

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

APPLICATION NO. A/YL-TYST/878

<u>Applicant</u>	: Mr. LEUNG Sie Ho, Kevin represented by A & D Surveyors Ltd.
<u>Site</u>	: Lots 1355 RP and 1356 RP (Part) in D.D. 121, Tong Yan San Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 2,175 m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11
<u>Zoning</u>	: “Residential (Group B)1” (“R(B)1”) [Restricted to maximum plot ratio (PR) of 1; maximum site coverage (SC) of 40%; and maximum building height (BH) of 4 storeys over single-storey car park (15m)]
<u>Application</u>	: Temporary Eating Place with 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 eating place with ancillary parking spaces for a period of 3 years (**Plan A-1a**). According to the Notes of the OZP for the “R(B)1” zone, ‘Eating Place’ use is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary planning permission for 3 years. The Site was formerly occupied by a primary school (i.e. Wai Kwan Primary School) which was closed down in 2007. The existing buildings of the ex-primary school have been renovated and converted. The Site is currently occupied for the applied use without valid planning permission (**Plans A-2 and A-4a to A-4c**).
- 1.2 The Site was involved in 4 previous applications (No. A/YL-TYST/161, 674, 740 and 789) (**Plan A-1b**). Other than Application No. A/YL-TYST/161 for proposed extension of school building, the other three applications for the same applied use (No. A/YL-TYST/740 and 789 by the same applicant) were approved with conditions by the Committee on a temporary basis of 3 years on 25.4.2014, 3.7.2015 and 3.2.2017. However, these 3 planning permissions were

subsequently revoked due to non-compliance with associated approval conditions. Compared with the last application (No. A/YL-TYST/789), the current application is submitted by the same applicant for the same use on the same site with the same layout.

- 1.3 According to the applicant, the temporary eating place involves internal conversion of 7 existing one-storey buildings and structures at the Site for kitchen, eating place (i.e. seating area and food preparation areas), dishwashing area, toilet and storage uses. A new one-storey structure for sprinkler water tank/water tank with ancillary facilities is also proposed to meet the fire safety requirements. A total of 10 private car parking spaces will be provided on the Site (**Drawing A-1**). Plans showing the site layout, run-in/run-out proposal, fire service installation proposal, and tree preservation and landscape proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters of the current application are largely the same as the last two approved application (No. A/YL-TYST/740 and 789). According to the applicant, as detailed site measurement has been carried out, the development parameters are slightly different from the previous applications. They are summarized as follows:

Major Development Parameters	Previously Approved Applications No. A/YL-TYST/740 and 789 (a)	Current Application No. A/YL-TYST/878 (b)	Difference (b)-(a)
Site Area	2,175m ²		--
Gross Floor Area (GFA)	858m ² <ul style="list-style-type: none"> • 2 Seating Areas: 200m² and 200m² • Kitchen: 51m² • Storage Area: 135m² • Toilet: 32m² • Fire Service Water Tank with Ancillary Facilities: 55m² • Other Covered Areas (i.e. areas under canopy): 185m² 	860m ² <ul style="list-style-type: none"> • 2 Seating Areas: 200m² and 200m² • Kitchen: 51m² • Storage Area: 140m² • Toilet: 32m² • Fire Service Water Tank with Ancillary Facilities: 56m² • Other Covered Areas (i.e. areas under canopy): 181m² 	+2m ² <ul style="list-style-type: none"> • Storage Area: +5 m² • Fire Service Water Tank with Ancillary Facilities: +1m² • Other Covered Areas (i.e. areas under canopy): -4m²
Plot Ratio	0.394 (about)	0.395 (about)	+0.001
Site Coverage	39.4%	39.5%	+0.001%
No. of Structures	10		--
Building Height	2.5m to 4.5m (one-storey)		--
Operation Hours	12:00 p.m. to 11:00 p.m.		--

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 15.1.2018 (Appendix I)
 - (b) Supplementary Planning Statement (Appendix Ia)
 - (c) Further Information received on 21.2.2018 clarifying the discrepancies in the development parameters; providing information regarding the circumstances under which the previous permissions were revoked; providing information of the estimated trip generation and attraction in response to the Transport Department's comments; and submission of the tree preservation and landscape proposal (Appendix Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Sections 4 of the Supplementary Planning Statement and further information at **Appendices Ia and Ib** respectively. They can be summarized as follows:

