

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KP/1

<u>Applicant</u>	: Mr. YEUNG Ping Sang
<u>Premises</u>	: G/F, Lot 156 in D.D. 65 and Adjoining Government Land (GL), Kuk Po Tsuen, Sha Tau Kok, New Territories
<u>Floor Area</u>	: About 59.9m ² (includes GL of about 23m ² or 38.3% of the Site Area)
<u>Lease</u>	: (i) Lot 156 in D.D. 65 – Old Schedule House Lot with no specific development restrictions (ii) GL
<u>Plan</u>	: Approved Kuk Po, Fung Hang and Yung Shue Au Outline Zoning Plan (OZP) No. S/NE-KP/2
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Eating Place

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed eating place on G/F of the application premises (the Premises) which falls within an area zoned “V” on the approved Kuk Po, Fung Hang and Yung Shue Au OZP (the OZP) (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’ use other than those located on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use within the “V” zone which requires planning permission from the Town Planning Board (the Board). The Premises is an Old Village House (OVH) and is not an NTEH. The Premises is currently used for residential purpose.
- 1.2 According to the applicant, the eating place with a gross floor area of about 59.9m², including kitchen, seating area, toilet and water closet. Four tables with 15 chairs will be provided in the eating place. The operation hours are from 10am to 6pm daily. This application receives policy support from Countryside Conservation Office (CCO) of Environment and Ecology Bureau (EEB) and is regarded as a “CCO Project”. The proposed layout plans submitted by the applicant are shown in **Drawings A-1 and A-2**.
- 1.3 In support of the application, the applicant has submitted the Application Form with attachments received on 16.8.2023 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**, as summarized below:

- (a) the application is in line with the Government's Policy initiatives of countryside conservation and revitalization as stated in 2017 Policy Address (PA) and 2020 PA Supplementary to support eco-tourism, better serve visitors and help revitalize desolate villages in remote countryside;
- (b) the application receives CCO's policy support and is regarded as a "CCO Project". Given that the Premises falls within the 92 remote villages identified by CCO in remote countryside area in the New Territories without direct access by public transport and only involves adaptive reuse of G/F for eating place in small scale, the proposed use would not cause significant adverse impacts on the surrounding environment; and
- (c) the Premises does not fall within Water Gathering Grounds (WGGs) and there is an existing septic tank catering for waste water and foul water discharge, adverse sewerage impact is not anticipated.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is one of the "current land owners" and 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 of other current land owners. Detailed information would be deposited at the meeting for Members' inspection. For the adjoining GL, the "owners' consent/notification" requirements as set out in the TPB PG-No. 31A are not applicable.

4. Town Planning Board Guidelines

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 this application. The relevant assessment criteria are at **Appendix II**.

5. Previous Application

There is no previous application at the Premises.

6. Similar Application

There is no similar application within the same "V" zone on the OZP.

7. The Premises and the Surrounding Areas (Plans A-1 to A-4b)

7.1 The Premises is:

- (a) located within the existing village cluster of Kuk Po Village which is a remote countryside village near Luk Keng;

- (b) on the G/F of an existing single-storey OVH building which is currently used for residential purpose; and
- (c) accessible via a local footpath.

7.2 The surrounding areas comprise a few 2 to 3-storey village houses to the northwest, marshland to the west and fallow agricultural land to the south.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized village 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 also intended to concentrate village type development within this zone for a more orderly 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 G/F of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Bureau and Departments

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

Countryside Conservation

9.1.1 Comments of Countryside Conservation Office, Environment and Ecology Bureau (CCO, EEB):

- (a) the application has been granted with policy support from the CCO;
- (b) the Premises was erected before the prevailing Building Ordinance (BO) (Application to the New Territories) Ordinance (Cap.121) enacted in 1987;
- (c) the Premises is low-rise and small size in nature with not more than three storeys, not more than 27 feet in height and not exceeding 700 sq.ft. in roofed-over area; and
- (d) The application will enable the adaptive reuse of the small scale village house to provide necessary catering service for visitors to the area and enable sustainable use of the house. The proposal would not cause significant adverse impacts to the surrounding environment.

