

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

APPLICATION NO. A/YL-KTS/989

<u>Applicant</u>	: Ms. LAU Jirawan
<u>Premises</u>	: Ground Floor, 175 Shek Wu Tong Tsuen, Lot 351 S.A (Part) in D.D. 106, Pat Heung, Yuen Long
<u>Premises Area</u>	: 30.1m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Village Type Development” (“V”) [Maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Renewal of Planning Approval for Temporary Eating Place for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission for temporary eating place for a period of five years at the application premises (the Premises), which fall within an area zoned “V” on the Kam Tin South OZP (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’ is a Column 2 use within “V” zone which requires planning permission from the Town Planning Board (the Board). The Premises occupy the ground floor of an existing two-storey building which is not a New Territories Exempted House (NTEH), and are currently used for the applied use with valid planning permission under the previous application No. A/YL-KTS/813, with all the approval conditions complied with and the permission is valid until 8.3.2024.
- 1.2 According to the applicant, the applied use involves a floor area of 30.1m². The operation hours are between 11 a.m. and 10 p.m. daily including public holidays, with no operation on Wednesdays. The Premises are accessible from Shek Tin Road leading to Kam Sheung Road. No parking space will be provided. The location plan and layout plan submitted by the applicant are at **Drawings A-1 and A-2**.

1.3 The Premises are subject to a previous application No. A/YL-KTS/813 (details at paragraph 6 below) which involved the same applicant, applied use, premises area/boundary and layout as the current application.

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

- (a) Application form with supplementary information received (**Appendix I**) on 15.1.2024 and 22.1.2024
- (b) Further Information (FI) received on 23.2.2024* (**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, supplementary information and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The eating place is primarily to serve the local neighbourhood and tourists.
- (b) The applicant would liaise with the lot owner to rectify the unauthorised structure under lease within the subject lot.
- (c) The application is a renewal of previous permission under application No. A/YL-KTS/813 for the same eating place use.

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.31B) by obtaining the land owner’s consent. Detailed information would be deposited at the meeting for Member’s 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 the application. The relevant extract of the Guidelines is attached at **Appendix II**.
- 4.2 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 also relevant to the application. The relevant extract of the Guidelines is attached at **Appendix III**.

5. **Background**

The Premises are currently not subject to any active planning enforcement action.

6. **Previous Application**

6.1 The Premises are subject to a previous application No. A/YL-KTS/813 for the same temporary eating place for a period of five years, involving the same applicant, premises area/boundary and layout as the current application. The previous application was approved with conditions by the Rural and New Town Planning Committee (the Committee) in March 2019 mainly on the considerations that temporary approval would not jeopardise the long-term planning intention; the applied use was considered not incompatible with the surrounding land uses; and the departments consulted generally had no adverse comment and their technical concerns could be addressed by relevant approval conditions. All the approval conditions under the application have been complied with and the permission is valid until 8.3.2024.

6.2 Details of the previous application are summarised in **Appendix IV** and the location is shown on **Plan A-1**.

7. **Similar Application**

There is no similar application for temporary eating place within the same “V” zone in the vicinity of the Premises in the past five years.

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

8.1 The Premises are:

- (a) located on the ground floor of an existing two-storey building which is not a NTEH;
- (b) currently used for the applied use with valid planning permission under application No. A/YL-KTS/813 until 8.3.2024; and
- (c) accessible from Shek Tin Road leading to Kam Sheung Road on the east in about 45m.

8.2 The Premises fall within the village cluster of Shek Wu Tong and located near the fringe of the subject “V” zone delineated by Kam Sheung Road, and intermixed with residential structures/dwellings, some of which with shop and services/eating place uses on the ground floor, restaurants, car services and workshops.

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 New Territories Exempted Houses. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 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 V and VI** respectively.