- (a) The applied use is compatible to the planning intention as it will not change the character and amenity of Ping Shan. It can also provide an alternative option of eating place for nearby residents with its comfortable and relaxing environment. The applicant undertakes that the business hours for the restaurant would be between 12:00 p.m. and 11:00 p.m., no outdoor seating would be provided; and no sound or audio equipment would be provided in the open areas of the Site.
- (b) The applicant claims that there would be 10 parking spaces within the Site and no queuing back or reverse onto/from public road of vehicle are allowed.
- (c) The applied development would not affect the 15 existing trees on the Site, which are generally in fair condition. All these trees would be retained. A set of tree preservation proposal with tree location plan, photo record of existing trees and tree assessment schedule is enclosed in the Supplementary Planning Statement.
- (d) The applicant would meet all other statutory and licensing requirements, including those of the Buildings Department, Fire Services Department, Food and Environmental Hygiene Department, and Environmental Protection Department.
- (e) Non-compliance with the approval conditions of application No. A/YL-TYST/674 was due to insufficient time to prepare all proposals and apply to the Board for extension of time. Planning approval No. A/YL-TYST/740 was revoked as the applicant tried utmost to comply with the approval conditions but approval were not granted by relevant Government departments and the application of extension of time for compliance with planning conditions was rejected by the Board. Non-compliance with the approval condition requiring the implementation of the accepted tree preservation and landscape proposal under the last permission (No. A/YL-TYST/789) was due to communication problem and the revised proposal cannot be delivered to the Planning Department for comment. The applicant has kept monitored and maintained the condition of

existing trees. The implemented tree preservation and landscape proposal has been included into the current application. Favorable consideration of the Board is sincerely sought.

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 the notice of application on the site and sending the notice to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is the subject of planning enforcement action on unauthorized use for eating place and parking of vehicles. Enforcement Notice will be issued to the notice recipients requiring them to discontinue the unauthorized development at the Site. Failure to comply with the requirements of the statutory notice will be subject to prosecution action.

5. Previous Applications

- 5.1 The site was involved in 4 previous applications (No. A/YL-TYST/161, 674, 740 and 789). Application No. A/YL-TYST/161 was for proposed extension of school building and the remaining 3 applications were for eating place with ancillary parking spaces. Details of the applications are summarized at **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-TYST/161 for proposed extension of the school building of the former Wai Kwan Primary School was approved with conditions by the Committee on 1.3.2002. However, the approved scheme had not been implemented afterwards and the planning permission ceased to have effect on 1.3.2005. In 2007, the former Wai Kwan Primary School was closed down.
- 5.3 Application No. A/YL-TYST/674 for proposed eating place with ancillary parking spaces by different applicant covering the majority of the Site was approved with conditions by the Committee on 25.4.2014 on a temporary basis of 3 years, instead of on a permanent basis as applied. However, the planning approval was subsequently revoked on 25.10.2014 due to non-compliance with approval conditions on submission and implementation of run-in/run-out, landscape and tree preservation, and fire service installations proposals.
- 5.4 Application No. A/YL-TYST/740 for the same use on the same Site by the same applicant was approved with conditions by the Committee on 3.7.2015 for a period of 3 years. However, the planning permission was subsequently revoked on 3.10.2015 due to non-compliance with approval conditions on the submission and implementation of run-in/run-out, tree preservation and landscape, and fire service installations proposals.

- 5.5 Application No. A/YL-TYST/789 for the same use on the same Site by the same applicant was approved with conditions by the Committee on 3.2.2017 for a period of 3 years with, among others, sympathetic consideration on the applicant's effort demonstrated by the submission of run-in/run-out, tree preservation, and fire services installation and equipment proposals, as well as the commitment to construct a fire service water tank. Shorter compliance periods were granted for close monitoring. Whilst the approval conditions on the submission and implementation of run-in/run-out and fire service installations proposals had been fulfilled, the permission was revoked on 3.8.2017 due to non-compliance with the approval condition on the implementation of the accepted tree preservation and landscape proposal.
- 5.6 Compared with the last application, the current application is submitted by the same applicant for the same use with the same site layout and slightly different development parameters.

