

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

**APPLICATION NO. A/YL-PS/621**

- Applicant** : Ms. CHIU Lai-shuen represented by Mei Shing Decorate Design Limited
- Site** : Lot 43 RP (Part) in D.D. 122, Ha Mei San Tsuen, Ping Shan, Yuen Long, New Territories
- Site Area** : 10m<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 (8.23m)]
- Application** : Temporary Eating Place (Outside Seating Accommodation (OSA) of a Restaurant) 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 (OSA of a restaurant) for a period of 3 years. The Site falls within an area zoned “V” on the OZP (**Plan A-1a**). According to the Notes of the OZP for “V” zone, ‘Eating Place’, unless on the ground floor of a New Territories Exempted House (NTEH), is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is hard paved and occupied by some chairs as the waiting area for the existing adjoining restaurant on the ground floor of the NTEH (**Plan A-4**).
- 1.2 The OSA, with an area of about 10m<sup>2</sup>, will accommodate a maximum of 3 tables and 6 chairs for 6 persons. The Site is accessible via Yung Yuen Road (**Drawing A-1 and Plan A-2**). According to the applicant, a retractable awning is affixed to the external wall of the entrance of the adjoining restaurant on the ground floor of the NTEH. The operation hours are from 8:00 a.m. to 11:00 p.m. daily. The layout plan is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on (**Appendix I**)  
13.11.2020

- (b) Further Information (FI) received on 20.11.2020 clarifying the number of tables and chairs (*exempted from publication requirements*) **(Appendix Ia)**
- (c) FI received on 10.12.2020 responding to Environmental Protection Department's (EPD) comment (*exempted from publication requirements*) **(Appendix Ib)**
- (d) FI received on 28.12.2020 responding to Transport Department's (TD) comment (*exempted from publication requirements*) **(Appendix Ic)**

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

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

- (a) The applicant has been running the restaurant-related business for years and is currently setting up the fifth branch of the restaurant in Ping Shan.
- (b) The OSA, which is located outside the restaurant on the ground of the NTEH, can cater the needs of nearby villagers and provide a pleasant dining area for the customers to enjoy local cuisine.
- (c) The applicant will follow EPD's 'General Environmental Guidelines for Outside Seating Accommodation'.

## **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 obtaining the consent of the "current land owner". Detailed information would be deposited at the meeting for Members' inspection

## **4. Background**

The Site would be subject to planning enforcement action.

## **5. Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 15A (TPB PG-No. 15A) for 'Application for Eating Place within "Village Type Development" zone in Rural Areas under section 16 of the Town Planning Ordinance' is relevant to the application. The relevant planning criteria are summarized in **Appendix II**.

## **6. Previous Applications**

- 6.1 The Site involves 5 previous applications (No. A/YL-PS/90, 119, 151, 216 and 240) for temporary vehicle parks. Amongst the 5 previous applications, 1 was approved and 4 were rejected by the Board/the Rural and New Town Planning Committee (the Committee). Details of the previous applications are in **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-PS/90, covering a much larger site to the north (about 3.72 ha), was for temporary container vehicles and trailers park with ancillary repair/maintenance workshops, open storage of building materials and office for a period of 3 years. It was rejected by the Committee in 2001 on the grounds of not in line with the planning intention, incompatible with the surrounding uses and adverse noise, dust, environmental and visual impacts.
- 6.3 Applications No. A/YL-PS/119, 151 and 240, covering a much larger site to the north (between 6,760m<sup>2</sup> and 1.23 ha), were for temporary vehicle parks for private cars, goods vehicles and container trailers for a period of 3 years. They were rejected by the Board upon review between 2003 and 2006 mainly on the grounds of not in line with the planning intention, not compatible with the nearby residential dwellings, insufficient information to demonstrate no adverse environmental/traffic/landscaping/drainage impacts and undesirable precedent.
- 6.4 Application No. A/YL-PS/216, covering a much larger site to the north (about 6,760m<sup>2</sup>), was for temporary vehicle park for private cars and light goods vehicles for a period of 3 years. It was approved by the Committee in 2005 on considerations of not incompatible with the surroundings, no significant adverse environmental, drainage and visual impacts on the surrounding areas and approval granted for similar applications for vehicle park for private cars/light goods vehicles. However, the permission was revoked on 15.12.2005 due to non-compliance with condition on prohibiting the parking of goods vehicles exceeding 5.5 tonnes on site.