10.2 The following government department has grave concern on the application:

Land Administration

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

- (a) he has grave concern on the application;
- (b) the Premises comprise Old Schedule Agricultural Lot No. 351 S.A in D.D.106 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;
- (c) the private lot is covered by Short Term Waiver (STW) No. 463 for the purpose of Grocery Shop;
- (d) there is unauthorised structure within the said private lot not covered by the planning application. The lot owner(s) should immediately rectify/apply for regularisation on the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (e) the lot owner(s)/applicant shall either remove the unauthorised structure not covered by the planning application immediately; or include the unauthorised structure in the subject planning application for the further consideration by the relevant departments and, subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as aforesaid required, apply to his office for modification of

the STW conditions where appropriate. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner(s) for any breach of the lease/STW conditions, including the breaches already in existence or to be detected at any point of time in future;

- (f) his recent site inspection found that the existing structures within the private lot was suspected being used for domestic purposes. According to his prevailing policy, no STW application/ modification will be considered for domestic use. Therefore, LandsD reserves the right to take enforcement action against such domestic purpose structures in the application site; and
- (g) there is no Small House application approved or under processing at the subject lot.

11. Public Comment Received During 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 for a period of five years at the Premises zoned “V” (**Plan A-1**). 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, and land within this zone is primarily intended for development of Small Houses by indigenous villagers. Whilst the applied use is not entirely in line with the planning intention of the “V” zone, the applied eating place is intended to serve the local neighbourhood. Besides, there is no Small House application approved or under processing at the subject lot as advised by DLO/YL of LandsD. It is considered that approval of the application on a temporary basis for a further period of five years would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The Premises fall within the village cluster of Shek Wu Tong. The applied use is not incompatible with the surrounding uses intermixed with residential structures/dwellings, shop and services uses, restaurants and car services.
- 12.3 The application is generally in line with TPB PG-No. 15A in that the applied use is located at the fringe of the “V” zone readily accessible from Shek Tin Road leading to Kam Sheung Road, and would unlikely generate significant adverse environmental, traffic and drainage impacts on the surrounding areas given the small scale. Relevant departments consulted including the Director of Environmental Protection (DEP), the Director of Food and Environmental Hygiene, the Director of Fire Services (D of FS), the Commissioner for Transport

and the Chief Engineer/Mainland North of the Drainage Service Department have no objection to or no adverse comment on the application. To address the technical requirements of D of FS, relevant approval condition is 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” issued by DEP to minimise possible environmental nuisances generated by the applied use.

- 12.4 The application is also generally in line with TPB PG-No. 34D in that all the approval conditions under the previous application No. A/YL-KTS/813 have been complied with; 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 the planning circumstances since the granting of the previous approval.
- 12.5 Whilst DLO/YL of LandsD has grave concern on the application, it is a land administration issue not directly related to the current application, as the concerned unauthorised structure is not within the portion of the lot where the Premises are located. Nevertheless, an advisory clause on rectifying or regularising the unauthorised structure with LandsD under the land administration regime is recommended should the Committee approve the application.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the renewal of planning approval for temporary eating place for a further period of five 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 five years and be renewed from 9.3.2024 to 8.3.2029. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval conditions

- (a) the existing fire service installations implemented on the premises shall be maintained in efficient working order at all times during the planning approval period; and
- (b) if the above planning condition (a) 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.

[The above approval conditions are the same as those under the last approved planning application No. A/YL-KTS/813, except deletion/revision to the conditions on operation time and on fire safety based on the latest comments from relevant department(s).]

Advisory clauses

The recommended advisory clauses are at **Appendix VI**.

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 approval.
- 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 15.1.2024 and 22.1.2024
Appendix Ia	FI received on 23.2.2024
Appendix II	Relevant extract of TPB PG-No. 15A
Appendix III	Relevant extract of TPB PG-No. 34D
Appendix IV	Previous application
Appendix V	Government departments' general comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Location plan
Drawing A-2	Layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & 4b	Site photos

**PLANNING DEPARTMENT
MARCH 2024**