

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1079

<u>Applicant</u>	: Brilliant Man Limited 生活創富有限公司
<u>Site</u>	: Government Land (GL) in D.D. 109, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 26.65m ²
<u>Land Status</u>	: GL
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<u>Zoning</u>	: “Village Type Development” (“V”) [restricted to maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Temporary Eating Place (Outside Seating Accommodation (OSA) of a Restaurant) for a Period of three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary eating place (OSA of a restaurant) for a period of three years at the application site (the Site), which falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’ (being not on the ground floor of a New Territories Exempted House (NTEH)) is a Column 2 use in the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and partly used for parking of vehicle (**Plans A-2 and A-4**).
- 1.2 The Site abuts and is accessible from Kam Tin Shi Street (**Plans A-2 and A-3**). According to the applicant, the proposed use will serve an extension of a proposed restaurant on the ground floor of the adjoining village house at Lot 2190 in D.D. 109 to the immediate north of the Site (i.e. No. 18A Kam Tin Shi) and it will provide about 12 outdoor seats at the Site. Boundary fencing with height of not more than 1.2m will be provided. No parking space will be provided. The proposed operation hours will be from 10:00 a.m. to 7:00 p.m. daily, including public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on (Appendix I)
2.1.2025
- (b) Further Information (FI) received on 13.2.2025* (Appendix Ia)
** accepted and exempted from publication and recounting requirements*

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 Ia**, and can be summarised as follows:

- (a) The applicant proposes to operate a restaurant on the ground floor of the village house at No.18A Kam Tin Shi adjoining the Site on its north. The proposed use at the Site can facilitate the operation of the proposed restaurant and improve the environment.
- (b) The proposed use is intended to serve the villagers nearby. It will not induce nuisances to the neighborhood.

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. **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 extract of the Guidelines is at **Appendix II**.

5. **Background**

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

6. **Previous Application**

There is no previous application at the Site.

7. **Similar Applications**

- 7.1 There are two similar applications (No. A/YL-KTN/717 and 865) for temporary eating place with public vehicle park or shop and services within “V” zones in the vicinity of the Site in the past five years. The applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in December 2020 and 2022 respectively mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding land uses; the relevant government departments consulted generally had no adverse comments or the concerns could be addressed by approval conditions; and the application was in line with TPB PG-No. 15A. The planning permissions were subsequently revoked in March 2023 and 2024 respectively due to non-compliance with approval conditions.
- 7.2 Details of the similar applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) currently vacant and partly used for parking of vehicle ; and
 - (b) abutting and accessible from Kam Tin Shi Street.
- 8.2 The surrounding areas are rural in character with an intermix of village settlements, school, vehicle service workshop and grassland. To the immediate north of the Site is an existing NTEH and to the immediate south is Kam Tin Shi Children’s Playground.

9. **Planning Intention**

The planning intention of the “V” zone is to reflect existing recognised 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.

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 Clauses, if any, are provided in **Appendices IV** and **V** respectively.

11. Public Comment Received During Statutory Publication Period

On 10.1.2025, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application on the grounds of noise and environmental impacts and nuisances to the residents and children's playground nearby (**Appendix VI**).

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary eating place (OSA of a restaurant) for a period of three years at the Site zoned "V" (**Plan A-1**). Whilst the proposed use is not entirely in line with the planning intention of the "V" zone, the applicant indicates that the proposed use is intended to serve the villagers nearby. According to the District Lands Officer/Yuen Long, Lands Department, there is no Small House application approved or under processing within the Site. The proposed use of temporary nature would not adversely affect the land availability for NTEH/Small House development within the "V" zone in the long term. It is considered that approval of the application on a temporary basis for three years would not frustrate 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 rural in character with an intermix of village settlements, school and vehicle service workshop. With a limited site area of only about 26.65m² involving about 12 seats, the proposed use is small in scale and significant adverse environmental, traffic and drainage impacts on the surrounding areas are not anticipated. Relevant government departments consulted, including the Director of Environmental Protection, Commissioner for Transport, Chief Engineer/ Mainland North of Drainage Services Department, Director of Food and Environmental Hygiene and Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance caused by the proposed use. In view of the above, the proposed OSA is considered generally in line with TPB PG-No. 15A.

12.3 There are two approved similar applications involving temporary eating place within "V" zones in the vicinity of the Site as mentioned in paragraph 7.1 above. Approving the current application is in line with the Committee's previous decisions.

12.4 Regarding the public comment as mentioned in paragraph 11, the departmental comments and planning assessments above are relevant.

13. **Planning Department's View**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, PlanD 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 three years until 28.2.2028. The following conditions of approval 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 planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.8.2025;
- (b) in relation to (a) above, the implementation of the drainage proposal 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 28.11.2025;
- (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 28.8.2025;
- (e) in relation to (d) above, the implementation of the fire service installations proposal 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 28.11.2025;
- (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 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 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 with the planning intention of the "V" zone, which is to reflect existing recognised 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 given 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 with attachments received on 2.1.2025
Appendix Ia	FI received on 13.2.2025
Appendix II	Relevant extract of TPB PG-No. 15A
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Site layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2025**