

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

**APPLICATION NO. A/YL-PS/610**

- Applicant** : Mr. Cheng Wing Ho
- Site** : Lot 357 in D.D. 122, Ping Shan, Yuen Long, New Territories
- Site Area** : 283.28 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Village Type Development” (“V”)  
[Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Temporary Eating Place and Shop and Services 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 eating place and shop and services for a period of 3 years (**Plan A-1a**). According to the Notes of “V” zone of the OZP, ‘Eating Place’ and ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is currently being used for the applied use which is largely not covered by valid planning permission (**Plan A-4**).
- 1.2 The Site is partly involved in two previous applications for temporary public vehicle park for private cars and temporary eating place (light refreshment restaurant) (**Plan A-1b**). The last application No. A/YL-PS/576 for temporary eating place (light refreshment restaurant) for a period of 3 years was approved by the Rural and New Town Planning Committee (the Committee) on 21.12.2018 with permission until 21.12.2021. Details of the previous applications are summarised at paragraph 6 below and at **Appendix III**.
- 1.3 According to the applicant, the Site is accessible via footpaths leading from

Tsui Sing Road and no parking space would be provided. The development comprises a single-storey structure with four units for shop and services and restaurant, including one for pet shop and one for dessert shop.

- 1.4 A comparison of the major development parameters of the current application and the last approved application is as follows:

<b>Major Development Parameters</b>	<b>Last Approved Application (No. A/YL-PS/576) (a)</b>	<b>Current Application (No. A/YL-PS/610) (b)</b>	<b>Difference (b) - (a)</b>
Development/ Use	Temporary Eating Place (Light Refreshment Restaurant) for a Period of 3 Years	Temporary Eating Place and Shop and Services for a Period of 3 Years	Addition of Shop and Services use
Site Area	42m <sup>2</sup>	283.28m <sup>2</sup>	+241.28m <sup>2</sup>
Maximum Floor Area	35m <sup>2</sup>	105m <sup>2</sup>	+70m <sup>2</sup>
No. of Structure	1	1	No change
Maximum Height of Structure	5m	2.83m	-2.17m
Operation Hours	7:00 a.m. to 11:00 p.m. daily	Eating Place: 4:00p.m. to 11:00p.m. (Tuesdays to Sundays)  Shop and Services: 10:00a.m. to 8:00p.m. (Mondays to Sundays)	Change in operation hour

- 1.5 Compared with the last application A/YL-PS/576, the current application is submitted by the same applicant for a similar use (with addition of shop and services use) at a larger site with increase in floor area and reduction in height of structure.
- 1.6 The lot index plan and floor plan submitted by the applicant are at **Drawings A-1 to A-2** respectively.
- 1.7 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 30.6.2020 with lot index plan and floor plan (**Appendix I**)

- (b) Further Information received on 13.8.2020 to clarify **(Appendix Ia)** the operation hours  
*[accepted and exempted from publication and recounting requirements]*

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

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

- (a) The proposed uses would not impose adverse impact on the surrounding environment. The structure is equipped with a ventilation system and air conditioning. No public announcement system will be used to minimise noise impact.
- (b) The pet shop is not involved in animal breeding or dog training and does not provide accommodation for any animals or staff except during operation hours.
- (c) The Site is conveniently located at about 2 minutes walking distance from the Tin Shui Wai West Rail Station. No vehicle park is proposed at the Site.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to Ping Shan Rural Committee. 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. The relevant assessment criteria of the Guidelines are at **Appendix II**.

## **5. Background**

The shop and services use at the northern portion of the Site, which is not covered by a valid planning permission, would be subject to planning enforcement action.

## **6. Previous Applications**

- 6.1 The Site is partially involved in two previous applications (No. A/YL-PS/561 and 576) for temporary public vehicle park for private cars and temporary eating place (light refreshment restaurant) respectively, which were both

approved with conditions. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.

- 6.2 Application No. A/YL-PS/561 was approved by the Committee on 6.7.2018 for 3 years on considerations that the vehicle park was not incompatible with the surrounding land uses; the proposed development would not jeopardize long-term planning intention; and no adverse comments were received from relevant government departments. However, the planning permission was revoked on 6.4.2020 due to non-compliance with the approval condition on the implementation of the revised drainage proposal.
- 6.3 Application No. A/YL-PS/576 was approved by the Committee with conditions on 21.12.2018 for 3 years on considerations that the eating place was not incompatible with the surrounding land uses; the proposed development would not jeopardize long-term planning intention; and no adverse comments were received from relevant government departments. All time-limited approval conditions have been complied with.

## **7. Similar Applications**

- 7.1 There are two similar applications (No. A/YL-PS/588 and 600) for temporary animal boarding establishment, dog recreation centre and shop and services (pet supplies retail shop) and temporary shop and services in the same “V” zone. Details of the applications are summarised at **Appendix IV** and its location is shown on **Plan A-1a**.
- 7.2 Applications No. A/YL-PS/588 and 600 were approved by the Committee with conditions on 31.5.2019 and 26.6.2020 respectively on considerations that approval of the applications would not jeopardise the planning intention of the “V” zone; the developments were not incompatible with the surrounding land uses; and no adverse departmental and public comments were received. However, application No. A/YL-PS/588 was revoked on 31.5.2020 due to non-compliance with approval conditions.

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

- 8.1 The Site is:
- (a) currently being used for the applied use, which is largely not covered by valid planning permission (**Plans A-2 and A-4**); and
  - (b) accessible via footpaths leading from Tsui Sing Road. (**Plan A-3**).
- 8.2 The surrounding areas have the following characteristics:
- (a) to the north are Tin Shui Wai Light Rail Substation, West Rail Line and Tsui Sing Road;

- (b) to the immediate east is storage use which is suspected unauthorised development (UD);
- (c) to the immediate south is Tat Tak Communal Hall (a declared monument). To the further south are real estate agent and vehicle servicing which are suspected UD, and residential dwellings; and
- (d) to the immediate west is parking of vehicles which is suspected UD.

## **9. Planning Intention**

The planning intention of the “V” zone is to reflect existing recognised 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 NTEH. 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 and the public comments are summarised as follows:

### **Land Administration**

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
  - (b) Lot 357 in D.D. 122 is covered by Short Term Waiver (STW) No. 5173 to permit structures erected thereon for the purpose of “Temporary Eating Place (Light Refreshment Restaurant)”.
  - (c) There is no Small House application approved or under processing at the Site.
  - (d) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to his office for modification of the STW conditions where

appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(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 LandsD.

### **Traffic**

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

- (a) The access arrangement should be commented by the Transport Department (TD).
- (b) Currently, only a section of Tsui Sing Road of about 120m abutting Ping Ha Road is maintained by HyD. HyD shall not be responsible for the maintenance of any access connecting the Site and Tsui Sing Road.
- (c) Adequate drainage measures should be provided for the Site to prevent water flowing from the Site to nearby public roads/drains.

### **Environment**

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

Should the application be approved, the applicant shall be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”).

### **Landscape**

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

With reference to the aerial photo of 2019, the Site is hard paved and occupied by a one-storey temporary structure. Significant vegetation is not observed within the Site. The Site is situated in an area of miscellaneous urban fringe landscape character. Although similar nature of the applied use is not observed in the vicinity, the proposed building height and footprint is similar/the

same with existing structure which is compatible with the adjacent development. Significant change to the landscape character arising from the application is not anticipated.

### **Drainage**

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

He has no objection in principle to the application from a drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

### **Fire Safety**

10.1.6 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.
- (c) 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.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

10.1.7 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 the suitability for

the use proposed in the application.

- (b) If the existing structures (not being a NTEH) are erected on leased land without the approval of BA, they are unauthorised building works (UBW) under 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 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 BO.
- (d) 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 BA should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (e) 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.
- (f) 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 B(P)R at the building plan submission stage.
- (g) If the proposed use under application is subject to issue of a license, the applicant should be reminded that any existing structures on the application site intended to be used for such purpose are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

### **Others**

10.1.8 Comments of the Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO):

- (a) The Site is in the proximity to GLA-TYL 1634 (**Plan A-2**) which is temporarily allocated to AMO for the restoration of Tat Tak Communal Hall, a declared monument therein



protected under the Antiquities and Monuments Ordinance (Cap. 53).

- (b) The applicant should ensure that any proposed works should not encroach into GLA-TYL 1634 and should not cause any adverse impacts to the structures, flow of surface runoff and wastewater drainage therein.

10.1.10 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) 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.
- (c) For any waste generated from the activity/operation, the applicant should arrange disposal properly at her own expenses.

**District Officer's Comments**

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

His office has not received any feedback from locals.

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

- (a) Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Project Manager (West) (PM(W)), CEDD.

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

On 7.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received (**Appendices V-1 and V-2**). Two individuals object to the application mainly on grounds that no commercial activity should be allowed in rural area, and the land should be used for residential use.

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

- 12.1 The application is for temporary eating place and shop and services for a period of 3 years at the Site zoned “V” which is primarily intended for development of Small Houses by indigenous villagers. Although the applied use is not in line with the planning intention of the “V” zone, the proposal is intended to serve the local residents and could meet any such demand in the area. According to the DLO/YL, LandsD, there is no Small House application approved or under processing at the Site. As such, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “V” zone.
- 12.2 The Site is located at the fringe of “V” zone mainly surrounded by residential dwellings, parking of vehicles, declared monument and Tin Shui Wai West Rail Station (**Plan A-2**). The development under application is not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with the TPB PG-No. 15A. According to TPB PG-No. 15A, eating place use in the “V” zone should not create any environmental nuisance or cause inconvenience to the residents nearby and should not have adverse traffic, drainage, sewerage or fire safety impacts on its surrounding areas. In this regard, relevant government departments, including AC for T/NT of TD, CHE/NTW of HyD, CE/MN of DSD, CTP/UD&L of PlanD, DEP and D of FS have no objection to or no adverse comment on the application. The proposed use will unlikely create significant traffic, environmental and drainage impacts to the surrounding areas. To minimize any potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “COP” in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.4 One previous application for eating place and two similar applications for shop and services use have been approved in the same “V” zone. Approval of the current application is in line with the Committee’s previous decisions.
- 12.5 There are two public comments objecting to the application received on the

grounds as summarized in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.4 above are relevant.

**13. Planning Department's Views**

- 13.1 Based on the assessment made in paragraph 12, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **21.8.2023**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

*Approval conditions*

- (a) no operation between 8:00 p.m. and 10:00 a.m. for the shop and services, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation between 11:00 p.m. and 4:00 p.m. for the eating place, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no operation on Mondays for the eating place, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **21.2.2021**;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **21.5.2021**;
- (f) the submission of a 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 **21.2.2021**;
- (g) in relation to (f) above, the implementation of the drainage proposal within **9** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **21.5.2021**;
- (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) if the above planning conditions (a), (b), (c) or (h) is not complied

with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and

- (j) if any of the above planning conditions (d), (e), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are attached at **Appendix 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 primarily 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 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 reasons for rejection should be given to the applicant.

**15. Attachments**

- Appendix I** Application form received on 30.6.2020 with lot index plan and floor plan
- Appendix Ia** Further Information received on 13.8.2020 to clarify the operation hours
- Appendix II** Extract of Town Planning Board Guidelines for Application for Eating Place within "V" Zone in Rural Areas under Section 16 of the Town Planning Ordinance (TPB PG-No. 15A)
- Appendix III** Previous Applications covering the Site
- Appendix IV** Similar applications
- Appendices V-1 and V-2** Public Comments

<b>Appendix VI</b>	Advisory clause
<b>Drawing A-1</b>	Lot Index Plan
<b>Drawing A-2</b>	Floor Plan
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2020**