supplementary information received on 12.6.2020
- (b) Further Information (FI) received on 29.10.2020 in (**Appendix Ia**) response to departmental comments  
*[exempted from publication requirement]*
- (c) FI received on 9.12.2020 in response to departmental (**Appendix Ib**) comments  
*[exempted from publication requirement]*
- (d) FI received on 14.12.2020 in response to departmental (**Appendix Ic**) comments  
*[exempted from publication requirement]*

1.5 At the request of the applicant, the Committee agreed to defer a decision on the application on 1.9.2020 for two months in order to allow time for the applicant to address departmental comments. After the deferral request, the applicant has submitted FI in response to departmental comments.

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

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

- (a) The application is for temporary use and no permanent structure is proposed at the Site. The Site can easily be reinstated and the proposed development will not affect the long-term planning intention. The proposed development can better utilize the land and infrastructures to enhance economic efficiency. It is also intended to serve and bring convenience to the nearby villagers.
- (b) The proposed development will take into account the surrounding environment and land use. Landscape proposals will be implemented to enhance the surrounding environment upon approval of the planning application. The applicant will implement drainage proposal and relevant mitigation measures to protect the environment and reduce flooding. No vehicles exceeding 5.5 tonnes will enter the Site. The applicant will provide appropriate facilities to control cooking odour, oily fumes, grease waste and wastewater with reference to the relevant guidelines issued by the Environmental Protection Department (EPD). No noise impact will be

induced to the nearby villagers as the Site is located away from the residential structures.

- (c) The site is subject to a previous application for temporary car park and there is an application for eating place in the vicinity of the Site which was approved by the Committee.

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

The applicant is not the “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 posting notice and sending notice to Kam Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

The Site is currently not a subject of any active planning enforcement case.

### 5. **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) is relevant to this application. Extract of the Guidelines is attached at **Appendix II**. The relevant planning criteria are summarised as follows:

- (a) the eating place use should not create 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 be given if the eating place use 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 New Territories Exempted House (NTEH) or as a free-standing development, the eating place use should not adversely affect the land availability for village type development. 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 20 m of public

roads constructed/maintained by the Highways Department or 15 m of other local public roads), sympathetic consideration may be given by the Board on individual merits; and

- (e) all other statutory or non-statutory requirements of relevant Government departments should be met.

## 6. **Previous Application**

The Site is subject to a previous application (No. A/YL-KTN/619) for proposed temporary public vehicle park (excluding container vehicle) (without eating place) submitted by the same applicant for 54 private car and 3 lorry parking spaces. The application was approved with conditions by the Committee for a period of 5 years on 17.8.2018 mainly for the reasons that temporary approval would not frustrate the long-term planning intention and there was no adverse departmental comment. The applicant has complied with the approval conditions on submission of landscape, drainage and fire service installations proposals. The planning permission is valid until 17.8.2023. Details of the previous application is summarized in **Appendix III** and its location is shown on **Plan A-1**.

## 7. **Similar Application**

- 7.1 There is no similar application for eating place and public vehicle park within the same “V” zone on the OZP.
- 7.2 There is an application for proposed temporary public vehicle park (excluding container vehicle) for a period of 5 years (Application No. A/YL-KTN/737) at the same “V” zone to be considered at the same meeting.

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

8.1 The Site is :

- (a) vacant and partly paved and partly covered by grass; and
- (b) accessible from Chi Ho Road.

8.2 The surrounding area is rural in character intermixed with residential dwellings/structures, cultivated agricultural land and vacant/unused land;

- (a) to its north and east are vacant land and a nullah. Across the nullah are residential dwellings/structures and vacant/unused land;
- (b) to its west are cultivated agricultural land and unused land. Kat Hing Wai is located to the further west (**Plan A-1**); and

- (c) to its south across Chi Ho Road is the Kam Tin River. The village cluster of Tai Hong Wai, Kam Tin San Tsuen and Wing Lung Wai are in the further south (**Plan A-1**).

## **9. Planning Intention**

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 the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses 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 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) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as 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 rent or fee, as may be imposed by the LandsD.
  - (c) There is no Small House application approved or under processing within the Site.

## **Traffic**

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the 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) HyD shall not be responsible for the maintenance of any access connecting the Site and Chi Ho Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

## **Environment**

### 10.1.4 Comments of the DEP:

- (a) There is no environmental complaint concerning the Site received by DEP in the past three years.
- (b) Provided that the applicant will provide necessary pollution control measures and ensure that the proposed use would not cause any environmental nuisances such as noise, oily fume and cooking odour to the public and people living nearby, he has no objection to the application from environmental planning perspective.
- (c) The applicant is advised to properly design and maintain adequate mechanical ventilation and necessary pollution control measures to avoid accumulation of aerial emissions and minimise potential noise and odour nuisances to the public and people living nearby. To minimize noise impact, oily fume and cooking odour emissions from the restaurant, the applicant should make reference to the

Environmental Protection Department (EPD)'s Pamphlet "Control of Oily Fume and Cooking Odour from Restaurant and Food Business" available from EPD's website. The applicant is also 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" to minimize any potential environmental nuisances.

- (d) Effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge licence under the WPCO shall be obtained before a new discharge is commenced. If septic tank and soakaway system is proposed, its design and construction should follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" including percolation test.

### **Nature Conservation**

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

- (a) The Site has been disturbed according to aerial photos in recent years. In this connection, he has no comment on the application from nature conservation perspective.
- (b) The Site is located near a retained abandoned meander 43CD/1 and a drainage channel. Should the application be approved, the applicant shall be advised to avoid disturbance and pollution to these watercourses during operation.

### **Drainage**

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of a drainage proposal for the development should be included in the planning permission.

### **Fire Safety**

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

- (a) He has no in-principle objection 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 FSIs 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), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

#### 10.1.8 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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.
- (c) 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.
- (d) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (e) If the proposed use under application is subject to issue of license, the applicant should be 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.

**Environmental Hygiene**

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

- (a) He has no specific view on the application provided that the operation of the eating place is under a food licence issued by the Food and Environmental Hygiene Department (FEHD).
- (b) Proper licence/permit issued by his department is required if there is any food business/catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. If the operator intends to operate a restaurant business in the territory, a general restaurant/light refreshment restaurant licence should be obtained from FEHD in accordance with Cap. 132.
- (c) The operation of the proposed eating place must not cause any environmental nuisance to the surrounding. The refuse generated by the proposed eating place is regarded as trade refuse. The management or owner of the Site is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity.

**District Officer's Comments**

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

He has not received any comment from locals and he has no comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (West), Civil Engineering and Development Department;  
and
- (d) Commissioner of Police.

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

On 16.6.2020, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual was received, objecting to the application mainly on the grounds that the proposed eating place may cause environmental and health issues and question whether the eating place is already in place (**Appendix IV**).

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

- 12.1 The application is for proposed temporary eating place and public vehicle park (excluding container vehicle) for a period of 3 years in “V” zone. 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. The proposed use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL, LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that approval of the application on a temporary basis for 3 years would not jeopardize the long-term planning intention of the “V” zone.
- 12.2 The proposed development is considered not incompatible with the surrounding area which is rural in character intermixed with residential dwellings/ structures, cultivated agricultural land and unused/ unused land. According to the applicant, the proposed eating place and car park is intended to serve the nearby villagers.
- 12.3 Relevant departments consulted have no objection to or adverse comments on the proposed temporary eating place and public car park. In relation to the relevant assessment criteria set out under TPB PG-No. 15A with respect to the proposed eating place, the Site is located at the fringe of the “V” zone. It is abutting and directly accessible from Chi Ho Road and hence the vehicles will not pass through the nearby residential developments. Also, relevant government departments consulted, including C for T, CE/MN of DSD, DEP and D of FS have no adverse comment on the application from traffic, drainage, sewerage and fire safety aspects.
- 12.4 To minimize any possible environmental nuisance, approval conditions restricting the operation hours and types of vehicles are recommended in paragraph 13.2(a) to (d) below. The applicant will also be advised to adopt mitigation measures and requirements as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by imposing the approval conditions recommended in paragraphs 13.2 (e) to (j) below.
- 12.5 The Site is the subject of a previous application for proposed temporary public vehicle park (excluding container vehicle) (without eating place) approved by the

Committee in 2018 as detailed in paragraph 6 above. There is no similar application for public vehicle park and eating place within the same “V” zone.

- 12.6 One public comment objecting to the application was received during the statutory publication period as detailed in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as stated above are relevant.

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

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department has no objection to the proposed temporary eating place and public vehicle park (excluding container vehicle) 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 18.12.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval Conditions

- (a) no operation between 10:00p.m. and 8:00a.m. for the eating place, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (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 18.6.2021;

- (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 18.9.2021;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 18.6.2021;
- (j) in relation to (i) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.9.2021;
- (k) if any of the above planning condition (a), (b), (c), (d), (e) 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
- (l) if any of the above planning condition (f), (g), (i) or (j) 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 are suggested for Members' reference:

the proposed 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 the "V" zone is primarily intended for development of Small Houses by indigenous villagers. 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**

<b>Appendix I</b>	Application form with plans received on 4.6.2020 and supplementary information received on 12.6.2020
<b>Appendix Ia</b>	FI received on 29.10.2020
<b>Appendix Ib</b>	FI received on 9.12.2020
<b>Appendix Ic</b>	FI received on 14.12.2020
<b>Appendix II</b>	Relevant extract of TPB PG-No. 15A
<b>Appendix III</b>	Previous application covering the Site
<b>Appendix IV</b>	Public comment received during the statutory publication period
<b>Appendix V</b>	Advisory clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2020**