

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

**APPLICATION NO. A/YL-KTS/986**

<b><u>Applicant</u></b>	:	Mr. Tsang Hin Keung represented by Goldrich Planners and Surveyors Limited
<b><u>Site</u></b>	:	Lots 1637 RP, 1649 S.A and 1649 RP in D.D. 106, Kam Sheung Road, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 1,400m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Temporary Restaurant for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary restaurant for a period of 3 years. The Site falls within an area zoned “AGR” on the Kam Tin South OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by temporary structures used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of 5 previous applications for the same use as the current application (details in paragraph 5 below). The permission of last approved application No. A/YL-KTS/738 was revoked due to non-compliance with approval conditions.
- 1.3 According to the applicant, the applied use involves six one-storey structures with a total floor area of about 409.18m<sup>2</sup> and building heights of not more than 2.7m for a restaurant, including kitchen, seating areas and storage uses. The proposed operation hours are between 9:00 a.m. to 11:00 p.m. daily. Eight private car parking spaces and one loading/unloading (U/UL) space for light goods vehicles will be provided on-site. The Site is accessible from Kam Sheung Road. The site 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 with supplementary information received on 5.1.2024 (Appendix I)
- (b) Further Information (FI) received on 21.2.2024\* (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 in **Appendices I** and **Ia**. They can be summarised as follows:

- (a) The applied use is temporary in nature which will not jeopardise the long-term planning intention of the “AGR” zone. No vegetation clearance and tree felling will be carried out at the Site.
- (b) The applied temporary restaurant is intended to serve the nearby locals. There were previous approvals for the applied use.
- (c) The proposed development will have no adverse impacts to the surroundings in the visual and landscape, traffic, environment, drainage and fire safety aspects. The applicant will strictly follow the relevant statutory environmental requirements and practice notes so as to minimise the possible adverse impacts and environmental nuisance to the nearby residents.
- (d) The applied use will provide job opportunities and satisfy residents’ demand for catering services in the vicinity.

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

The applicant is one of the “current land owners” of the Site and 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. 31B) by posting notice in a prominent position on the Site and sending notification to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Background**

The eating place use at the Site would be subject to planning enforcement action.

## 5. **Previous Applications**

- 5.1 The Site is the subject of five previous applications (No. A/YL-KTS/368, 415, 533, 634 and 738) for the same temporary restaurant use submitted by the same applicant (except for A/YL-KTS/415), which were all approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2006 and

2017 mainly on the considerations that temporary approval would not jeopardize the long-term planning intention; the development was considered not incompatible with the surrounding rural land uses; relevant departments in general had no objection; and the technical concerns of relevant departments could be addressed by appropriate approval conditions. The planning permissions under applications No. A/YL-KTS/368 and 738 were revoked in July 2007 and November 2019 respectively due to non-compliance with approval conditions (the submission and implementation of drainage proposal and the provision of emergency vehicular access, water supply for fire fighting and fire service installations for A/YL-KTS/368 and the provision of fire service installations for A/YL-KTS/738). Compared with the previous application No. A/YL-KTS/738, the current application is submitted by the same applicant with the same applied use, site area/boundary, layout and major development parameters.

- 5.2 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

## **6. Similar Application**

There is no similar application within the same “AGR” zone in the vicinity of the Site in the past five years.

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

- 7.1 The Site is:

- (a) accessible directly from Kam Sheung Road; and
- (b) currently occupied by temporary structures used for the applied use without valid planning permission.

- 7.2 The surrounding area is rural in character intermixed with residential structures/dwellings, shop and services (with valid permission under application No. A/YL-KTS/955), car repairing, plant nursery, storage, grassland and vacant/unused land. Residential development namely Seasons Palace (四季豪園) within “Residential (Group C)1” zone is to the further north across Kam Sheung Road.

## **8. Planning Intention**

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

## **9. Comments from Relevant Government Departments**

- 9.1. Apart from the government department as set out in paragraph 9.2 below, other 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 III** and **IV** respectively.

### **Agriculture and Nature Conservation**

- 9.2. Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
  - (b) the Site falls within the “AGR” zone. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries; and
  - (c) no comment on the application from nature conservation perspective.

## **10. Public Comment Received During Statutory Publication Period (Appendix V)**

During the statutory publication period, one public comment was received from an individual raising concerns that the previous application was revoked due to non-compliance with approval conditions.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary restaurant for a period of 3 years at the Site zoned “AGR” (**Plan A-1**). The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The applied use is not in line with the planning intention of the “AGR” zone, and DAFC does not support the application from agricultural perspective. Nonetheless, the applied restaurant is intended to serve the nearby locals. Taking into account the planning assessments below, the applied use on a temporary basis of 3 years could be tolerated.
- 11.2 The applied use is considered not incompatible with the surrounding uses which are rural in character intermixed with residential dwellings/ structures, shop and services, car repairing, storage, plant nursery, grassland and vacant/unused land. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant impact on the existing landscape resources within the Site is not anticipated and has no objection to the application.
- 11.3 Relevant government departments consulted, including the Commissioner for Transport, the Director of Environmental Protection, the Director of Food and

Environmental Hygiene, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Fire Services (D of FS), 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 12.2 below. To minimise any potential environmental nuisance, 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”; the Practice Note for Professional Person PN 5/93 on “Drainage Plans subject to Comment by Environmental Protection Department (EPD)” including retention time for grease trap and minimum clearance distance, percolation test and certification by Authorized Person for septic tank and soakaway system; and “Control of Oil Fume and Cooking Odour from Restaurant and Food Business” issued by EPD.

- 11.4 The Site is the subject of 5 approved previous applications for the same applied use as stated in paragraph 5.1 above. The planning permission under the last application No. A/YL-KTS/738 submitted by the same applicant as the current application was revoked due to non-compliance with the approval condition related to the provision of fire service installations. In this regard, FSI proposal was submitted for the current application and has been accepted by D of FS. Besides, there was no substantiated environmental complaint received against the Site in the past 3 years. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 11.5 Regarding the public comment raising concerns on the application as stated in paragraph 10 above, the departmental comments and planning assessments above are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the applied use could be tolerated for a period of 3 years.
- 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 3 years until 1.3.2027. The following approval conditions and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (b) the submission of condition records of the existing drainage facilities on the site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.6.2024;

- (c) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) 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 1.12.2024;
- (e) if any of the above planning condition (a) or (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;
- (f) if any of the above planning condition (b) or (d) 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; and
- (g) upon expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

#### Advisory clauses

The recommended advisory clauses are attached in **Appendix IV**.

- 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 "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purpose. No strong planning justification has been given in the submission for a departure from the planning intentions 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**

<b>Appendix I</b>	Application form with supplementary information received on 5.1.2024
<b>Appendix Ia</b>	FI received on 21.2.2023
<b>Appendix II</b>	Previous applications
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comment
<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
MARCH 2024**