

RNTPC Paper No. A/YL-KTS/895  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 13.8.2021

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTS/895**

**Applicant** : Mr. Tang Kwok Pong represented by R-Riches Property Consultants Limited

**Site** : Lot 291 (Part) in D.D. 109, Kam Tin, Yuen Long, New Territories

**Site Area** : About 266m<sup>2</sup>

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15

**Zoning** : “Village Type Development” (“V”)  
[maximum building height of 3 storeys (8.23m)]

**Application** : Proposed Temporary Eating Place for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary eating place for a period of 5 years. According to the Notes of the OZP, ‘Eating Place’ is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently paved and vacant (**Plans A-2 and A-4**).
- 1.2 The Site is involved in one previous application (No. A/YL-KTS/574) submitted by a different applicant for temporary private vehicle park (private car and light goods vehicle) use for a period of 3 years which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in August 2012. However, it was revoked in November 2012 due to non-compliance with approval condition.
- 1.3 According to the applicant, the proposed development involves one 2-storey structure with total floor area of about 162m<sup>2</sup> (about 90m<sup>2</sup> on G/F for eating place and about 72m<sup>2</sup> on 2/F for temporary eating place / outside seating accommodation (OSA)) and building height of about 6.5m for eating place use.

The temporary eating place will have a maximum capacity of 12 seats. The operation hours will be 8 a.m. to 11 p.m. daily including public holidays. The Site is accessible from Kam Tin Road via a local access. One private car parking space will be provided on-site. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form and supplementary information (**Appendix I**) received on 21.6.2021
- (b) Further Information (FI) received on 6.8.2021 (**Appendix Ia**) providing clarifications  
*[exempted from publication requirement]*

## **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 in **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed temporary eating place is intended to serve the nearby locals, which is on a temporary basis and will not jeopardize the long term planning intention of the “V” zone.
- (b) The development will not create significant adverse traffic, environmental, landscape and drainage impacts on the surrounding areas. The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and ‘Professional Persons Environmental Consultative Committee Practice Notes’ to minimize adverse environmental impacts and nuisance to the surrounding area.
- (c) The applicant will follow ‘Control of Oil Fume and Cooking Odour from Restaurant and Food Business’ issued by the Environmental Protection Department (EPD) to control oily fume and cooking odour emissions generated from the eating place during its operation. Adequate air pollution control equipment will be provided at the kitchen ventilation system for treating cooking fume emissions before discharge to the outdoor environment, in order to fulfil the requirements of the Air Pollution Control Ordinance.

### **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 notifying the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Town Planning Board Guidelines**

4.1 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 this application. Extract of the Guidelines is attached at **Appendix II**. The relevant assessment criteria are summarised as follows:

- (a) The eating place use should not create environmental nuisance or cause inconvenience to the residents nearby. Such use should preferably be located at the fringe of a village area, e.g. area abutting the main road. For any eating place use that is situated amidst the existing village houses, sympathetic consideration may only be given if there are no objections from local residents.
- (b) The eating place use should not have any adverse traffic impact on its surrounding areas nor should it affect any pedestrian circulation in the area.
- (c) Sympathetic consideration may be given if the eating place would not have adverse impacts on drainage, sewage disposal facilities or fire safety aspects.
- (d) For any application on open ground as an extension to ground floor eating place in a NTEH or as a free-standing development, the eating place use should not adversely affect the land availability for village type development. Application sites with configurations/dimensions which are not suitable to be delineated separately for village type development or which are considered not suitable for village type development (e.g. within 20m of public roads constructed/maintained by the Highways Department or 15m of other local public roads), sympathetic consideration may be given by the Board on individual merits.
- (e) All other statutory or non-statutory requirements of relevant Government departments should be met.

4.2 According to TPB PG-No. 15A (paragraph 1(c) of **Appendix II**), even if a proposal is acceptable in land-use planning terms and other planning criteria are

met, under normal circumstances only a temporary approval for a maximum of three years should be considered so as to retain planning control on the development at the Site and to cater for future changing circumstances in future.

