

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/270

- Applicant** : Ms. MIU Hoi Ying represented by Mr. CHAN Kai Fai
- Premises** : Ground Floor (G/F), 114 Tai Kiu Tsuen, Yuen Long, New Territories
- Floor Area** : 40m² (about)
- Lease** : Yuen Long Town Lot (YLTL) No. 29 in D.D. 120 held under New Grant No. 1209 (restricted only for non-industrial purposes excluding cinema and offensive trades)
- Plan** : Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/23
- Zoning** : “Comprehensive Development Area” (“CDA”)
[Restricted to a maximum domestic plot ratio (PR) of 5 or a non-domestic PR of 9.5]
- Application** : Temporary Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the premises) for temporary shop and services use for 5 years (**Plan A-1**). The premises is located on the G/F of an existing 2-storey house. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “CDA” zone which requires planning permission from the Town Planning Board (the Board). The premises is currently occupied by the applied use without planning permission.
- 1.2 According to the applicant, the applied use is a fast food shop selling Chinese dim sum to serve nearby residents. It involves a non-domestic gross floor area of 40m². The operation hours will be from 8:00 a.m. to 6:00 p.m. daily. The proposed layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans received on 19.10.2020 (Appendix I)

- (b) Further Information (FI) received on 10.12.2020 (**Appendix Ia**)
clarifying the operation
[exempted from publication and recounting requirements]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are mainly detailed in the Application Form (**Appendix I**) and FI (**Appendix Ia**). They can be summarised as follows:

- (a) Obtaining planning permission from the Board is one of the prerequisites for applying a Food Factory Licence from the Food and Environmental Hygiene Department. The current planning application is submitted to this effect.
- (b) The Chinese dim sum on sale will mainly be cooked/reheated by steaming; no oily fumes will be generated. Grease trap has been installed at the premises to minimise oil and grease in wastewater. The proposal will not cause any adverse environmental impact to the surrounding.

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 consents from the two “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

- 4.1 The subject “CDA” zone largely covers the village ‘environs’ of Tai Kiu (**Plan A-2**), which is a recognised village in Shap Pat Heung, Yuen Long. The subject “CDA” zone is about 2 ha in size, consisting of approximately 9,270m² of private land and 11,130m² of government land. Currently the village has about 120 village houses. Tai Kiu was zoned “CDA” on the first Yuen Long OZP No. S/YL/1 exhibited on 12.4.1991 with a view to providing incentive to upgrade the local environment in commensurate with its urban setting. However, as there were no signs of comprehensive redevelopment proposals during the intervening years, the Rural and New Town Planning Committee (the Committee) of the Board agreed to rezone Tai Kiu from “CDA” to “Village Type Development” (“V”) on 8.2.2002. The draft Yuen Long OZP No. S/YL/11 incorporating the said zoning amendment was exhibited for public inspection under s.7 of the Town Planning Ordinance (the Ordinance) on 8.3.2002.
- 4.2 During the plan exhibition period, three objections lodged by the Village Representative of Tai Kiu, a group of villagers of Tai Kiu and two individuals were received. In particular, the latter two objections requested the Board to revert the zoning back to “CDA” mainly on the reasons that it could encourage comprehensive redevelopment so as to optimise developable land at the centre of Yuen Long New Town, and in turn improve the living environment of the village.

On 2.8.2002, the Board gave further consideration to these objections under s.6(6) of the Ordinance and decided to revert the zoning of Tai Kiu from “V” back to “CDA”. The main reasons were that some efforts had been made by the villagers to redevelop the village; low-rise village development in the centre of Yuen Long New Town would represent an underutilisation of precious land resources; a “CDA” zoning would provide better opportunities for heritage preservation than a “V” zoning; and although development in “CDA” usually involved joint-venture redevelopment which would be time consuming, the Board could monitor the progress of the redevelopment and review the zoning for the village where appropriate. On 18.10.2002, the Board confirmed the zoning amendment from “V” to “CDA” under s.6(9) of the Ordinance, and the approved Yuen Long OZP No. S/YL/12 incorporating the amendments was gazetted under s.9(5) of the Ordinance on 6.12.2002. The “CDA” zoning for Tai Kiu has remained unchanged since then.

5. Previous Application

The Site was involved in a previous application (No. A/YL/136) covering nearly the whole “CDA” zone for proposed comprehensive commercial/residential development. The application was approved with conditions by the Committee on 27.8.2010 mainly on the considerations that the applicant was actively pursuing a development/acquisition agreement with other landowners (including the affected villagers) for relocating the village and building replacement village houses elsewhere; the redevelopment of the area was in line with the planning intention; and concerned departments had no adverse comments on the proposal. The validity of the permission was extended once but the proposed development was not implemented and the permission lapsed on 28.8.2018. Details of the application are summarised in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Application

There are no similar applications within the subject “CDA” zone.

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

7.1 The premises is:

- (a) situated at the G/F of an existing 2-storey house;
- (b) currently occupied by the applied use (i.e. a food stall selling Chinese dim sum) without valid planning permission; and
- (c) accessible from Yuen Long On Lok Road and Yuen Long On Ning Road to its north and south respectively via an unnamed road.

7.2 The subject 2-storey house is currently used for the following purposes:

Floor	Main uses
G/F	Shop and Services (the applied use) ^[1]
1/F	Shop and Services (beauty parlour) ^[1]

[1] No record of planning approval granted for these Shop and Services uses.

7.3 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) predominantly consist of village houses of Tai Kiu and high-rise residential development intermixed with some shops and unused land, Tai Kiu Stormwater Pumping Station, a metal workshop and a sitting-out area;
- (b) there are residential structures in the vicinity of the Site (with the nearest one located to its immediate south);
- (c) to its west across a nullah is a residential development named Sol City; and
- (d) to its north is the West Rail Long Ping Station.

8 Planning Intention

The planning intention of the “CDA” zone is for comprehensive development/redevelopment of the area for residential and/or commercial uses with the provision of open space and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

9 Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application and public comments, where relevant, are summarised as follows:

Land Administration

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

- (a) The Lot is a new grant lot sub-divided from the mother lot, i.e. YLTL No. 29 in D.D. 120, which is governed by New Grant No. 1209 (the New Grant). Pursuant to Special Condition No. 6 of the New Grant, the Lot shall be used only for non-industrial purposes excluding (i) a cinema and (ii) any trade that is now or may hereafter be declared to be offensive trades under the Public Health and Urban Services Ordinance, 1960, or any enactment amending the same or substituted therefor. In this regard, the proposed temporary shop and services use for a period of 5 years on the Lot is considered acceptable under the New Grant.
- (b) Should the application be approved by the Board, the applicant is reminded to obtain relevant licence or approval under relevant

departments for any specific trades.

Environment

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

- (a) If public sewer is not available for connection, septic tank and soakaway system can be used and its design and construction should follow the requirements of her department's Practice Note for Professional Person (ProPECC) PN 5/93 'Drainage Plans subject to Comment by the Environmental Protection Department' including percolation test.
- (b) There was no environmental complaint concerning the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant should be advised to comply with all relevant ordinances in Hong Kong, including the Air Pollution Control Ordinance, Noise Control Ordinance, and Water Pollution Control Ordinance; and to follow ProPECC PN 5/93 on drainage and sewage matters, as well as the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (Code of Practice) issued by the Environmental Protection Department to minimise any potential environmental nuisances on the surrounding area.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.
- (c) There is no public sewer connection available in the vicinity, the applicant shall seek views and comments from DEP regarding the sewage disposal arrangement of the proposal.

Fire Safety

9.1.4 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. In addition, the applicant should be reminded of the detailed comments at **Appendix IV**.

Building Matters

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

The applicant should note the detailed comments at **Appendix IV**.

Food and Environmental Hygiene

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

- (a) The subject premises is currently not covered by valid food licence. Summons actions for breaching Section 31(1)(a) of Food Business Regulations, Cap.132 (i.e. Unlicensed Food Factory) were taken by her department on 28.7.2020, 4.11.2020 and 4.12.2020.
- (b) 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.
- (c) Proper licence / permit issued by her Department is required if food business and/or related place of public entertainment activity is involved. The applicant should note the detailed comments at **Appendix IV**.

District Officer's Comments

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

His office has not received any comment from the village representatives in the vicinity regarding the application.

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

- (a) Commissioner for Transport (C for T);
- (b) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);

- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (g) Commissioner of Police (C of P).

10 Public Comments Received During Statutory Publication Period

On 27.10.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments were received from three villagers of Tai Kiu (**Appendices III-1 to III-3**) and an individual (**Appendix III-4**) objecting the application on the grounds that the applied use would cause environmental hygiene problems (e.g. attract rodents and pests), sewerage problems (e.g. clogging up of sewers by oil and grease), create environmental pollution and nuisance (e.g. noise and fumes), jeopardise the rural setting, and increase fire risk to the surrounding areas.

11 Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services for a period of 5 years at the premises on land zoned “CDA” on the OZP. The planning intention of the “CDA” zone is for comprehensive development/redevelopment of the area for residential and/or commercial uses with the provision of open space and other supporting facilities. While the applied use is not in line with the planning intention of the “CDA” zone, the proposal is only for a temporary shop and services use for five years and is small in scale. As there is currently no valid planning approval/Master Layout Plan covering the subject “CDA” zone nor any known development/redevelopment proposals for the area, the applied use would not significantly jeopardise the long-term planning intention of the subject “CDA” zone.
- 11.2 The premises is located on the G/F of an existing 2-storey house situated at the northwestern fringe of the subject “CDA” zone. The applied use is not incompatible with the surrounding area, which consists mainly of village houses and high-rise residential development with some shop and services on G/Fs.
- 11.3 There is no adverse comment on the application from concerned government departments, including DFEH, CE/MN, DSD, DEP and D of FS. There has been no environmental complaint concerning the Site received in the past 3 years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address local concerns and the technical requirements of concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission. Should the application be approved, the applied use will need to comply with all requirements of the relevant licensing authority(s) and the applicant will be advised to comply with all relevant ordinances in Hong Kong and to follow the requirements of the Code of Practice, as well as ProPECC PN 5/93 on drainage and sewerage aspects.
- 11.4 There are no similar applications within the subject “CDA” zone.
- 11.5 Four public comments were received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in

paragraphs 11.1 to 11.4 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 comments as summarised in paragraph 10 above, the Planning Department has no objection to the application.
- 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 5 years until 18.12.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 18.6.2021;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 18.9.2021;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.6.2021;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.9.2021;
- (f) if the above planning condition (c) 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
- (g) if any of the above planning conditions (a), (b), (d) or (e) 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 at **Appendix IV**.

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

the applied use is not in line with the planning intention of the "CDA" zone, which

is for comprehensive development/ redevelopment of the area for residential and/or commercial uses with the provision of open space and other supporting facilities. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

13 Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 reason(s) for rejection should be given to the applicant.

14 Attachments

Appendix I	Application Form with plans received on 19.10.2020
Appendix Ia	FI received on 10.12.2020
Appendix II	Previous application covering the Site
Appendices III-1 to III-4	Public comments received during the statutory publication period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**