

*MPC agreed deferral of the application, as requested by PlanD,
to the meeting on 22.9.2023*

MPC Paper No. A/TWW/128
for Consideration by the
Metro Planning Committee
on 8.9.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TWW/128

<u>Applicant</u>	: Mr. WONG Man Che, Edward
<u>Premises</u>	: House 117, Ting Kau Village, Tsuen Wan
<u>Floor Area</u>	: About 113m ²
<u>Lease</u>	: Old Schedule Agricultural Lots Nos. 22 S.A & 22 S.B in D.D. 399
<u>Plan</u>	: Draft Tsuen Wan West Outline Zoning Plan (OZP) No. S/TWW/20
<u>Zoning</u>	: “Residential (Group C)” (“R(C)”) (a) maximum plot ratio of 0.4 (b) maximum building height of 3 storeys including car park
<u>Application</u>	: Proposed Eating Place

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for a proposed light refreshment restaurant. The Premises falls within the “R(C)” zone on the draft Tsuen Wan West OZP No. S/TWW/20 (**Plans A-1 and A-2**). According to the Notes of the “R(C)” zone under the OZP, ‘Eating Place’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is a vacant single-storey house with a floor area of about 113m² at the immediate southwest of Ting Kau Beach. According to the information provided by the applicant, the proposed light refreshment restaurant will have a capacity for 20 guests to be served by 4 members of staff with business hours from 9:00 a.m. to 11:00 p.m. A plan showing the proposed layout of the Premises submitted by the applicant is at **Drawing A-1**.
- 1.3 The Premises has no vehicular access and is accessible via the adjoining beach area by a public footpath connecting to Castle Peak Road – Ting Kau, where public transportation and metered public parking spaces are available (**Plan A-2a**).

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

- (a) Application form with attachments received on 20.7.2023 (Appendix I)
- (b) Further Information (FI) received on 23.8.2023 (Appendix Ia)
(exempted from publication and recounting requirements)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application detailed in **Appendices I** and **Ia** are summarised as follows:

- (a) Ting Kau area lacks provision of convenient restaurants. The proposed light refreshment restaurant will provide a wider choice of restaurants in the area, which will benefit the nearby residents and the visitors of Ting Kau Beach.
- (b) Part of the Premises had been previously used for restaurant purpose before ceasing operation during the pandemic. No report of nuisance or inconvenience to the neighbourhood was received during that time.
- (c) The scale of the proposed light refreshment restaurant serving 20 guests is considered small and will unlikely cause adverse traffic impact or nuisance to the surroundings. It is also easily accessible by means of public transport, and metered public parking spaces are available in the vicinity.
- (d) The Premises is connected to the local sewerage system and no adverse impact is anticipated.

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

The applicant is not a “current land owner” of the Premises 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 having obtained consent from the “current land owner” of the Premises. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

There is no previous application at the Premises.

5. Similar Application

There is no similar application for the proposed use within the “R(C)” zone on the OZP.

6. The Premises and Its Surrounding Areas (Plans A-1 to A-5)

- 6.1 The location and current conditions of the Premises are detailed in paragraphs 1.2 and 1.3 above.
- 6.2 The surrounding areas have the following characteristics (**Plan A-2a**):
- (a) to the immediate northeast is Ting Kau Beach;
 - (b) to the immediate north and further northeast are some existing low-rise, low-density residential developments and the village settlements of Ting Kau Village;
 - (c) to the immediate south and west are slopes covered with trees and vegetation; and
 - (d) to the further south and west up the slopes are low-rise, low-density residential developments and the Royal View Hotel respectively.

7. Planning Intention

The planning intention of the “R(C)” zone is intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

8. Comments from Relevant Government Departments

- 8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

- 8.1.1 Comments of the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department (DLO/TW&KT, LandsD):

- (a) the application site falls on Old Schedule Agricultural Lots Nos. 22 S.A & 22 S.B both in D.D. 399 (the Lots). A Building Licence was issued in 1951 for the construction of a building with permitted built-over area of about 191m² on the Lots;
- (b) no enforcement action under the lease is being taken at the Premises; and
- (c) the proposal submitted by the applicant does not conflict with the lease conditions governing the application site and so if the proposal is approved by the Board, the applicant is not required to seek a lease modification from LandsD to implement it. Therefore, any planning conditions, if imposed by the Board, cannot be written into the lease through lease modification.

Building Matters

8.1.2 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 for the building existing at the application site. In this connection, BD is not in a position to offer comments on the suitability for the use related to the application;
- (b) before 1 January 1961, the Building Ordinance (BO) did not apply to the buildings in the New Territories. If the subject building was built before that date, it was exempted from the provision of the BO;
- (c) as the proposed light refreshment restaurant under application is subject to the issue of a light refreshment restaurant licence, the applicant is required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority; and
- (d) the granting of any planning approval should not be constructed as an acceptance of any unauthorised building works on the application site under the BO.

Fire Safety

8.1.3 Comments of the Director of Fire Services (DFS):

- (a) no in-principle objection to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of DFS. Detailed fire safety requirements will be formulated upon receipt of referral from relevant licensing authority; and
- (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 the Fire Services Department for approval. In addition, the applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans.

Environment

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

- (a) no objection to the application;

- (b) no environmental complaint was received against the Premises in the past 3 years; and
- (c) the operation of the subject eating place shall comply with the requirement of relevant environmental pollution control ordinance, such as the Air Pollution Control Ordinance, Noise Control Ordinance and Water Pollution Control Ordinance.

Drainage

8.1.5 Comment of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

the subject house is currently connected to the local sewerage system.

Licensing

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

- (a) no health objection to the application;
- (b) part of the Premises has been covered by a Light Refreshment Restaurant (LRR) Licence (including Provisional LRR Licence) since March 2016;
- (c) according to the past record of routine site inspection, the hygienic condition was found acceptable and no sanitary nuisance was noted; and
- (d) no complaint related to the operation of the restaurant was received from the public so far.

Other Aspect

8.1.7 Comment of the Commissioner of Police (C of P):

there was no complaint received related to the Premises in the past 12 months.

8.2 The following Government departments have no objection to or no comment on the application:

- (a) Commissioner for Transport (C for T);
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Highway Engineer/New Territories West, Highways Department;
- (d) Project Manager (West), Civil Engineering and Development Department; and
- (e) District Officer (Tsuen Wan), Home Affairs Department (DO(TW), HAD).

9. Public Comments Received During Statutory Publication Period

During the statutory public inspection period, two public comments were received, including one supporting comment from the member of Task Force on Harbourfront Developments in Kowloon, Tsuen Wan and Kwai Tsing under the Harbourfront Commission and one objection from the Village Representatives of Ting Kau Village. The objection is mainly on the grounds that the restaurant operation might cause nuisance to the neighbourhood; the sewage discharge might pollute the nearby beach; and there might be risk on fire safety in view of the lack of emergency vehicular access to the Premises (**Appendix II**).

10. Planning Considerations and Assessments

- 10.1 The application is to seek planning permission for proposed ‘Eating Place’ use within the “R(C)” zone located at the immediate southwest of Ting Kau Beach and a residential cluster. The proposed light refreshment restaurant at the Premises will provide a dining place to serve the residential neighbourhood and the visitors of the beach. It is considered that the proposed use is generally in line with the planning intention of the “R(C)” zone, which is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.
- 10.2 The proposed light refreshment restaurant occupies a vacant single-storey house at the southwestern end of the residential neighbourhood and has a relatively small floor area of about 113m² with a proposed capacity for 20 guests to be served by 4 staff members. In view of its relatively small scale and location on the periphery of the residential cluster, the proposal is not expected to generate significant adverse traffic or environmental impact on the surrounding areas, in particular that the Premises is only accessible by the public footpath via the adjoining beach area and is connected to the local sewerage system. Although there is no record of planning application received or approved for the ‘Eating Place’ use at the Premises, the applicant has indicated that part of the Premises was previously used for restaurant purpose. DFEH has no objection to the application and advises that there was no record on sanitary nuisance related to the Premises. DEP, C of P and DFEH also advise that there was no complaint against the ‘Eating Place’ use at the Premises and have no objection to/no adverse comment on the application. Other relevant Government departments including C for T, CE/MS of DSD and DO(TW) of HAD have no adverse comment on the application. The proposed use at the Premises is considered not unacceptable nor incompatible with the surroundings.
- 10.3 Regarding the public comments received, departmental comments in paragraph 8 and the planning assessments above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 above and having taken into account the public comments mentioned in paragraph 9, the Planning Department has no objection to the application.

- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 8.9.2027, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition of approval and advisory clauses are suggested for Members' reference:

Approval Condition

the provision of fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

- 11.3 There is no strong reason to recommend rejection of the application.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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 date when the validity of the permission should expire.
- 12.3 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.

13. Attachments

Appendix I	Application form with attachments received on 20.7.2023
Appendix Ia	FI received on 23.8.2023
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawings A-1 and A-2	Proposed Layout Plan and Indicative Location Plan Submitted by the Applicant
Plan A-1	Location Plan
Plans A-2 and A-2a	Site Plans
Plans A-3 to A-5	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**