## 5. **Background**

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

## 6. **Previous Application**

The Site is involved in one previous application (No. A/YL-KTS/574) for temporary private vehicle park (private car and light goods vehicle) for a period of 3 years submitted by a different applicant from the current application. The application was approved with conditions by the Committee in August 2012 mainly for the reasons that the proposed use would not jeopardize the long-term planning intention of the “V” zone; the development was not incompatible with the surrounding environment; relevant departments in general had no adverse comments on the application; and the departmental concerns could be addressed by approval conditions. However, the planning permission was revoked in November 2012 due to non-compliance with approval condition relating to the posting of a notice at a prominent location of the site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes were allowed to be parked/stored on or enter/exit the Site. Details of the application are at **Appendix III** and its location is shown on **Plan A-1**.

## 7. **Similar Application**

There is one similar application (No. A/YL-KTS/680) for temporary eating place use in the same “V” zone<sup>1</sup> on the Kam Tin South OZP. It was approved with conditions by the Committee in April 2016 mainly for the reasons that temporary approval would not jeopardize the long-term planning intention of the “V” and “R(C)” zones; the proposed development was considered not incompatible with the surrounding land uses; the proposed development was in line with the Town Board Guidelines for Application for Eating Place within “V” Zone in Rural Areas (TPB PG-No. 15A); and the technical concerns could be addressed by approval conditions. However, the planning permission was revoked in July 2018 due to non-compliance of approval conditions. Details of the application are at **Appendix IV** and its location is shown on **Plan A-1**.

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

8.1 The Site is:

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<sup>1</sup> The site of Application No. A/YL-KTS/680 straddles “V” and “Residential (Group C)” (“R(C)”) zones on the Kam Tin South OZP.

- (a) paved and vacant; and
- (b) accessible from Kam Tin Road via a local access.

8.2 The surrounding areas are rural in character intermixed with residential developments/village houses, an estate agency with valid planning permission, open storage of vehicles, parking of vehicles, car parks, a church and vacant/unused land (**Plan A-2**):

- (a) to its east are two residential developments, namely Greenview Garden (怡翠花園) and Placid Groves (芊逸居), and a church is located to its further east. To the northeast is Kat Hing Wai (吉慶圍);
- (b) to its immediate south are open storage of vehicles and vacant land approved for a temporary estate agency (Application No. A/YL-KTS/884)). To its further south across Kam Sheung Road are vacant/unused land and a few residential structures / dwellings;
- (c) to its immediate west are an estate agency with valid planning permission (Application No. A/YL-KTS/795) and a storage yard. A residential development, namely Kam Fung Garden (錦豐花園) is located to the further west; and
- (d) to its immediate north are a storage yard, parking of vehicles and some village houses. To its further north is a sitting-out area and vacant land.

## **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. 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**

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

#### 10.1.1 Comments of the District Lands Officer Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Should the planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.
- (c) There is no Small House application approved or being processed at the Site.

### **Traffic**

#### 10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from the traffic engineering perspective.
- (b) Should the application be approved, an approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which may not be managed by the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

**Environment**

10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was no substantiated environmental complaint concerning the Site received by DEP in the past three years.
- (b) He has no objection to the application from environmental planning perspective.
- (c) The applicant is advised: (i) to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisances; (ii) to provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of Environmental Protection Department (EPD)’s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" including percolation test; (iii) to control the oily fume and cooking odour emissions from the canteen, the applicant should follow “Control of Oily Fume and Cooking Odour from Restaurant and Food Business” issued by EPD; and (iv) to note that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances, and provide necessary mitigation measures to prevent polluting the watercourse and pond adjacent to the Site.

**Fire Safety**

10.1.5 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.

- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

### **Drainage**

#### **10.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):**

- (a) He has no objection in principle to the development.
- (b) Should the application be approved, the conditions requiring the submission of a drainage proposal, and implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

### **Food and Environmental Hygiene**

#### **10.1.7 Comments of the Director of Food and Environmental Hygiene (DFEH):**

- (a) Proper licence / permit issued by this Department is required if there is any food business / catering service / activities regulated by the Director of Food and Environmental Hygiene (DFEH) under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. The operation of any eating place should be under a food licence issued by the FEHD. If the operator intends to operate a restaurant business in the territory, a restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). For the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence should be obtained from this department for food business which involves the preparation of food for sale for human consumption off the



premises before commencement of such business. The application for food business licences under Cap.132, if acceptable by FEHD, will be referred to relevant government departments for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements.

- (b) When a restaurant licensee/licence applicant wishes to use any outside seating accommodation (OSA) outside the restaurant premises for alfresco dining, he/she should take notice of the main licensing criteria for OSA, covering matters such as legal right to use the land concerned, planning, building safety, fire safety, and traffic requirements, etc. as well as to obtain approval from the DFEH before commencement. Restaurateurs operating OSA business without approval may be subject to prosecution pursuant to the Food Business Regulation (Cap. 132X). Repeated convictions may lead to suspension or cancellation of their licences.
- (c) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses. The applicant is reminded that the operation of the food business place must not cause any environmental nuisance to the surrounding. The refuse generated by the proposed eating place are regarded as trade refuse. The management or owner of the Site is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity.

### **Building Matters**

#### **10.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):**

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be

appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance.

- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix V**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

### **Electricity**

#### 10.1.9 Comment of Electrical and Mechanical Services Department (DEMS):

- (a) He has no particular comments from electricity supply safety aspect at this stage.
- (b) However, in the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. The applicant is reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

### **District Officer’s Comments**

#### 10.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any locals’ comment on the application and he has no comment from departmental point of view.

#### 10.2 The following Government departments have no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Chief Engineer/Construction, Water Supplies Department; and
- (c) Commissioner of Police.

## **11. Public Comments Received During Statutory Publication Period**

On 29.6.2021, the application was published for public inspection. During the three-week statutory publication period, no public comment was received.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for proposed temporary eating place for a period of 5 years. The “V” zone is intended 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. Although the proposed use is not entirely in line with the planning intention of the “V” zone, DLO/YL, LandsD advised that there is no Small House application approved or under processing at the Site. As such, it is considered that approval of the application on a temporary basis would not jeopardize 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 intermixed with residential developments/village houses, an estate agency, open storage of vehicles, parking of vehicles, car parks, a church and some vacant/unused land.
- 12.3 According to the applicant, the proposed temporary eating place is intended to serve the nearby locals. The proposed development is relatively small in scale with a maximum capacity of 12 seats. The Site is accessible from Kam Tin Road via a local access, which would unlikely cause inconvenience to the residents nearby. DO(YL) stated that no objections from the local residents are received during the public inspection period. The applicant further stated that all the relevant code of practice and requirements issued by EPD regarding the environmental aspects of temporary uses and control of oil fume and cooking odour from restaurant and food business will be followed. It is not anticipated to cause significant environmental, traffic and drainage impacts on the surrounding areas. Relevant government departments consulted, including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on or no objection to the application.
- 12.4 In view of the above, the application is generally in line with TPB PG-No. 15A for eating place within the ‘V’ zone in terms of accessibility, and impacts in respect of traffic, drainage, sewage disposal as well as fire safety. Sympathetic consideration could be given to the application. Nevertheless, in accordance with TPB PG-No. 15A (paragraph 1(c) of **Appendix II**), a shorter approval period of three years instead of five years sought, is recommended so as to retain planning control on the development at the Site and to cater for changing circumstances in future.
- 12.5 To minimize any possible environmental nuisance generated by the development, approval conditions restricting the operation hours is recommended in paragraph

13.2 (a) below. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Moreover, the technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 13.2 (b) to (g) below.

12.6 The Site is involved in one previous application (No. A/YL-KTS/574) submitted by a different applicant for temporary private vehicle park (private car and light goods vehicle), which was approved with conditions by the Committee in August 2012 but its planning permission was subsequently revoked in November 2012 due to non-compliance with approval condition as detailed in paragraph 6 above. There is one similar application for temporary eating place use, with its site straddling the same “V” zone, which was approved with conditions by the Committee in 2016 for reason as detailed in paragraph 7 above. Approval of the current application is in line with the Committee’s previous decisions.

12.7 No public comment was received during the statutory publication period.

### **13. Planning Department’s Views**

13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the proposed temporary eating place 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 13.8.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval Conditions

- (a) no operation between 11:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) 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 13.2.2022;
- (d) in relation to (c) 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 13.5.2022;

- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 13.2.2022;
- (g) in relation to (f) 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 13.5.2022;
- (h) if any of the above planning condition (a), (b) or (e) 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
- (i) if any of the above planning condition (c), (d), (f) or (g) 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 advisory clauses are in **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development 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. No strong planning justification has been 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**

<b>Appendix I</b>	Application Form and Supplementary Information received on 21.6.2021
<b>Appendix Ia</b>	FI received on 6.8.2021
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 15A
<b>Appendix III</b>	Previous s.16 Application covering the Site
<b>Appendix IV</b>	Similar Application within the “V” zones in the vicinity of the Site on the Kam Tin South OZP
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2021**