

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/865

<u>Applicant</u>	:	Ms. CHAN Yeung Fai represented by Allgain Land Administrators (Hong Kong) Limited
<u>Site</u>	:	Lot 244 S.G in D.D. 109, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 165m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	:	“Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	:	Proposed Temporary Eating Place and Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary eating place and shop and services for a period of three years. The Site falls within an area zoned “V” on the Kam Tin North OZP (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’ and ‘Shop and Services’ are Column 2 uses within the “V” zone, which require planning permission from the Town Planning Board (the Board). The Site is paved and used for parking of vehicles without planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of one 2-storey structure (with building height of about 7m and floor area of about 200m²) for provision of a social enterprise café on the lower level and a retail shop (such as store, convenience store, pet grooming services, beauty parlour, medical consulting room, etc.) for providing cash subsidies to support the former at the Site to serve the neighbourhood. The operation hours for the proposed uses will be between 9:00 a.m. and 8:00 p.m. daily, including public holidays. The Site is

accessible from Kam Tin Shi Street. No parking and loading/unloading space will be provided at the Site. 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 supplementary information (Appendix I)
received on 31.10.2022
- (b) Further Information (FI) received on 19.12.2022 (Appendix Ia)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information and FI at **Appendices I to Ia**. They can be summarised as follows:

- (a) Temporary approval of the application will not jeopardise the long-term planning intention of the “V” zone. The proposed development is small-scale and is not incompatible with the surrounding environment.
- (b) The applicant will follow the relevant mitigation measures and requirements in the “Code of Practice on Handling the Environment Aspects of Temporary Uses and Open Storage Site” to minimise any potential environment nuisance.
- (c) The proposed development will not induce environmental nuisance nor adverse traffic and environmental impacts to the surrounding areas. The proposed development is intended to serve the nearby residents.

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 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notices to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not the subject of any active planning enforcement case.

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) are relevant to the application. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. **Previous Application**

There is no previous application at the Site.

7. **Similar Applications**

- 7.1 There are seven similar applications, involving five sites, for various temporary shop and services uses within the same “V” zone in the vicinity of the Site in the past five years. Five of these applications (No. A/YL-KTN/547, 572, 611, 644 and 753) were approved with conditions by the Rural and New Town Planning Committee (the Committee) on the considerations that the temporary approval would not jeopardise the planning intention; the developments were not incompatible with the surrounding environment and would unlikely cause adverse environmental impacts; and there was no adverse departmental comment on the applications. However, planning permissions of four applications (No. A/YL-KTN/547, 572, 611 and 644) were revoked due to non-compliance with planning conditions.
- 7.2 The remaining two applications (No. A/YL-KTN/602 and 662), covering almost the same site with areas over 5,000m², were rejected by the Board on review in December 2018 and the Committee in September 2019 respectively mainly on the grounds that the scale of the proposed developments were considered excessive and not compatible with the surrounding land uses.
- 7.3 Details of these 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) paved and used for parking of vehicles without planning permission; and
- (b) accessible from Kam Tin Shi Street.

8.2 The surrounding areas have the following characteristics:

- (a) to its north and east are parking of vehicles with provision of vehicle service, storage / open storage yards, a residential dwelling / structure, and vacant sites;
- (b) to its south, west and southwest are residential dwellings / structures and village house developments, a children playground, a public toilet and a refuse collection point within the same “V” zone. Some eating places (including a café and a restaurant) and shops on ground floor of the developments could be found at the frontage along Kam Tin Shi Street; and
- (c) to its further northwest across Kam Tin Bypass are village house developments of Kam Hing Wai.

9. Planning Intention

The planning intention of the “V” 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 ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

All the 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 IV** and **V** respectively.

11. Public Comment Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory publication period, one public comment from an individual was received objecting to the application mainly on the grounds that the proposed uses would generate environmental nuisance, fire safety and hygiene problems to the nearby residents.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary eating place and shop and services for a period of three years at the Site within the “V” zone. 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 the zone is primarily intended for development of Small Houses by indigenous villagers. Whilst the proposed uses are not entirely in line with the planning intention of the “V” zone, the proposed eating place and retail uses would help meet the needs of the neighbourhood. DLO/YL of LandsD advises that there is no Small House application approved or under processing at the Site. It is considered that approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “V” zone.
- 12.2 According to the applicant, the proposal, which comprises development of a social enterprise café and retail shop to cross subsidise the former, is intended to serve the nearby residents. The proposed development is considered not incompatible with the surrounding land uses which are rural in character predominated by residential developments and village houses with some restaurant/eating place uses mainly on the ground floor of some village houses along the frontage of Kam Tin Shi Street.
- 12.3 The application is generally in line with TPB PG-No.15A in that the proposed eating place and retail uses are located at the fringe of the “V” zone of Kam Tin Shi and directly accessible from Kam Tin Shi Street. In view of its nature and small scale of the proposed development, significant adverse traffic, environmental and drainage impacts and fire safety concern to the surrounding areas are not expected. Relevant government departments consulted, including the Commissioner for Transport, Director of Environmental Protection (DEP), Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services, have no adverse comment on the application.
- 12.4 To minimise any possible environmental nuisances and 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 adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.
- 12.5 One public comment was received during the statutory publication period objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and 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 comment mentioned in paragraph 11 above, the Planning Department has no objection to the proposed temporary eating place and shop and services for a period of 3 years.
- 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 23.12.2025. 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 planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.6.2023;
- (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 23.9.2023;
- (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 23.6.2023;
- (e) in relation to (d) above, the implementation of the accepted 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 23.9.2023;
- (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 uses are 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 supplementary information received on 31.10.2022
Appendix Ia	FI received on 19.12.2022
Appendix II	Relevant extracts 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
DECEMBER 2022**