

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/484

- Applicant** : Mr. LEE Kwok Ming represented by Metro Planning & Development Company Limited
- Site** : Lot 1798 RP in D.D. 125, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 132m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Eating Place for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary eating place for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Eating Place’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently partly vacant and partly occupied by a vacant structure.
- 1.2 The Site is located at the fringe of Sik Kong Wai and accessible from Ping Ha Road (**Plans A-2 and A-3**). According to the applicant, there will be one temporary single-storey structure with a floor area of 120m² (not exceeding 4.5m high) for eating place and toilet uses. The proposed eating place will provide 10 tables and accommodate a maximum of 40 patrons at one time. No parking facility will be provided (**Drawing A-1**). The proposed operation hours are from 7:00 a.m. to 7:00 p.m. from Mondays to Sundays including public holidays. Plans showing the proposed layout, as-built drainage facilities and internal layout submitted by the applicant are at **Drawings A-1 to A-3**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 23.8.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 31.8.2023 (**Appendix Ia**)

- (c) Further information (FI) received on 26.9.2023
[accepted and exempted from publication and recounting requirements]

(Appendix Ib)

2. Justifications from the Applicant

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

- (a) The proposed use is an eating place with dine-in area. It aims to serve the nearby residents. The proposed use is not incompatible with the surrounding areas which are mainly occupied by village houses. Two previous applications for shop and services use were approved by the Board at the Site.
- (b) The proposed use is temporary in nature and would not jeopardise the long-term planning intention of the concerned zone.
- (c) There will be insignificant traffic impacts arising from the proposed development. Given the nature of the proposed development, its drainage and environmental impacts are expected to be insignificant.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Eating Place within “V” zone in Rural Areas under section 16 of the Town Planning Ordinance’ (TPB PG-No. 15A) are relevant to the application. The relevant planning assessment criteria are at **Appendix II**.

5. Background

The Site is currently not subject to any planning enforcement action.

6. Previous Applications

- 6.1 The Site is involved in two previous applications (No. A/HSK/205 and 382) for proposed temporary shop and services use. Both applications were approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2020 and 2022 respectively mainly on considerations that the proposed use was not incompatible with the surrounding areas and there were no major adverse comments from concerned government departments. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.

- 6.2 The last application No. A/HSK/382 for temporary shop and services (convenience store), which was submitted by the same applicant, was approved with conditions by the Committee on 12.8.2022 for a period of three years with validity up to 12.8.2025. All time-limited approval conditions have been complied with.

7. Similar Applications

There are three similar applications involving eating place use within the subject “V” zone in the past five years. All of them were approved with conditions by the Committee between 2019 and 2022 on similar considerations as stated in paragraph 6.1. However, one of the planning permissions was subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) accessible from Ping Ha Road to its east; and
- (b) partly vacant and partly occupied by a vacant structure.

8.2 The surrounding areas are predominantly occupied by residential dwellings intermixed with some storage facilities, workshop and vehicle parks, some of which are suspected unauthorized developments subject to planning enforcement action.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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 New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Town Planning Board.

10. Comments from Relevant Government Departments

All departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

11. Public Comments Received During Statutory Publication Period

On 1.9.2023, the application was published for public inspection. During the statutory public inspection period, three public comments from individuals were received (**Appendices VI-1 to VI-3**). Two individuals object to the application mainly on the

grounds that the proposed use will increase traffic flow, cause hygiene problems and environmental nuisance, pose fire safety hazard to the villagers and adversely affect pedestrian safety and nearby residents' living quality. The other individual supports the application on the grounds that the proposed development would provide job opportunities for the locals, but expresses concerns on the operation hours of the eating place, hygiene problems, public order of the community and sufficiency of car parking spaces nearby.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary eating place for a period of three years at the Site zoned "V" on the OZP. Whilst the proposed use is not entirely in line with the planning intention of the "V" zone, the proposal could help meet the demand for eating place in the area. The District Lands Officer/Yuen Long, Lands Department advises that no Small House application has been approved/is under processing for the Site. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term planning intention of the "V" zone.
- 12.2 The proposed use is considered not incompatible with the surrounding land uses which are predominantly residential dwellings intermixed with some storage facilities, workshop and vehicle parks (**Plan A-2**).
- 12.3 The application is generally in line with the TPB PG-No. 15A in that the Site is located at the eastern fringe of Sik Kong Wai and accessible from Ping Ha Road. Concerned government departments including the Director of Food and Environmental Hygiene, Director of Environmental Protection, Commissioner for Transport, Director of Fire Services and Chief Engineer/Mainland North of Drainage Services Department have no objection to/ no adverse comment on the application. The proposed use would unlikely create significant adverse hygiene, environmental, traffic, fire safety and drainage impacts on the surrounding area. Furthermore, relevant approval conditions have been recommended in paragraph 13.2 below to address the technical requirements of the concerned departments. Should the application be approved, the applicant will also be advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental impacts on the surrounding areas.
- 12.4 There are three similar applications involving eating place use within the subject "V" zone approved by the Committee between 2019 and 2022. Approval of the current application is in line with the Committee's previous decisions.
- 12.5 Regarding the three public comment supporting/objecting to the application received during the statutory publication period as summarised in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.4 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the proposed temporary eating place for a period of three years.

- 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 three years until **13.10.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a revised 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 **13.4.2024**;
- (b) in relation to (a) above, the implementation of the revised 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 **13.7.2024**;
- (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 **13.4.2024**;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **13.7.2024**; and
- (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 condition (a), (b), (d) or (e) is not complied with by the above 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 proposed use is not in line planning intention of the "V" zone which is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion. There is no strong planning justification 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

Appendix I	Application Form received on 23.8.2023
Appendix Ia	SI received on 31.8.2023
Appendix Ib	FI received on 26.9.2023
Appendix II	Relevant extract of TPB PG-No. 15A
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendices VI-1 to VI-3	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	As-built Drainage Plan
Drawing A-3	Light Refreshment Restaurant Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**