

RNTPC Paper No. A/YL-KTN/736
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/736

- Applicant** : Tomorrow View (Investment) 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.11 RP, 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 1,650m² (including about 741m² of Government land (about 45%))
- 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, maximum non-domestic gross floor area of 2,215m² and maximum building height of 12 storeys]
- Application** : Temporary Shop and Services, Eating Places (with Outside Seating Accommodation) and Ancillary Parking Spaces for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services, eating places (with outside seating accommodation) and 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 used for the applied use and most of it is covered by planning permission.

1.2 The Site is the subject of 20 previous applications for various temporary open storage, vehicle park, eating place (outside seating area) and shop and services uses. The last application (No. A/YL-KTN/606) for temporary shop and services and eating place (outside seating accommodation of a restaurant) with ancillary parking spaces for a period of 3 years was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 15.6.2018. All the approval conditions have been complied with and the planning permission is valid until 15.6.2021.

1.3 According to the applicant, the development involves seven 1-storey structures:

Structure	Use	Floor Area (m ²)	Height (m)
B1	Shop and Services	119	4
B2	Rain Shelter	41	4
B3	Shop and Services	81	4
B4	Eating Place (Outside Seating Accommodation)	80	4
B5	Eating Place	39	4.5
B6	Eating Place (Outside Seating Accommodation)	169	7
B7	Eating Place	78	3.5
Total:		607	N/A

The operation hours are between 7 a.m. and 11 p.m. daily. The outside seating accommodations are the extension of the adjoining existing eating places on the ground floor of New Territories Exempted Houses (NTEHs). 17 private car parking spaces and 1 loading/unloading space for light goods vehicles are provided. No vehicle exceeding 5.5 tonnes will enter the Site. The Site is accessible to Ying Ho Road and Kam Tin Road via a local track. The layout plan submitted by the applicant is at **Drawing A-1**.

1.4 Compared with the last approved application No. A/YL-KTN/606, the current application is submitted by a different applicant for similar use and similar layout with increase in site area from 1,575m² to 1,650m² (+ 75m²/ + 4.8%), floor area from 515.9 m² to 607 m² (+ 91.1 m²/ + 17.7%) and an additional structure for eating place.

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

- (a) Application form with plans received on 20.10.2020. **(Appendix I)**
- (b) Further Information (FI) received on 11.12.2020 and 14.12.2020 providing response to departmental comments and clarifications
(exempted from publication requirement)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The Site is involved in various previous planning approvals. The current application involves an additional structure for eating place use in comparison to the previous approved application No. A/YL-KTN/606.
- (b) The development can serve the needs of nearby residents in the area as residential developments, i.e. the Riva and Ko Po Tsuen, are in the vicinity. The development is not incompatible with the surrounding land uses.
- (c) The application is in line with the Town Planning Board Guidelines for Application for Eating Place within “Village Type Development” Zone in Rural Areas 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.
- (d) The development will not create significant adverse traffic, environmental, landscape and drainage impact to the surrounding areas. Installation of physical barriers to prohibit vehicle accessing the local track from Kam Tin Road is proposed to enhance pedestrian and road safety. Submission of drainage, fire service installations and landscape proposals, etc. to mitigate any adverse impact arising from the development will be made after planning approval is granted by the Board. The applicant will also strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and relevant guidelines to minimize all possible environmental impacts on the nearby sensitive receivers and to control oily fume and cooking odours.

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

The applicant is not a “current land owner” of the private land portion of the Site but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the “Owner’s Consent/Notification” Requirements are not applicable.

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 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 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. 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 currently not subject to any active planning enforcement actions.

6. **Previous Applications**

- 6.1 The Site is involved in 20 previous applications for temporary public vehicle park, open storage (with/without canteen), shop and services, and eating place (outside seating area). 17 applications were approved with conditions by the Committee or the Board on review between 1997 and 2018 and three were rejected by the Committee between 1995 and 2009. Details of the applications are at **Appendix III** and their locations are shown on **Plans A-1b** and **A-1c**.

Temporary Public Car Park (Plan A-1b)

- 6.2 Six applications (No. A/YL-KTN/26, 145, 227, 280, 411 and 412) for temporary public car park were approved with conditions by the Committee between 1997 and 2013 for a period of 1 to 3 year(s) mainly for the reasons that the proposed

public car park would serve the need of the local villagers; the developments were considered not incompatible with the surrounding land uses and there were no adverse departmental comments.

- 6.3 Application No. A/YL-KTN/309 for temporary public vehicle park (excluding container vehicle and trailer) was rejected by the Committee in 2008 mainly on the grounds that the development was not in line with the planning intention and the applicant did not provide sufficient information to demonstrate that the development would not cause adverse environmental impact to the surroundings.

Temporary Open Storage (Plan A-1b)

- 6.4 Four applications (No. A/YL-KTN/68, 102, 126 and 334) for temporary open storage of vehicles (private cars/ medium goods vehicles) with or without canteen were approved with conditions by the Committee or the Board on review for a period of 1 to 3 year(s) between 1998 and 2010 mainly for the reasons that that there were no adverse comments from relevant Government departments and/or planning approval for the same use had been granted.
- 6.5 Two applications (No. A/YL-KTN/4 and 315) for temporary open storage of construction excavators and left hand drive car/vehicles for sale were rejected by the Committee in 1995 and 2009 mainly on the grounds that the development was not in line with the planning intention; there was insufficient information to demonstrate that the development would not cause adverse environmental impact; no drainage proposal and landscape treatment had been included in the submission; approval of the application would set an undesirable precedent; and the development did not comply with the Town Planning Board Guidelines on Application for Open Storage and Port Back-up Uses in that; was no compatible with the residential dwellings in the vicinity and there were adverse departmental comments.

Temporary Shop and Services and/or Temporary Eating Place (Outside Seating Area) with Ancillary Car Parking Spaces (Plan A-1c)

- 6.6 Three applications (No. A/YL-KTN/372, 408 and 537) for temporary shop and services (retail shop, real estate agency, convenience store, pet salon and/or bicycles sales store) for a period of 3 years were approved with conditions by the Committee between 2012 and 2016 mainly for the reasons that temporary approval would not jeopardize the long-term planning intention of the “V” zone; the development was considered not incompatible with the surrounding land uses; and relevant departments had no adverse comment. However, the planning permission of Application No. A/YL-KTN/372 and 537 were revoked in 2012 and 2017 respectively due to non-compliance with approval conditions.
- 6.7 Three applications (No. A/YL-KTN/368, 416 and 497) for temporary eating place (outside seating area) with/without ancillary parking spaces for 3 years were approved with conditions by the Committee between 2011 and 2016 mainly for

the reasons that temporary approval would not jeopardize the long-term planning intention of the “V” zone; the applied use was not incompatible with the surrounding land uses; the applied use was in line with 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; and there were no adverse comments from concerned departments. However, the planning permission of Application No. A/YL-KTN/497 was revoked in 2017 due to non-compliance of approval conditions.

- 6.8 The last approved application No. A/YL-KTN/606 covering most part of 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 was approved by the Committee on 15.6.2018 for similar reasons as stated in paragraph 6.6 and 6.7 above. All approval conditions have been complied with and the planning permission is valid until 15.6.2021.

7. Similar Applications

Temporary Eating Place (Outside Seating Accommodation) and Shop and Services within the same “V” zone

- 7.1 There are 4 similar applications for temporary eating place (outside seating accommodation) (No. A/YL-KTN/700, 701, 702 and 703) within the same “V” zone. All of them were approved with conditions by the Committee in 2020 for a period of 3 years mainly for similar reasons as stated in paragraph 6.7.
- 7.2 There are two similar applications on one site (No. A/YL-KTN/574 and 718) for temporary shop and services (wheelchair accessible vehicles showroom) within the same “V” zone. The application was approved with conditions by the Committee in 2017 and 2020 for a period of 3 years mainly for similar reasons as stated in paragraph 6.6.

Eating Place and/or Shop and Services within the same “R(B)” zone

- 7.3 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 in 2015 and 2016. Both applications are located at the commercial portion of a residential estate, i.e. the Riva. The applications were approved for the reasons that the development did not contravene the planning intention of the “R(B)” zone; the proposed use could serve some of the local demand of eating places and shop and services users; the development was not incompatible with the surrounding land uses; and relevant departments consulted have no adverse comment on the application.

7.4 Details of the above 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) currently used for the applied use with valid planning permission (except for Lot 237 S.B ss.11 RP at the eastern part which is not covered by planning permission); and
- (b) located at the fringe of Ko Po Tsuen abutting Kam Tin Road on the south. Eating place and outside seating accommodation serving adjoining existing restaurants on the ground floor of existing NTEHs occupy the eastern part of the Site. Shop and services occupy the northern part and parking area is located at the middle portion of the Site.

8.2 The surrounding areas are rural in character predominated by residential development, residential dwellings/village houses, restaurants/eating places mainly at the ground floor of village houses, shop and services, workshop, open storage yards, parking of vehicles and a sitting-out area:

- (a) to its immediate east are residential developments including Kam Fung Terrace and Kam Po Garden. A shop and services (wheelchair accessible vehicle showroom) with planning permission is located to the further east;
- (b) to its north are residential dwellings/village houses, restaurants and shops on ground floor of some houses, four sites for temporary eating place (outside seating accommodation) with planning permission, and a home for the elderly;
- (c) to its west is a local track leading to Ying Ho Road, across which is a residential development (i.e. the Riva) and vacant/unused land with planning permission for proposed residential development (flats). Two ground floor shops/restaurants with planning permission are located within Riva; and
- (d) to its immediate south is a sitting out area. To its further south across Kam Tin Road are storage/ open storage yards, workshop and vacant/unused lands.

9. Planning Intentions

9.1 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

- 9.2 The planning intention of the “R(B)” zone is 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, the following private lots are currently covered by Short Term Waiver (STW) whereas part of the GL therein is covered by Short Term Tenancy (STT):

STW/STT No.	Lot No./ GL in D.D.	Permitted Use
	103	
STW 2941	216 S.S ss.2 RP, 216 S.S RP, 237 S.B ss.4 S.B and 237 S.B ss.4 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)
STW 2943	237 S.B ss.11 RP	Ancillary use to motor vehicle park (excluding heavy goods vehicles and container trailers and tractors)
STW 4668	237 S.B ss.3 RP,	(i) Temporary eating place

	237 S.B ss.12 RP, 237 S.B ss.13 RP, 237 S.B ss.14 RP	(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 404m² subject to verification) included in the Site (about 741m²). Any occupation of GL without Government’s prior approval is not allowed.
- (d) Should planning approval be given to the planning application, the STW/STT holder(s) will need to apply to his office for modification of the STW/STT conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. 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. 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 the 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 rent or fee, as may be imposed by the LandsD.
- (e) There is no Small House application approved or being processed at 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 conditions on (i) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period
- (c) 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) Ying Ho Road is not maintained by his department.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (c) It is noted that the applicant proposed to install physical barrier within the lot boundary, and the proposed physical barrier shall not be maintained by his department.
- (d) 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 adverse comment on the application from nature conservation point of view noting that the area has been paved and the previous application for the same applied use was approved by the Board.

Environment

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

- (a) There was 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 minimize 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.

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 or referral from relevant licensing authority respectively.

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) Presumably, the applicant would maintain the same drainage facilities as those implemented under previous approved planning application No. A/YL-KTN/606.
- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTN/606 and submission of records of the existing drainage facilities on the Site 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) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (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 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.
- (d) Before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) Detailed checking under the BO will be carried out at building plan submission stage.
- (f) His detailed comments are at **Appendix VI**.

Food and Environmental Hygiene

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

- (a) Proper licence / permit issued by his department is required if food business and/or related place of public entertainment activity is involved. For the operation of any types of food business, relevant food licences / permits should also be obtained from Food and Environmental Hygiene Department (FEHD) in accordance with the Public Health and Municipal Services Ordinance (Cap. 132).

- (b) When a restaurant licensee/licence applicant wishes to use any outside seating accommodation (OSA) outside the restaurant premises for alfresco dining, he/she should take notice of the main licensing criteria for OSA, covering matters such as legal right to use the land concerned, planning, building safety, fire safety, and traffic requirements, etc. as well as to obtain approval from the DFEH before commencement. Restaurateurs operating OSA business without approval may be subject to prosecution pursuant to the Food Business Regulation (Cap. 132X). Repeated convictions may lead to suspension or cancellation of their licences.
- (c) If the proposal involves any commercial/trading activities, there should be no encroachment on the public place and no environmental nuisance should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

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

His office has not received any locals' comment on the application and he has no comment from departmental point of view.

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

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

11. Public Comments Received During Statutory Publication Period

On 30.10.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals were received (**Appendices V-1 and V-2**). The comments object to the application mainly on the grounds that parking areas and commercial activities in residential cluster will increase traffic flow and affect safety and living standard of the villagers and the ecological environment; a large portion of the Site is on GL; and there are inadequate

community services particularly day care and residential facilities for the growing elderly population.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary shop and services, eating places (with outside seating accommodation) and ancillary parking spaces for a period of 3 years. A major portion of the Site (95%) is zoned “V” and the remaining part is zoned “R(B)” (5%). The planning intention of “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. 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. The applied 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 a period of 3 years would not jeopardize the long-term planning intention of the “V” zone. For the area falling within “R(B)” zone, it is a local track.
- 12.2 The applied use is considered not incompatible with the surrounding land uses which are rural in character intermixed with residential development, village houses, restaurants/eating places mainly at the ground floor of village houses, shop and services and a sitting-out area. According to the applicant, the applied use can serve the needs of nearby residents.
- 12.3 The application is generally in line with TPB PG-No. 15A in that the applied use is located at the fringe of the “V” zone and residential cluster of Ko Po Tsuen. The Site is readily accessible from Ying Ho Road/Kam Tin Road and would unlikely cause inconvenience to the residents nearby. Also, relevant government departments consulted, including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application from traffic, drainage, environmental and fire safety aspects.
- 12.4 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. 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”. Moreover, the technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (c) to (i) below.
- 12.5 The Site is subject to 20 previous applications for various temporary public vehicle park, open storage, shop and services, and eating place (outside seating area) as detailed in paragraph 6 above. All the previous applications for shop and

services, and eating place (outside seating area) were approved by the Committee between 2011 and 2018. The last application No. A/YL-KTN/606 for similar applied use as the current application covering most part of the Site was approved by the Committee in 2018. All the approval conditions have been complied with and the planning permission is valid until 15.6.2021. There are also 8 similar applications for eating place, outside seating accommodation and shop and services uses in the same “V” and “R(B)” zones which were all approved by the Committee between 2011 and 2020 as detailed in paragraph 7 above. Approval of the current applications is in line with the Committee’s previous decisions.

- 12.6 Two public comments objecting to the application was received during the statutory publication period as mentioned in paragraph 11 above. In this regard, the departmental comments and planning assessments and considerations 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 comments mentioned in paragraph 11, the Planning Department has no objection to the temporary shop and services, eating places (with outside seating accommodation) and ancillary parking spaces 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 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 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a record of the existing drainage facilities on the Site 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 18.3.2021;

- (f) the submission of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 18.6.2021;
- (g) in relation to (f) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 18.9.2021;
- (h) if any of the above planning conditions (a), (b), (c) or (d) 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
- (i) if any of the above planning conditions (e), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

- 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 for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with plans received on 20.10.2020
Appendix Ia	FI received on 11.12.2020 and 14.12.2020
Appendix II	Relevant extract of TPB PG-No. 15A
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the same “V” and “R(B)” zones on the Kam Tin North OZP
Appendix V	Public comments
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with similar applications
Plan A-1b	Previous Application Plan for temporary open storage and public car park
Plan A-1c	Previous Application Plan for eating place and shop and services
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**