## **7. Similar Application**

There is no similar application within the same “V” zone.

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

- 8.1 The Site is:
- (a) currently hard paved and occupied by some chairs as the waiting area for the existing adjoining restaurant on the ground floor of a NTEH;
  - (b) located at the southern fringe of the “V” zone of Ha Mei San Tsuen; and
  - (c) abutting Yung Yuen Road.
- 8.2 The surrounding areas have the following characteristics: **(Plans A-1a to A-4)**

- (a) to the north is a vehicle park with valid planning permission and to the further north are open storage yards which are suspected unauthorized development (UD) and unused land;
- (b) to the east, northeast, west and northwest are residential dwellings of Ha Mei San Tsuen;
- (c) to the southwest is a vehicle park with valid planning permission; to the southeast is another vehicle park which is a suspected UD; and to the further south across the West Rail Line is a logistics centre with valid planning permission.

## **9. Planning Intention**

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. 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 are summarised as follows:

### **Land Administration**

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site is located on Lot No. 43 RP in D.D. 122 (“the Lot”) which is an old schedule agricultural lot governed by Block Government Lease. A Building Licence No. 9215 was granted on 1.2.2013 for the erection of a NTEH on the Lot. The NTEH shall not be used for any purpose other than non-industrial purposes. Except for the NTEH, the remaining Lot (“the Non-building Area”) shall not be built upon and continue to be used for garden purposes. The relevant Certificates of Exemption and Certificate of Compliance for the NTEH were issued on 19.3.2015 and 19.10.2017 respectively.
- (b) The recent site inspection from his office found that the Site for eating place (OSA for a restaurant) is on the Non-building Area and covered by a retractable canopy which is extended from the balcony of 1/F of the NTEH. The applicant should ensure that the

canopy structure falls within the criteria of Green and Amenity Facilities exempted under Cap.121, otherwise, the application should comply with the Building Ordinance (Cap. 123) for any structure not exempted under Cap 121. Building Department's comment should be sought.

- (c) The Site is accessible via a local track leading to Yung Yuen Road. His office provides no maintenance work for the Government Land (GL) involved and does not guarantee any right-of-way to the Site.
- (d) Should planning approval be given to the application, the lot owner(s) will need to apply to his Office for a short term waiver to vary the use of the Non-building Area and to permit the structure(s) to be erected or regularize any irregularities on lot, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

### **Environment**

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

- (a) He has no adverse comment on the application. The applicant should note his detailed comments at **Appendix V**.
- (b) No environmental complaint related to the Site was received in the past 3 years.
- (c) Should the application be acceptable from planning point of view, he would suggest that conditions should be stipulated in the approval letter requiring that the OSA shall not be allowed to be operated beyond 11 p.m., and such operation shall include cleaning and tidying up work after the normal business, as proposed by the applicant.

### **Traffic**

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

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

- (b) As there is no information about the vehicular access at the private lot(s) to the Site, he presumes that the applicant should arrange by herself if necessary, and should seek the relevant land owner(s) on the right of using the vehicular access. The applicant should note his detailed comments at **Appendix V**.

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

- (a) He has no comment from highways maintenance point of view.
- (b) The application is approved on the understanding that there is and will be no vehicular access to/from the Site.

### **Drainage**

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

- (a) He has no in-principle objection to the application from public drainage viewpoint.
- (b) In view of the size of the Site (10m<sup>2</sup>), submission and implementation of drainage proposal is not required.

### **Landscape**

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

- (a) The Site (an area of about 10m<sup>2</sup>) falls within an area zoned “V” on the approved OZP No. S/YL-PS/18. With reference to the aerial photo of 2020, the Site is entirely paved, being part of the open area of a village house. It is situated in an area of village landscape character. Significant change to the landscape resources arising from the proposed development is not envisaged.
- (b) In view that no anticipated adverse impact would arise from the proposed development, a landscape condition is considered not required should the application be approved by the Board.

