

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/772

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| <u>Applicant</u> | Ms. LEUNG Shuk Kuen, Sylvia represented by Eddie Consultancy Limited |
| <u>Site</u> | Government Land (GL) Adjoining to Lot 2471 in D.D. 19, G/F, 4C Fong Ma Po, Lam Tsuen, Tai Po, New Territories |
| <u>Site Area</u> | About 12.25m ² |
| <u>Land Status</u> | GL |
| <u>Plan</u> | Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11 |
| <u>Zoning</u> | “Village Type Development” (“V”) |
| <u>Application</u> | Temporary Eating Place (Outside Seating Accommodation (OSA) of a Restaurant) for a Period of 3 Years |

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary eating place (OSA of a restaurant) for a period of 3 years at the application site (the Site). The Site falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP, while ‘Eating Place’ use on the ground floor of a New Territories Exempted House (NTEH) within the “V” zone does not require planning permission, such use on open ground (i.e. OSA) as an extension to a ground floor eating place in an NTEH requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is accessible via Lam Tsuen Heung Kung Sho Road (**Plan A-2**). According to the applicant, the applied use is an extension of an existing restaurant on the ground floor of the adjoining NTEH. The OSA under application has an area of about 12.25m² to accommodate six tables for 12 persons. No parking facilities will be provided within the Site. The operating hours of the OSA are proposed from 11:00 a.m. to 11:00 p.m. daily. The layout plan of the OSA is shown in **Drawing A-1**.
- 1.3 The Site is part of the subject of a previous application No. A/NE-LT/684 submitted by the same applicant for the same use, which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on

9.10.2020 for a period of three years. All time-limited approval conditions under the previous application have been complied with and the planning permission already lapsed. Details of the previous application are set out in paragraph 5 below. Compared with the previous application, the site area of the OSA under the current application has been reduced.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 31.7.2024 (**Appendix I**)
 - (b) Further information (FI) received on 28.8.2024[^] (**Appendix Ia**)
 - (c) FI received on 5.11.2024[^] (**Appendix Ib**)
 - (d) FI received on 17.2.2025[^] (**Appendix Ic**)
[^] accepted and exempted from publication and recounting requirements
- 1.5 On 20.9.2024 and 20.12.2024, the Committee of the Board agreed to the applicant's request to defer making a decision on the application each for a period of two months.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I, Ia, Ib, and Ic**, as summarised below:

- (a) the Site is the subject of previous planning application No. A/NE-LT/684 approved by the Committee for the same use, and it was lapsed as the applicant failed to apply for renewal of planning approval timely;
- (b) the OSA under application will only provide additional seating for the adjoining restaurant;
- (c) the OSA under application will comply with regulations of relevant government departments. It will not generate any noise, odour and dust, and there will be no significant adverse impacts on environmental, traffic, drainage, sewerage and landscape to the surrounding area. Fire service installations have already been implemented;
- (d) the site area has been reduced so as to increase the width of the passageway; and
- (e) appropriate measures (e.g. display of signage notice for alerting not to pollute water gathering ground (WGG)) will be implemented.

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

As the Site involves GL only, the "owner's consent/notification" 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. 31B) are not applicable to the application.

4. Background

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

5. Town Planning Board Guidelines

The Town Planning Board Guidelines 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) is relevant to the application. The relevant planning criteria are summarised in **Appendix II**.

6. Previous Application

6.1 The Site is part of the subject of a previous application No. A/NE-LT/684 submitted by the same applicant for the same use. The previous application was approved by the Committee on 9.10.2020 mainly on the considerations that the applied use would not frustrate the long-term planning intention of the “V” zone; not be incompatible with the immediate surrounding uses; there were no adverse comments from concerned departments; and the application was considered in line with TPB PG-No. 15A. All time-limited approval conditions under the previous application have been complied with and the permission lapsed on 10.10.2023. Compared with the previous application, the site area of the subject application has been reduced from 18.4m² to 12.25m².

6.2 Details of the previous application are summarised at **Appendix III** and its location is shown on **Plans A-1** and **A-2a**.

7. Similar Applications

7.1 There are three similar applications (No. A/NE-LT/332, 581 and 608) for temporary OSA within the same “V” zone (**Plan A-1**), which were all approved with conditions by the Committee for a period of three years between 2005 to 2017 mainly on similar considerations as mentioned in paragraph 6.1 above. However, the planning permissions of two applications (No. A/NE-LT/581 and 608) covering the same site were revoked in 2017 and 2019 respectively due to non-compliance with approval conditions on sewerage connection proposal/drainage proposal.

7.2 Details of the applications are at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently used as OSA for the adjoining restaurant on the ground floor of village house No. 4C at Fong Ma Po without valid planning permission;
- (b) located at the north-eastern fringe of Fong Ma Po Village; and
- (c) abutting Lam Tsuen Heung Kung Sho Road.

8.2 The surrounding areas are mainly occupied by village houses. The Lam Tsuen Wishing Square, which is a popular tourist attraction, is located to the immediate northeast (about 20m) of the Site. There are also restaurants located on the ground floor of village houses in the vicinity.

9. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. 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.

10. Comments from Relevant Government Departments

All government 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 Clause are provided in **Appendices V** and **VI** respectively:

11. Public Comments Received During Statutory Publication Period (Appendix VII)

On 9.8.2024, the application was published for public inspection. During the statutory public inspection period, four public comments were received from individuals objecting to the application mainly on the grounds that the applied use would create adverse hygienic issues, induce traffic impact and narrow the pedestrian walkway.

12. Planning Considerations and Assessments

12.1 The application is for temporary eating place of an OSA at the Site zoned “V” on the OZP, which is adjoining an existing restaurant on the ground floor of a village house at No. 4C Fong Ma Po. The applied use is not in line with the planning intention of the “V” zone, which is primarily intended for development of Small Houses by indigenous villagers. Nevertheless, the

applied use could serve the local residents and visitors to Lam Tsuen Wishing Tree Square in the vicinity. As advised by the District Lands Officer/Tai Po, Lands Department, there is no Small House application received at the Site and he has no objection to the application. Taking into account the planning assessments below, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.

- 12.2 Given its small scale of operation with an area of about 12.25m², the applied use is considered not incompatible with its immediate surrounding area which mainly comprises village houses and some of their ground floors have been used as restaurants. The OSA would not block pedestrian flow as the existing pedestrian circulation area between the Site and Lam Tsuen Heung Kung Sho Road is about 5m in width, and there is an existing pedestrian walkway to the opposite side. Also, the site area of the current application has been reduced as compared to the previously approved application to allow pedestrian passage.
- 12.3 The Site is located within the upper indirect WGG. The Director of Environmental Protection (DEP) and Chief Engineer/Construction, Water Supplies Department have no objection to the application. According to DEP, there was no environmental complaint received related to the Site in the past three years. Other government departments concerned, including the Director of Food and Environmental Hygiene, Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services, have no objection to/adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 below. Besides, the applicant will be advised to meet the statutory requirements under relevant pollution control ordinances to avoid causing adverse environmental impacts to the surrounding, and to carry out pollution abatement measures in relevant guidelines, including General Environmental Guidelines for Outside Seating Accommodation, Control of Oily Fume and Cooking Odour from Restaurants and Food Business, and Professional Persons Environmental Consultative Committee Practice Note (ProPECC PN) 1/23, to avoid creating any nuisance. In view of the above, the OSA is generally in line with the TPB PG-No. 15A for eating place within the “V” zone.
- 12.4 The Site is part of the subject of a previous application No. A/NE-LT/684 submitted by the same applicant for the same use. It was approved by the Committee in 2020 mainly on the considerations as detailed in paragraph 6.1 above. All time-limited approval conditions under the previous application have been complied with. There are also three approved similar applications for temporary OSA within the same “V” zone as mentioned in paragraph 7.1 above. Approval of this application is generally in line with the Committee’s previous decisions.
- 12.5 Regarding the public comments objecting to the application as mentioned in paragraph 11, the government departments’ comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 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 3 years until 28.3.2028. The following approval conditions 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 28.9.2025;
- (b) in relation to condition (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 28.12.2025;
- (c) the implementation of preventive, control and mitigation measures identified in the accepted risk assessment report on pollution or contamination to the water gathering ground within 9 months from the date of the planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 28.12.2025;
- (d) the development should not cause any water pollution to the upper indirect water gathering ground at any time during the planning approval period;
- (e) the submission of a fire service installations (FSIs) and water supplies for fire fighting proposal within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.9.2025;
- (f) in relation to condition (e) above, the implementation of the FSIs and water supplies for fire fighting 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 28.12.2025;
- (g) if the above planning condition (d) 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
- (h) if any of the above planning conditions (a), (b), (c), (e) or (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.

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 applied use is not in line with the planning intention of the "Village Type Development" ("V") zone which is primarily for development of Small Houses by indigenous villagers. 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 conditions and advisory clauses, 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

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| Appendix I | Application Form and Attachment received on 31.7.2024 |
| Appendix Ia | FI received on 28.8.2024 |
| Appendix Ib | FI received on 5.11.2024 |
| Appendix Ic | FI received on 17.2.2025 |
| Appendix II | Relevant Extract of TPB Guidelines No. 15A for Application for Eating Place within "Village Type Development" zone in Rural Areas under section 16 of the Town Planning Ordinance |
| Appendix III | Previous Application |
| Appendix IV | Similar Applications |
| Appendix V | Government Departments' General Comments |
| Appendix VI | Recommended Advisory Clauses |
| Appendix VII | Public Comments |
| Drawing A-1 | Layout Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |