

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/701

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| <u>Applicant</u> | : Mr. Timothy WONG Yik represented by Toco Planning Consultants Limited |
| <u>Site</u> | : Government Land (GL) Adjoining Lot 2060 in D.D. 6, No. 105 Kam Shek New Village, Tai Po |
| <u>Site Area</u> | : About 38.5m ² |
| <u>Land Status</u> | : GL |
| <u>Plan</u> | : Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/30 |
| <u>Zoning</u> | : “Village Type Development” (“V”) |
| <u>Application</u> | : Temporary Eating Place (Extension of a Restaurant) for a Period of 3 Years |

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary eating place (extension of an existing restaurant located on ground floor of a village house at No. 105 Kam Shek New Village) for a period of three years at the application site (the Site), which falls within an area zoned “V” on the OZP (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘Eating Place’ other than on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use within the “V” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission.
- 1.2 The Site is accessible via internal circulation area of Kam Shek New Village and a footpath leading from Wilson Trail. It is with an area of about 38.5m² and occupied by a single-storey structure with a height of about 2.9m. According to the applicant, the extension of the restaurant will accommodate a maximum of 20 persons. The operating hours are from 7:00 a.m. to 9:30 p.m. daily. No cooking facilities will be provided within the extension. The applied use will be served by existing stormwater drain, public sewers and firefighting facilities. Site plan, site photos, pedestrian circulation plan and layout plan of the applied use submitted by the applicant are at **Drawings A-1 to A-4** respectively.

- 1.3 The Site is the subject of three previous applications (No. A/TP/619, 649 and 679). The former two submitted by a different applicant for temporary eating place (outdoor seating accommodation (OSA) of a restaurant) were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 17.2.2017 and 16.11.2018 respectively; and the latter submitted by the same applicant for the same use as current application was approved with conditions by the Committee on 24.12.2021. Details of the previous applications are set out in paragraph 5 below.
- 1.4 As compared with the last previous application (No. A/TP/679), this application involves increase in site area (+4.1m²), non-domestic gross floor area (+4.1m²) and building height (BH) (+0.1m) to rectify development parameters upon detailed checking by Lands Department (LandsD).
- 1.5 In support of the application, the applicant has submitted an application form with the planning statement (**Appendices I and Ia**) received on 11.11.2024.

2. Justifications from the Applicant

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

- (a) the applied use will support the adjoining restaurant as a popular eating place in Kam Shek New Village to serve the local residents;
- (b) there is no change in the scale, nature of use and operation except provision of gutter along the top edge for drainage purpose as compared with the last previous planning permission under application No. A/TP/679. This application, involving slight increase in site area (+4.1m²) and BH (+0.1m), is primarily to rectify development parameters upon detailed checking by LandsD during processing of the short term tenancy (STT) application;
- (c) the temporary nature of the application will not jeopardise the long-term planning intention of the “V” zone;
- (d) the applied use will not affect pedestrian circulation in the area. The small-scale development will not result in significant traffic, environmental, drainage, sewerage and visual impacts on the locality. As such, the applied use is in line with the relevant Town Planning Board Guidelines for eating place within “V” zone;
- (e) all approval conditions imposed under the previous planning permission for the same use (Application No. A/TP/679) were complied with; and
- (f) the applied use will not set an undesirable precedent for similar applications.

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

As the Site involves GL only, 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 Ordinance (TPB PG-No. 31B) are not applicable to the application.

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) is relevant to the application. The relevant planning criteria are summarised at **Appendix II**.

5. Previous Applications

- 5.1 The Site is the subject of three previous applications (No. A/TP/619, 649 and 679) with the former two submitted by a different applicant for temporary OSA and the latter submitted by the same applicant for the same use as current application for temporary restaurant extension all for a period of three years.
- 5.2 Applications for the temporary OSA (No. A/TP/619 and 649) were approved with conditions by the Committee on 17.2.2017 and 16.11.2018 respectively. The planning permission under Application No. A/TP/619 was revoked on 17.2.2018 due to non-compliance with the time-limited approval condition to provide fire service installations (FSIs) and water supplies for fire-fighting. For application No. A/TP/649, all approval conditions have been complied with and the planning permission expired on 17.11.2021.
- 5.3 The last previous application (No. A/TP/679) for temporary restaurant extension was approved with conditions by the Committee on 24.12.2021. All approval conditions have been complied with and the planning permission expired on 25.12.2024.
- 5.4 The three previous applications were approved mainly on considerations that they would not frustrate the long-term planning intention of the “V” zone; not affect the land availability for village type development; not affect the pedestrian circulation; and not result in adverse traffic, drainage, sewerage and fire safety impacts on the surrounding areas.
- 5.5 Details of the previous applications are summarised at **Appendix III** and their location are shown on **Plan A-2**.