Lands Administration

9.1.2 Comments of District Lands Office/North, Lands Department (DLO/N, LandsD):

- (a) the Premises comprises Lot No. 156 in D.D. 65 and adjoining unleased GL. Lot No. 156 in D.D. 65 is a house sold by Public Auction held in

1914. There is no restriction on the user of the lot for catering business. No right of access via GL is granted to the Premises;

- (b) no prior permission is given for inclusion of GL (about 23m²) for the eating place use. Any ancillary facilities (e.g. electricity meter box) are also accountable for built-over area for Short Term Tenancy (STT) application for the occupation of GL. Any occupation of GL by the applicant for the proposed temporary eating place should obtain policy support from CCO of EEB, subject to such terms and conditions to be imposed; and
- (c) the lot owner(s)/applicant will need to apply for a STT to cover the occupation of GL. The application will be considered by LandsD acting in the capacity of the landlord at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent and administrative fee, if charged, as may be imposed by LandsD;

Traffic

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

- (a) no comment on the application; and
- (b) the footpath adjacent to the Premises is not maintained by HyD.

Environment

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

- (a) no adverse comment on the application; and
- (b) the total gross floor area involved in the Premises is around 59.9m². As the Premises does not fall within the WGGs and currently not served by public sewers, septic tank and soakaway system (STS) will be acceptable interim measures for sewage treatment and disposal method. As committed by the applicant in the submission, the existing STS would either be certified as in good working order in terms of performance and capacity following to Environmental Protection Department's (EPD) third party certification system or confirmed as meeting the requirements set out in ProPECC PN 5/93 by Authorized Person.

Building Matters

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

- (a) no in-principle objection to the application;

- (b) there is no record of approval by the Building Authority for the Premises. Based on the information provided, the building has been in long existence since 1954;
- (c) the BO did not apply to the buildings in the New Territories before 1.1.1961. The building which was built before that date was exempted from the provision of the BO. In this connection, BD is not in a position to offer comments on their suitability for use related to the application; and
- (d) in accordance with the extant inter-departmental arrangement, BD would not offer comments on applications for the licensing of food business premises in New Territories village houses exempted by a certificate of exemption under Part III of the BO (Application to the New Territories) Ordinance (Cap. 121) or OVH built before the enactment of Cap. 121 in 1987. In processing such food business applications, Food and Environmental Hygiene Department would seek advice from LandsD on the suitability of the Premises.

Fire Safety

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

- no in-principle objection to the application subject to fire service installations (FSIs) proposal being provided to the satisfaction of his department.

Licensing Matters

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

- (a) no adverse comment on the application;
- (b) proper licence/permit issued by the Food and Environmental Hygiene Department (FEHD) is required if there are any food business/catering service/activities regulated by the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation. Under the Food Business Regulation (Cap. 132X), a food business licence is required for the operation of the relevant type of food business (e.g. a restaurant) listed in the Regulation;
- (c) depending on the mode of operation, there are generally several types of food business licence/permits that the operator of a store may apply for under the Food Business Regulation:
 - if food is sold to customers for consumption on the premises, a restaurant licence should be obtained;
 - if food is only prepared for sale for consumption off the premises, a food factory licence should be obtained;
 - if fresh, chilled or frozen meat is sold, a fresh provision shop licence should be obtained; and

- if milk, frozen confections, non-bottled drinks, cut fruit etc. are to be sold, relevant restricted food permits should be obtained.
- (d) the applicant submitted an application for General Restaurant Licence at G/F, Lot 156 in D.D.65, Kuk Po Tsuen, Sha Tau Kok, New Territories on 13.9.2022. In deciding the suitability of premises for use as a restaurant, his application has been referred to LandsD, Planning Department (PlanD), Fire Services Department (FSD), BD, EPD and Drainage Services Department (DSD) for comment under their purview. After obtaining full clearance from the departments concerned, FEHD will issue a letter of requirements for provisional licence, if applicable, and a letter of requirements for full licence to the applicant for compliance; and
- (e) the applicant of the related restaurant should take measures to prevent the existence of nuisance such as noise nuisance, pest nuisance and accumulation of refuse at the Premises. The refuse generated by the proposed eating place are regarded as trade refuse. The management or owner of the Premises is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity.

Nature Conservation

9.1.8 Comments of the Director of Agriculture (DAFC):

- (a) no comment on the application; and
- (b) the applicant is advised to adopt good practice to avoid adverse impact to the natural environment, in particular, the marsh to the west of the Premises.

District Officer's Comments

9.1.9 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The Indigenous Inhabitant Representative (IIR) of Kuk Po and the Chairman of Lung Shan Area Committee support the application; and
- (b) the Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Councilor of N16 Constituency and the IIR of Kuk Po have no comment.

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

- (a) Chief Engineer/Harbour Area Treatment Scheme, Drainage Service Department (CE/HATS, DSD);
- (b) Commissioner for Transport (C for T);
- (c) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 25.8.2023, the application was published for public inspection. During the statutory public inspection period, a total of three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. World Wide Fund For Nature Hong Kong and Kadoorie Farm & Botanic Garden Corporation raise concerns on the application as there is no planned drainage system and public sewerage system in Kuk Po and it may cause pollution problem; the existing facilities in the area may not able to support the high number of visitors during weekends and public holidays; and drainage impact assessment and sewerage impact assessment should be required for the application.

11. Planning Considerations and Assessments

- 11.1 The applicant seeks planning permission for proposed eating place at the Premises falling within the “V” zone. The planning intention of the “V” zone is set out in paragraph 8 above. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the G/F of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. The application is a “CCO Project” supported by CCO of EEB as the proposed eating place at the Premises could facilitate and support eco-tourism, better serve visitors and revitalize desolate villages in remote countryside as promulgated in the 2017 and 2020 PAs. Given that the Premises falls within the 92 remote villages identified by CCO of EEB in remote countryside area in the New Territories without direct access by public transport and only involves adaptive reuse of the G/F for eating place in small scale, significant adverse impacts to the surrounding environment is not anticipated. The proposed eating place at the Premises would help serve the needs of the local villagers and in support of the village development.
- 11.2 The proposed eating place is generally in line with the planning criteria set out in TPB PG-No. 15A in that the eating place would not have any adverse impacts on traffic, drainage, sewerage disposal or fire safety perspective; and could provide catering facilities to serve the visitors and tourists. Although it is situated amidst existing village houses, DO(N) of HAD advises that there is no objection from the local residents. Favourable consideration should be given to the application.
- 11.3 The Premises is not a NTEH, DLO/N, LandsD has no objection to the application. As regards the occupation of GL within the Premises, the applicant would rectify the issue with the Lands Authority upon obtaining the planning permission. Relevant government departments, including C of T, D of FS, CE/C of WSD, DEP and DFEH etc. have no adverse comment on/no objection to the application.

- 11.4 Regarding the public comments on the application as detailed in paragraph 10 above, government bureau and departments' comments and planning assessments 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 in paragraph 10 above, PlanD 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 until 13.10.2027 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 submission and implementation of a fire services installation proposal to the satisfaction of Director of Fire Services or of the Town Planning Board.

Advisory Clauses

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

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

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 date when the validity of the permission should expire.
- 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 received on 16.8.2023
Appendix II	Town Planning Board Guideline for 'Application for Eating Place within "Village Type Development" Zone in Rural Areas under Section 16 of the Town Planning Ordinance' (TPB PG-No. 15A)
Appendix III	Recommended Advisory Clauses
Appendix IV	Public Comments
Drawing A-1	Proposed Layout Plan 1
Drawing A-2	Proposed Layout Plan 2
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plans A-4a to 4b Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**