6. Similar Application

There is no similar application for eating place use within the same "R(B)1" zone on the OZP.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4d)

- 7.1 The Site is:
- (a) abutting Tong Yan San Tsuen Road to its west (**Plan A-1**);
 - (b) paved and fenced off; and
 - (c) currently occupied for the applied use without valid planning permission (**Plans A-2 and A-4a to A-4d**).
- 7.2 The surrounding areas have the following characteristics:
- (a) predominantly rural residential in character with residential developments and community uses;
 - (b) to its north across Tong Yan San Tsuen Road is the New Ping Shan Sub-station and the Ping Shan Lane Garden;
 - (c) to its northeast is a plant nursery, and across Ma Fung Ling Road are the Vegetable Marketing Cooperative Society, the Federation of Pig Rearing Cooperative Society, a store and storage in the subject "R(B)1" zone;
 - (d) to its immediate east is Yuen Long Wai Kwan Land which is a temporary social welfare facility (social service centre) under planning permission under Application No. A/YL-TYST/866;

- (e) to its further east is a low-rise residential development known as Evergreen Place;
- (f) to its south are a warehouse and a vacant temporary structure;
- (g) there are two liquid petroleum gas (LPG) cum petrol filling stations located to the west across Tong Yan San Tsuen Road (currently having works in progress) and to the further south of the Site respectively;
- (h) to its southwest across Tong Yan San Tsuen Road is an area zoned “Industrial” (“I”) comprising car parks, open storage yards, and vacant structures;
- (i) to its northwest is the Tong Yan Satn Tsuen Playground in the “Open Space” (“O”) zone;
- (j) the open storage yard in the “I” zone is a suspected unauthorized development subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “R(B)1” zone is primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighborhood may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot No. 1355 RP in D.D.121 is covered by Short Term Waiver (STW) No. 4174 to permit structures to be erected thereon for the purpose of “Eating Place with Ancillary Parking Spaces”.
- (c) The Site is accessible to Tong Yan San Tsuen Road via Government land (GL). Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within any Airfield Height Restriction

Area.

- (e) Should planning approval be given to the planning application, the STW(s) holder will still need to apply to her office for modification of the STW's conditions if there is any irregularities on Site and the lot owner(s) of the lot(s) without STW will need to apply to his office for permit the structures to be erected or regularize any irregularities on Site. Such application(s) will be considered by LandsD acting in the capacity as landlord at its sole discretion and there is no guarantee that such application 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.

Traffic

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

- (a) He has no adverse comment to the application and the submitted further information from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.

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

- (a) He noted that the concerned run-in/out was approved by this office in previous application No. A/YL-TYST/789 . He has no comments on the submitted further information dated 21.2.2018 (**Appendix Ib**).
- (b) The access arrangement, including the width and orientation of the entrance/exit, should be commented by the Transport Department (TD).
- (c) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (d) Please note that his department shall not be responsible for the maintenance of any access connecting the Site and Tong Yan San Tsuen Road.

Environment

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

- (a) There is 1 non-substantiated complaint on the Site received in the past 3 years.

- (b) Provided that the development is properly designed to incorporate suitable environmental mitigation measures, it is unlikely to cause major pollution.
- (c) Regarding the sewerage/effluent discharge, air/oily fume and noise aspects, sewage discharge from the Site should be directed to nearby public sewer. In case of unavailability of public sewer, septic tank and soak-away pit should be provided. The applicant should design and maintain the septic tank and soak-away pit according to the ProPECC Note No. 5/93 requirements. Any effluent discharge from the Site should also comply with the requirements under the Water Pollution Control Ordinance. The applicant is also reminded of his obligation to take appropriate measure to minimize oily fume, cooking odour and noise impact as required under the Air Pollution Ordinance and Noise Control Ordinance.