6. Similar Application

There is no similar application for temporary eating place within the same “V” zone.

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

- 7.1 The Site is:

- (a) currently occupied by a single-storey structure serving as an extension of the adjoining restaurant located on the ground floor of a village house at No. 105 Kam Shek New Village, i.e. the applied use without valid planning permission;
- (b) situated at the northern fringe of Kam Shek New Village; and
- (c) accessible via internal circulation area of Kam Shek New Village and a footpath (1.5m to 2m in width) leading from Wilson Trail.

7.2 The surrounding areas have a suburban character mainly comprising village houses, playground and landscaped areas. Kam Shek New Village Playground is located to the immediate west of the Site and Lam Tsuen River is located to the north.

8. 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. 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

All government departments consulted have no objection to or no comment on the application. Their general comments on the application and advisory comments in recommended advisory clauses are provided at **Appendices IV** and **V** respectively.

10. Public Comments Received During Statutory Publication Period

On 15.11.2024, the application was published for public inspection. During the statutory public inspection period, a total of 46 public comments from individuals were received to support the application mainly on the grounds that the restaurant is a popular and convenient eating place in the neighbourhood; the extension meets the need to accommodate more customers; it will not cause adverse impacts on the surrounding areas or obstruction to pedestrian circulation owing to its small scale; it will not set undesirable precedent for similar applications owing to its temporary nature; and the scale of applied restaurant extension remains the same as the status quo (**Appendix VI**).

11. Planning Considerations and Assessments

11.1 The application is for temporary eating place (extension of a restaurant) for a period of three years at the Site zoned “V” on the OZP. The applied use is not entirely in line with the planning intention of the “V” zone which is primarily

intended for development of NTEH/Small Houses by indigenous villagers. However, District Lands Officer/Tai Po, LandsD advises that there is at present no Small House application received for the Site. The applied use on a temporary basis for a period of three years would neither frustrate the long-term planning intention of the subject “V” zone nor adversely affect the land availability for village type development.

- 11.2 The Site is located at the northern fringe of Kam Shek New Village surrounded by village houses, playground and landscaped area. Given that the Site with an area of about 38.5m² and the single-storey structure with a height of about 2.9m is relatively small in scale, the extension of the restaurant is considered not incompatible with its immediate surrounding uses. As the existing footpath between the Site and the planter to its north is about 1.5m to 2m in width, adverse impact on pedestrian circulation is not anticipated (**Drawing A-2** and **Plan A-4**).
- 11.3 The Director of Environmental Protection has no objection to the application from environmental planning perspective, and advises that actions had been taken by the subject operator to rectify wastewater discharge in response to an environmental complaint received in 2022. Since then, no substantiated environmental complaints have been received related to the use at the Site. Other relevant government departments consulted, including the Commissioner for Transport, Director of Food and Environmental Hygiene, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services, have no objection to or adverse comment on the application. It is anticipated that the applied use will not cause significant adverse traffic, drainage, sewerage and fire safety impacts on the surrounding areas. In view of the above, the applied use is generally in line with the TPB PG-No. 15A. Sympathetic consideration should be given to the current application.
- 11.4 The Site is the subject of three previously approved applications for temporary OSA (No. A/TP/619 and 649) and extension of the restaurant (No. A/TP/679). These applications were approved mainly on considerations that they would not frustrate the long-term planning intention of “V” zone; not affect the land availability for village type development; and not result in adverse traffic, drainage, sewerage and fire safety impacts on the surrounding areas. The planning circumstances of the current application are similar to the previously approved applications. As such, approval of the current application is in line with the Committee’s previous decisions.
- 11.5 There are 46 supporting public comments and no objecting comment received on the application.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department 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 on a temporary basis for a period of three years until

10.1.2028. The recommended advisory clauses are attached at **Appendix V** for Member's reference.

12.3 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 "V" zone, which 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. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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 period of which the permission should be valid on a temporary basis.

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

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| Appendix I | Application form received on 11.11.2024 |
| Appendix Ia | Planning statement |
| Appendix II | Extracts of TPB PG-No. 15A |
| Appendix III | Previous applications |
| Appendix IV | Government department's general comments |
| Appendix V | Recommended advisory clauses |
| Appendix VI | Public comments |
| Drawing A-1 | Site plan submitted by the applicant |
| Drawing A-2 | Site photos submitted by the applicant |
| Drawing A-3 | Pedestrian circulation plan submitted by the applicant |
| Drawing A-4 | Layout plan submitted by the applicant |
| Plan A-1 | Location plan |
| Plan A-2 | Site plan |
| Plan A-3 | Aerial photo |
| Plan A-4 | Site photos |