

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL  
FOR TEMPORARY USE  
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTS/929**

<b><u>Applicant</u></b>	:	MF Café Limited represented by R-riches Property Consultants Limited
<b><u>Premises</u></b>	:	Unit B2, The Richfield, 236 Kat Hing Wai, Kam Tin, Yuen Long
<b><u>Premises Area</u></b>	:	About 46 m <sup>2</sup>
<b><u>Lease</u></b>	:	(i) Block Government Lease (demised for agricultural use)  (ii) Lot 341 in D.D. 109 is covered by Short Term Waiver No. 5257 for “Temporary Shop and Services with Ancillary Facilities”
<b><u>Plan</u></b>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	:	“Residential (Group C)” (“R(C)”) [Maximum plot ratio of 0.8, maximum site coverage of 40% and maximum building height of 4 storeys (12 m)]
<b><u>Application</u></b>	:	Renewal of Planning Approval for Temporary Eating Place for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning permission to use the application premises (the Premises) for temporary eating place for a period of 3 years. The Premises falls within an area zoned “R(C)” on the Kam Tin South OZP, and ‘Eating Place’ is a Column 2 use in the “R(C)” zone which requires planning permission from the Town Planning Board (the Board). The Premises is currently used for the applied use with valid planning permission under Application No. A/YL-KTS/830 until 1.11.2022 (**Plans A-2 and A-4**).
- 1.2 The Premises is involved in six previous planning applications (detailed in paragraph 6 below). The current application is the same as the last approved application No. A/YL-KTS/830 submitted by the same applicant in terms of the applied use, premises area / boundary, layout and major development parameters. All the approval conditions are complied with.
- 1.3 The Premises is situated on the ground floor of a 2-storey structure forming part of a planning application (No. A/YL-KTS/812) for temporary shop and services use

which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in February 2019 for a period of 5 years. According to the applicant, the Premises has a floor area of about 46m<sup>2</sup> and about 3m in height. The operation hours of the eating place are between 7:00 a.m. and 9:00 p.m. daily, including public holidays. The estimated number of visitor and staff member are 20 and 2 per day. The applicant states that the eating place will use the loading/unloading bays provided under the approved application No. A/YL-KTS/812, and its visitors can gain access to the Premises from Kam Po Road via a local track on foot. The location plan with indication on access route and layout plan submitted by the applicant are at **Drawings A-1** and **A-2**.

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

- (a) Application form with supplementary information **(Appendix I)**  
received on 10.6.2022
- (b) Further Information (FI) received on 19.7.2022 **(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 in **Appendices I** and **Ia**. They can be summarized as follows:

- (a) The eating place is temporary in nature and will not jeopardize the long-term planning intention of the “R(C)” zone. The applicant intends to continue its business to serve people residing and working in the area.
- (b) The site where the Premises is located is owned by Tso Tong and it is difficult to develop for residential use. The applied use will be able to better utilize the land resources.
- (c) The development will not create adverse traffic, environmental, landscape and drainage impacts on the surrounding areas. The applicant will comply with all the planning conditions to be stipulated by the Committee.

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

The applicant is not the “current land owner” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

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

The Town Planning Board Guidelines for “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development”

(TPB PG-No. 34D) are relevant to this application. Relevant extract of the Guidelines is attached at **Appendix II**.

## 5. **Background**

The Premises is not subject to any active planning enforcement action.

## 6. **Previous Applications**

- 6.1 The site where the Premises is located is involved in six previous applications (No. A/YL-KTS/607, 662, 711, 737, 812 and 830). The former three applications for temporary public vehicle park are not relevant to this application which is for temporary eating place. Applications No. A/YL-KTS/737 and 812 for temporary shop and services uses, and No. A/YL-KTS/830 for temporary eating place were approved with conditions by the Committee between June 2017 and November 2019 mainly on the grounds that approval of the applications on a temporary basis would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding rural land uses; relevant departments in general had no objection and/or their technical concerns could be addressed by appropriate approval conditions.
- 6.2 Compared with the last approved Application No. A/YL-KTS/830, the current application is submitted by the same applicant and is the same in terms of the applied use, premises area / boundary, layout and major development parameters. All the approval conditions are complied with and the application is valid until 1.11.2022.
- 6.3 Details of these applications are summarized in **Appendix III** and the locations are shown on **Plan A-1b**.

## 7. **Similar Application**

There is no similar application for similar temporary eating place use in the same “R(C)” zone in the past 5 years.

## 8. **The Premises and Its Surrounding Areas (Plans A-2 to A-4)**

- 8.1 The Premises is:
  - (a) currently used for the applied use covered by valid planning permission under Application No. A/YL-KTS/830;
  - (b) situated on the ground floor of a 2-storey structure within The Richfield (盈匯坊) which is the subject of a planning permission for temporary shop and services uses under application No. A/YL-KTS/812;
  - (c) located to the north of MTR Tuen Ma Line Kam Sheung Road Station and the Kam Tin River; and

- (d) accessible by foot via a local track branching off from Kam Po Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its east, northeast and southeast are residential dwellings / structures, parking of vehicles and a retail shop within an area zoned “Village Type Development”;
- (b) to its south and southwest are residential dwellings /structures, parking of vehicles and grass land; and
- (c) to its west and north are residential dwellings /structures, grass land and vacant land.

## **9. Planning Intention**

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

## **10. Comments from Relevant Government Department**

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 Comments Received During the Statutory Publication Period**

The application was published for public inspection. During the statutory publication period, no public comment was received.

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

12.1 The application is for renewal of planning permission for temporary eating place at the Premises for a period of 3 years. The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The applied use is not entirely in line with the planning intention of the “R(C)” zone. Nevertheless, there is no known programme for long-term development at the site where the Premises is located. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(C)” zone.

12.2 According to the applicant, the temporary eating place is to serve the residents and construction workers in the nearby area. Taking into account the nature and small scale of the development (about 46m<sup>2</sup> floor area), it is considered not incompatible

with the surrounding rural land uses including shop and services, residential dwellings / structures, parking of vehicles, grass land and vacant land.

- 12.3 The application is generally in line with the TPB PG-No. 34D in that the current application is same as the last application in terms of applied use, premises area / layout and major development parameters; the applicant has complied with all the approval conditions; the renewal of planning approval period sought is of the same time frame as the previous approval; and there has been no material change in planning circumstances since the granting of the previous approval. In this regard, favourable consideration could be given to the current renewal application.
- 12.4 Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. Appropriate approval conditions are recommended in paragraph 13.2 below to address the technical requirements of concerned government departments. The applicant will also be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' and to follow the "Control of Oily Fume and Cooking Odour from Restaurant and Food Business" issued by DEP.
- 12.5 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 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 3 years, and be renewed from 2.11.2022 until 1.11.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) no operation between 9:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed at the Premises during the planning approval period;
- (b) the submission of records of the existing drainage facilities at the Premises within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 2.2.2023;
- (c) the existing drainage facilities at the Premises shall be maintained at all times during the planning approval period;
- (d) the existing fire service installations implemented on the Premises shall be maintained in efficient working order at all times during the planning approval period;
- (e) if any of the above planning condition (a), (c) or (d) 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

- (f) if the above planning condition (b) 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.

*[The above approval conditions are the same as those under the previous approved application No. A/YL-KTS/830, except addition of conditions on drainage facilities and deletion / revision to those conditions related to the traffic and fire safety aspects based on the latest comments of CE/MN of DSD, C for T and D of FS.]*

Advisory clauses

The recommended advisory clauses are attached at **Appendix V**.

- 13.3 There is no strong reason to recommend rejection of the renewal application.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning 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 with supplementary information received on 10.6.2022
<b>Appendix Ia</b>	FI received on 19.7.2022
<b>Appendix II</b>	Relevant extract of TPB PG-No. 34D
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	General departmental comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Location plan with access route
<b>Drawing A-2</b>	Layout plan
<b>Plan A-1a</b>	Location plan

<b>Plan A-1b</b>	Previous application plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
JULY 2022**