Landscape

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

- (a) The Site falls within an area zoned “R(B)1” on the approved Tong Yan San Tsuen OZP No. S/YL-TYST/11. The Site was the subject of 4 previous applications (A/YL-TYST/161, 674, 740 and 789) for extension of school building and temporary eating place with ancillary parking spaces with approval conditions applied. The current application is for planning permission for temporary eating place with ancillary parking spaces use in the same site for a period of 3 years.
- (b) With reference to the information of the previous submission (No. A/YL-TYST/789, our site inspection dated 17.3.2017, as well as the Further Information submitted by the applicant dated 21.2.2018, there are some existing trees along the boundary and have been preserved on Site that significant landscape impact arising from the proposed use on the area is not anticipated. Therefore, he has no objection to the application from the landscape planning perspective.
- (c) Should the Board approve this application, in view of the above, he would recommend the standard approval condition for maintenance of all existing trees and landscape plantings within the Site at all times be applied in the planning permission.
- (d) Please remind the applicant to conduct routine vegetation maintenance works, such as irrigating the trees and removing weeds regularly throughout the period. Stacked material and debris should be removed at least 1m from all trees.
- (e) The applicant shall take reference to the following

information/guideline published by the GLTM Section, DEVB for tree maintenance:

- 私人物業樹木護理資料 Information About Tree Maintenance For Private Properties (https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html)
- 樹木的簡易圖解 Pictorial Guide for Tree Maintenance (https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf)"

Drainage

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

- (a) The Site is within a well-developed area and he has no objection to the application from drainage viewpoint.
- (b) The applicant is reminded to provide his own drainage facilities to collect the runoff generated from the Site or passing through the Site, and discharge the runoff collected to a proper discharge point. The development should not obstruct overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities.
- (c) The Environmental Protection Department should be consulted regarding sewerage aspect.

Fire Safety

9.1.7 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) Furthermore, the submitted FSIs proposal (**Drawing A-3**) is considered acceptable to his department. The installation/ maintenance/ modification/ repair work of FSIs shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to his Department.
- (c) In addition, the applicant is reminded that if 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.

Food and Environmental Hygiene

9.1.8 Comments of the Director of Food and Environmental Hygiene

(DFEH):

- (a) A premises with address “The Portion of Lot 1355 RP and the Portion of Lot 1356 RP in D.D. 121, Tong Yan San Tsuen, Y.L., N.T.”, which is situated in the Site, is covered by a valid restaurant licence. An application for outside seating accommodation (OSA) at the premises of “The Portion of Lot 1355RP and the portion of Lot 1356RP in .D.D. 121, Tong Yan San Tsuen, Yuen Long, New Territories” was received by NTLO on 13.11.2017 and was not further processed on 5.2.2018 due to unacceptable documents provided.
- (b) His Yuen Long District Environmental Hygiene Office received 1 complaint concerning the Site in the past 12 months. The complaint was lodged by a public alleging the surface channels near the Site being obstructed by the planters of the restaurant. The issue was resolved in April 2017 and there was no further complaint received.
- (c) Whenever the restaurant licensees wish to include an OSA into their licensed premises, they are required to submit application to his department by filling in the application form together with 8 copies of proposed layout cum OSA plan and 5 copies of 1:1000 location map for approval. If the application of OSA is acceptable for further processing, his department will refer it to the relevant departments including the Buildings Department, the Transport Department, the Fire Services Department, PlanD, the Home Affairs Department, LandsD for clearance. A Letter of Requirements on the captioned would be issued if no objection was raised by the departments concerned.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant’s attention is drawn to the following points:
 - (i) If the existing structures (not being New Territories Exempted Houses) are erected on leased land without the approval of BD, they are unauthorized building works (UBW) under BO and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD’s enforcement policy against UBW as and when necessary. The granting of any planning

approval should not be construed as an acceptance of any existing works or UBW on the Site under BO.

- (iii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of BD 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 BO.
- (iv) If the proposed use under application is subject to issue of a license, the applicant is 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 maybe imposed by the licensing authority.
- (v) 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.
- (vi) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of B(P)R at the building plan submission stage.

Others

9.1.9 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

CEDD and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) - Investigation" (the Study). The Site falls within the Study Area of YLS but outside the development area of YLS. Hence, the Site would not be affected by any development proposal under the Study.

9.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in

the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

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

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

- (a) Director of Agriculture, Fisheries and Conservation;
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 23.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection periods, which ended on 13.2.2018, two public comments from a members of Yuen Long District Council and a member of the public were received, objecting to the application mainly on grounds of multiple revocation, incompatibility with the surroundings, and shortage of residential land (**Appendices III-1 and III-2**).

11. Planning Considerations and Assessments

11.1 The application is to make use of the vacant ex-Wai Kwan Primary School for temporary eating place with ancillary parking spaces for a period of 3 years. The Site falls within an area zoned “R(B)1” on the OZP of which the planning intention is primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighborhood may be permitted on application to the Board. Although the proposed development is not entirely in line with the planning intention of the “R(B)1” zone, it could provide eating facility to serve such demand in the area. Approval of the application on a temporary basis would not jeopardize the long-term development of the Site.

11.2 The Site is located at the fringe of the “R(B)1” zone in proximity to the “I” zone located about 10m to its southwest across Tong Yan San Tsuen Road (**Plan A-2**). The proposed eating place is considered not incompatible with the surrounding areas which is rural in character comprising a mix of residential developments/dwellings, community uses (e.g. playground, garden and social welfare centre), petrol filling stations, electricity substation, car park, warehouse and open storage uses

- 11.3 The proposed development involves only the internal conversion of the existing free-standing single-storey structures with total floor area of 860m² (inclusive of the covered areas under the existing canopies) and heights of 2.5m to 4.5m. It is not expected that the development would generate significant environmental, traffic, landscape and drainage impacts on the surrounding areas. Relevant Government departments consulted, including DFEH, C for T, CHE/NTW of HyD, CE/MN of DSD, D of FS and CTP/UD&L of PlanD, have no adverse comments on the application. To address the technical requirements of concerned Government departments, relevant approval conditions are recommended in paragraph 12.2 below. 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.
- 11.4 Given previous approvals for the same use had been granted to the Site, approval of the current application is in line with the previous decisions. Nevertheless, the 3 previous approvals (No. A/YL-TYST/674, 740 and 789) were subsequently revoked due to non-compliance with time-limited approval conditions. For the last application No. A/YL-TYST/789 submitted by the same applicant, the applicant had fulfilled all time-limited approval conditions, except the implementation of the tree preservation and landscape proposal and the permission was revoked for this reason. In this regard, the applicant has explained that the non-compliance was due to that the revised proposal cannot be delivered to the Planning Department on time for comment. In fact, he has already implemented the tree preservation and landscape proposal. Information on the completed tree preservation and landscape proposal has been included into the current application and CTP/UD&L, PlanD has accepted the submission. The applicant has also completed the run-in/run-out and submitted photos of the completed run-in/run-out (**Appendix Ib**) on the Site, and CHE/NTW, HyD has no comments on it. In addition, D of FS accepted the submitted FSIs proposal. In view of the above, sympathetic consideration may be given to the application. However, shorter compliance period is recommended in order to closely monitor the progress on compliance with associated approval conditions. Moreover, should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.6 There are two public comments (**Appendices III-1 and III-2**) received on the application during the statutory publication period raising objection to the application on grounds of multiple revocation, incompatibility with the surroundings, and shortage of residential land. The planning considerations and assessments in paragraphs 11.1 to 11.5 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary eating place with ancillary parking spaces could be tolerated for a period of 3 years.

- 12.2 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 2.3.2021. The following conditions of approval with shorter compliance periods and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 12:00 p.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no outdoor seating accommodation, as proposed by the applicant, is allowed at the Site at any time during the planning approval period;
- (c) no sound or audio equipments are allowed to be used in the open areas of the Site, as proposed by the applicant, at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (f) the implementation of the accepted 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 2.9.2018;
- (g) if any of the above planning condition (a), (b), (c), (d) or (e) 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;
- (h) if the above planning condition (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (i) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 15.1.2018
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Further Information received on 21.2.2018 clarifying the discrepancies in the development parameters; providing information regarding the circumstances under which the previous permission was revoked; providing information of the estimated trip generation and attraction in response to the Transport Department's comments; and submission of the tree preservation and landscape proposal
Appendix II	Previous Applications covering the Application Site
Appendices III-1 and III-2	Public comments received during the statutory publication period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Run-in/Run-out Proposal
Drawing A-3	Fire Service Installations Proposal
Drawing A-4	Tree Preservation and Landscape proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos