

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MTL/7

Applicant : Mr. LAM Tung Leung represented by Office for Fine Architecture Limited

Site : Lot 1295 (Part) in D.D. 96, Ma Tso Lung, New Territories

Site Area : 375.72 m²

Land Status : Block Government Lease (demised for agricultural use)

Plan : Approved Ma Tso Lung and Hoo Hok Wai Outline Zoning Plan (OZP) No. S/NE-MTL/3

Zoning : “Agriculture” (“AGR”)

Application : Proposed Temporary Eating Place for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary eating place for a period of 3 years at the application site (the Site) which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZP. The Site is currently used as part of a private garden.
- 1.2 According to the applicant, the proposed development involves one single-storey structure of 2.6m and a total floor area of 74.42m² for kitchen, bar and dining area (**Drawing A-1**). According to the interior layout plan at **Drawing A-2**, the proposed temporary eating place will provide seven dining tables and one bar table. It is anticipated that a maximum of 34 visitors could be served at the same time. The operation hours are from 7:00 a.m. to 10:00 p.m. daily. The Site is accessible via Ma Tso Lung Road (**Plan A-2**). No car parking and loading/unloading space will be provided within the Site. There is no information in the submission on the sewage treatment. The proposed layout plan and interior floor plan submitted by the applicant is at **Drawings A-1** and **A-2**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- | | |
|---|------------------------|
| (a) Application Form with Attachments received on 19.4.2022 | (Appendix I) |
| (b) Supplementary Planning Statement (SPS) | (Appendix Ia) |
| (c) Further Information (FI) received on 19.5.2022 | (Appendix Ib) |

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the SPS at **Appendix Ia**, and as summarized below:

- (a) there is no proper restaurant in the vicinity and the proposal will provide eating facility for the convenience of visitors;
- (b) the proposed development can attract more visitors to the rural areas and encourage the public to access nature;
- (c) the proposed development is in line with the “Northern Metropolis Development Strategy” as more visitors will be attracted to Ma Tso Lung area under the Strategy;
- (d) the proposed development is not incompatible with the surrounding land uses and rural environment; and
- (e) the proposed use will not generate heavy traffic, and the expected vehicular traffic and pedestrian flow generated by the visitors will be minimal. Visitors are recommended to visit the Site by bicycles. As such, no car parking space or loading/unloading space is required.

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 the Sheung Shui District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Developments within Deep bay Area under Section 16 of the Town Planning Board Ordinance” (TPB PG-No. 12C) is relevant to this application. According to TPB PG-No. 12C, the Site falls entirely within the Wetland Buffer Area (WBA) (**Plan A-1**). Relevant extracts of the Guidelines are at **Appendix II**.

5. Previous Application

There is no previous application for the Site.

6. Similar Application

There is no similar application for the proposed use within the “AGR” zone on the Ma Tso Lung and Hoo Hok Wai OZP in the past five years.

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

7.1 The Site is:

- (a) currently used as part of a private garden and partly covered with grass; and
- (b) accessible via Ma Tso Lung Road (**Plan A-2**).

7.2 The surrounding areas are predominately rural in nature, and intermixed with village houses/domestic structures, fallow/active agricultural land, vacant land, fish ponds and woodland. A stream is running to the west of the Site (Plan A-2**).**

8. Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraph 9.2 below, other 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 Clauses are provided in **Appendices III** and **IV** respectively.

9.2 The following government departments have the following comments on the application.

Traffic

9.2.1 Comments of the Commissioner for Transport (C for T):

- (a) he has reservation on the application from traffic engineering perspective as the applicant fails (i) to justify the non-provision of parking and loading/unloading space; (ii) to demonstrate the width of the vehicular access and the satisfactory manoeuvring of vehicles entering to, existing from and within the Site, preferably using swept path analysis; and (iii) to advise the management/control measures to be implemented to ensure no queueing of vehicles outside the Site;
- (b) the vehicular access should be no less than 7.3m; and
- (c) the vehicular access between the Site and Ma Tso Lung Road (section beyond Lo Wu Range) is not managed by Transport Department.

Landscape

9.2.2 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) she has some reservations on the application from landscape planning perspective;

- (b) the Site is mainly covered with grass, and trees/palms of common species are observed at the periphery of the Site. Significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated; and
- (c) the Site is located in an area of miscellaneous rural fringe landscapes character comprising village houses, woodland within the “GB” zone and fish ponds in the further northwest within the “CA (1)” zone (**Plan A-2**). No similar application was approved by the Board in the vicinity of the Site within the same “AGR” zone. The proposed use is considered not compatible with the tranquil landscape character surrounding the Site. Approval of the application may further alter the landscape character of the surrounding environment.

Agriculture and Nature Conservation

9.2.3 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

Agriculture

- (a) he does not support the application from agricultural point of view;
- (b) agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water sources are available. The Site possesses potential for agricultural rehabilitation and can be used for other agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc; and

Nature Conservation

- (c) he has reservation on the application from nature conservation point of view;
- (d) the Site is primarily a lawn area with common trees on its periphery. The Site falls within the WBA and is near to a large clusters of wetlands in Hoo Hok Wai area being designated as Wetland Conservation Area (WCA) (**Plan A-1**). A semi-natural stream with common fauna and flora species is located to the west of the Site; and
- (e) while the applicant claims that the proposed use is to soothe the needs for restaurant resulted from an increasing trend of visitors going to Ma Tso Lung, there is no information on the maximum number of visitors to be accommodated by the proposed development, the measures to minimize disturbances by the visitors to the more sensitive habitats in the vicinity of the Site, and how the resulted sewage will be treated. There is concern that the proposed development may cause disturbance to the sensitive habitats in the vicinity and increase the pollution load to Deep Bay Area.

10. Public Comments Received During Statutory Publication Period

- 10.1 On 26.4.2022, the application was published for public inspection. During the statutory public inspection period, a total of 30 public comments were received (**Appendix V**). Among them, 25 are supporting comments, 4 are objecting comments and one indicates no comment.
- 10.2 Twenty five individuals support the application mainly on consideration that the proposed development could provide eating facility for the convenience of visitors and to cater for the demand of proper restaurants in the vicinity; as a resting place for visitors travelling into the area; and could provide more opportunities for the public to access nature. The other four objecting comments are submitted by the Kadoorie Farm and Botanic Garden Corporation, The Conservancy Association, and two individuals mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; lack of impact assessments and strong justifications on environmental, sewage, drainage, hygiene, light, noise and traffic aspects; not comply with the “no-net-loss in wetland” principle under the TPB PG-No. 12C.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary eating place for a period of 3 years at the Site zoned “AGR” on the OZP. The planning intention of the “AGR” zone is set out in paragraph 8 above. DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation. The proposed development is considered not in line with the planning intention of the “AGR” zone. There is no strong planning justification in the submission for a departure from the planning intention of the “AGR” zone, even on a temporary basis.
- 11.2 The Site is located near a large piece of wetland in Hoo Hok Wai area (**Plan A-1**). According to TPB PG-No. 12C, the Site falls entirely within the WBA. DAFC considers that the proposed development may cause disturbances to the surrounding sensitive habitats as the applicant fails to satisfactorily address the concerns regarding the operation of the proposed development, including how the resulted sewage will be treated. There is insufficient information in the application to demonstrate that the proposed development would not increase the pollution load to Deep Bay Area.
- 11.3 The Site is situated in an area of miscellaneous rural landscape character. Trees of common species are observed along the periphery of the Site. While CTP/UD&L, PlanD advises that significant impact on the landscape resources arising from the proposed development is not anticipated, she has some reservations on the application from landscape planning point of view as the proposed development is considered not compatible with the landscape character of the surrounding environment. Approval of the application may further alter the landscape character of the area.
- 11.4 C for T has reservation on the application from traffic engineering perspective as the applicant fails to provide information in terms of the parking provision, vehicular access, traffic management, etc, to demonstrate that the proposed use will not generate adverse traffic impacts to the surrounding areas. Other relevant departments consulted, including D of FS, CE/MN of DSD and DEP, etc. have no adverse comment on/no objection to the application.
- 11.5 Regarding the public comments on the application as detailed in paragraph 10 above, government departments’ comments and planning assessments above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and taking into account the public comments in paragraph 10 above, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intentions of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate in the submission that the proposed development would not have adverse traffic, landscape and ecological impacts on the surrounding areas.

12.2 Alternatively, 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 10.6.2025. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 10:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the submission of an ecological mitigation proposal of the proposed development before commencement of works to the satisfaction of the Director of Agriculture, Fisheries and Conservation Department or of the Town Planning Board;
- (c) in relation to (b) above, the implementation of the ecological mitigation proposal of the proposed development before commencement of works to the satisfaction of the Director of Agriculture, Fisheries and Conservation Department or of the Town Planning Board;
- (d) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.12.2022;
- (e) in relation to (d) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.3.2023;
- (f) the submission of proposals for water supplies for fire-fighting and fire service installations 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 10.12.2022;
- (g) in relation to (f) above, the implementation of proposals for water supplies for fire-fighting and fire service installations 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 10.3.2023;

- (h) the submission of traffic management proposal within 6 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by 10.12.2022;
- (i) in relation to (h) above, the implementation of the traffic management proposal within 9 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by 10.3.2023;
- (j) if the above planning condition (a) 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;
- (k) if any of the above planning condition (b) or (c) is not complied with before commencement of works, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if any of the above planning condition (d), (e), (f), (g), (h) or (i) 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**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application Form received on 19.4.2022
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Further Information received on 19.5.2022
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Interior Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2022**