### **Building Matters**

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

He has no adverse comment on the application. The applicant should be reminded of his detailed comments at **Appendix V**.

### **Fire Safety**

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

- (a) He has no 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 applicant should note his detailed comments on the submission of FSIs proposal at **Appendix V**.

### **Others**

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

- (a) Proper licence/ permit issued by his department is required if food business is involved.
- (b) The applicant should note his detailed comments at **Appendix V**.

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

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

His office has received one comment from the village representative of Wing Ning Tsuen objecting to the application on the grounds that the restaurant will attract many people to the village (**Appendix IV-1**).

10.2 The following Departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Antiquities and Monuments Office, Development Bureau (AMO, DEVB);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (d) Chief Engineer/Land Work, CEDD (CE/LW, CEDD);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Commissioner of Police (C of P); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

On 20.11.2020, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received (**Appendix IV-2**) objecting to the application on the grounds that the application will affect the rural life character and the environment.

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

12.1 The application is for a temporary eating place (OSA of a restaurant) for a period of 3 years at the Site zoned "V" on the OZP, which is adjoining an existing restaurant

on the ground floor of a NTEH at the lot. 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 “V” zone is primarily intended for development of Small Houses by indigenous villagers. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. The applied use is not entirely in line with the planning intention of the “V” zone. Nevertheless, the size (only about 10m<sup>2</sup>) and location of the Site render it not feasible for village type development. 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 Site is situated an area of village landscape character. The OSA is considered not incompatible with its immediate surrounding uses which mainly comprise village houses and car parks.
- 12.3 Relevant concerned Government departments, including DFEH, C for T, CHE/NTW of HyD, CE/MN of DSD, D of FS and DEP, have no objection to or adverse comment on the application. Significant adverse environmental hygiene, traffic, drainage, fire safety and environmental impacts on the surrounding areas are not envisaged. There has been no environmental complaint concerning the Site received in the past 3 years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 to minimize any potential environmental nuisances generated by the temporary use or to address the technical concerns of concerned Government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will also be advised to follow the ‘Code of Practice on Handling Environment Aspects of Temporary Uses and Open Storage Sites’ to minimize the possible environmental impacts on the adjacent areas.
- 12.4 In view of the above, the application is considered in line with the TPB PG-No. 15A. The Site is located at the fringe of the Ha Mei San Tsuen and abuts Yung Yuen Road. The applied use would not have any adverse impacts to the surrounding areas. The size and location of the Site would not adversely affect the land availability for village type development.
- 12.5 While there were one approved and four rejected previous applications at the Site, there were for a different use (i.e. temporary vehicle park) covering much larger sites, the considerations thereof were of not much relevance to the current application which is for temporary eating place (OSA of a restaurant) in a small site. There is no similar application within the same “V” zone.
- 12.6 There are two public comments received objecting to the application on the grounds as summarized in paragraphs 10.1.10 and 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.4 are relevant.

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

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the

public comments mentioned in paragraphs 10.1.10 and 11 above, 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 8.1.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation of the outside seating accommodation of a restaurant between 11:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the submission of 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 8.7.2021;
- (c) in relation to (b) above, the implementation of 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 8.10.2021;
- (d) if the above planning condition (a) 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
- (e) if any of the above planning conditions (b) or (c) 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 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**

<b>Appendix I</b>	Application Form and attachments received on 13.11.2020
<b>Appendix Ia</b>	FI received on 20.11.2020
<b>Appendix Ib</b>	FI received on 10.12.2020
<b>Appendix Ic</b>	FI received on 28.12.2020
<b>Appendix II</b>	Relevant Extract of TPB Guidelines No. 15A for Application for Eating Place within “Village Type Development” zone in Rural Areas under section 16 of the Town Planning Ordinance
<b>Appendix III</b>	Previous Applications covering the Application Site
<b>Appendix IV-1 and IV-2</b>	Public Comments
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan and Floor Plan
<b>Plan A-1a</b>	Location Plan
<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  
JANUARY 2021**