

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/407

- Applicant** : Mr. LAU Hung Ching represented by R-riches Property Consultants Limited
- Site** : Lot 2159 S.A RP in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 656 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/10
- Zoning** : “Residential (Group E)” (“R(E)”)
[Restricted to a maximum plot ratio of 0.4 and a maximum building height (BH) of 3 storeys (9 m) including car park]
- Application** : Proposed Temporary Eating Place for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary eating place for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls within the “R(E)” zone on the OZP. According to Schedule I (for open-air development) of the Notes of the OZP for the “R(E)” zone, ‘Eating Place’ is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is currently hard-paved and occupied by vehicle parking use¹ (**Plan A-4**). There is no previous planning application covering the Site.
- 1.2 As shown on the proposed layout plan at **Drawing A-2**, there will be 2 temporary structures (2 storeys and 7.5 m high) for eating places with a gross floor area (GFA) of about 396 m² and another 2 temporary structures (1 storey and 3.5 m high) for fresh water tanks and control panel, and a meter room with a GFA of 24 m². An outdoor seating accommodation (OSA) (about 83 m² in area) is also proposed on site (**Appendix Ib**). According to the applicant, the operation hours are from 10 a.m. to 11 p.m. from Mondays to Sundays including public holidays. The ingress/egress is located at the southwestern boundary of the Site and the Site is accessible via Lau Fau Shan Road (**Plan A-2**). There will be 4 private car parking spaces and 1 loading

¹ The use is the same as that revealed by the land use survey conducted by the Planning Department in March 1992.

and unloading space for light goods vehicle on site. The estimated maximum number of customers are about 40 per day and advance booking is required for customers to use the parking spaces. The applicant claims that majority of staff and customers are required to make good use of public transport services at Lau Fau Shan Roundabout, where the nearest franchised bus and green minibus stops are located approximately 120 m northwest of the Site, or the private fee-paying vehicle park nearby (**Drawing A-4**). The location plan with access road, proposed layout plan, swept path analysis of vehicle and location plan of nearby private fee-paying vehicle parks are at **Drawings A-1 to A-4** respectively.

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

- (a) Application Form with attachments received on 27.7.2021 (**Appendix I**)
- (b) Further Information (FI) received on 11.8.2021 responding to Transport Department (TD)'s comment (**Appendix Ia**)
- (c) FI received on 30.8.2021 clarifying the area of the OSA and the number of tables and chairs and maximum customers serving at the OSA (**Appendix Ib**)
[(b) and (c) are exempted from publication requirements]

2. Justifications from the Applicant

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

- (a) The applicant would like to operate a new restaurant to serve the nearby locals and workers.
- (b) Since the application is on a temporary basis, it would not jeopardize the long-term planning intention of the "R(E)" zone.
- (c) The applicant will strictly follow the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by Environmental Protection Department, as well as the "Control of Oil Fume and Cooking Odour from Restaurant and Food Business".
- (d) The proposed development will not generate significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Adequate mitigation measures will be provided to minimise the nuisance to the environment.
- (e) Other than the 4 private car parking spaces on site, private fee-paying vehicle parks are provided in the vicinity of the Site to meet the parking need for customers commuted by vehicle (**Drawing A-4**). Therefore, the parking provision is considered adequate for the operation of the proposed development.
- (f) No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer will be allowed to enter/exit the Site at any time during the planning approval period. Moreover, sufficient space is provided for vehicle to smoothly manoeuvre within the Site to ensure no vehicle will queue back to public road.

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 sending notices to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Application

The Site does not involve any previous planning application.

6. Similar Applications

- 6.1 Within the same “R(E)” zone, there are 3 similar applications (No. A/YL-LFS/66, 105 and 150) for proposed restaurant use covering the same site which were all approved by the Rural and New Town Planning Committee (the Committee)/ Director of Planning under the delegated authority of the Board from 2001 to 2006. Details of these applications are summarised at **Appendix II** and the location of the application site is shown on **Plan A-1**.
- 6.2 Application No. A/YL-LFS/66 for proposed restaurant was approved by the Committee on 18.5.2001 on the considerations that the proposed development was in line with the planning intention of “R(E)” zone; the proposed development was compatible with the surrounding areas; and the proposed development would not generate adverse drainage, sewerage and traffic impacts. Subsequently, an application (No. A/YL-LFS/105) for minor amendments to the approved development scheme for proposed restaurant under Application No. A/YL-LFS/66 was approved by the Director of Planning under the delegated authority of the Board on 22.4.2003. The planning permissions under the two applications lapsed on 19.5.2004.
- 6.3 Application No. A/YL-LFS/150 for eating place (restaurant) with minor relaxation of plot ratio restriction from 0.4 to 0.41 was approved by the Committee on 15.12.2006 mainly on the consideration that the proposal only involved minor adjustments made to comply with the requirements of the Building (Planning) Regulations while the key development parameters such as site area, GFA and site coverage were the same as the previous approved application (No. A/YL-LFS/105).

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

7.1 The Site is:

- (a) accessible via Lau Fau Shan Road; and
- (b) currently hard-paved and occupied by vehicle parking use.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north are car parks and its further northeast are vehicle repair workshop which is a suspected unauthorised development (UD) and vacant land;
- (b) to the east are vehicle repair workshop and open storage of vehicle parts which are suspected UD and its further east is a logistic centre with a valid planning permission (No. A/YL-LFS/397);
- (c) to the south across Lau Fau Shan Road are several open storage yards for containers/vehicles and construction machinery which are suspected UD and a car park; and
- (d) to the east across the Lau Fau Shan Roundabout are restaurants, residential dwellings and a car park.

8. Planning Intention

The “R(E)” zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot (OSAL) 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) Lot No. 2159 S.A RP in D.D. 129 is covered by Short Term Waiver (STW) No. 2325 for the purpose of ‘Vehicle Park and Storage

excluding Dangerous goods’.

- (c) Should planning approval be given to the application, the STW holder will need to immediately apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of 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 LandsD.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads and reserve onto/from public roads.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Lau Fau Shan Road.

Environment

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

- (a) He has no objection to the application.
- (b) No substantiated environmental complaint pertaining to the Site has been received in the past three years.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Landscaping

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

According to the aerial photo (**Plan A-3**), the Site is fully hard-paved without any significant vegetation/tree. The Site is situated in an area of rural coastal plains landscape character predominated by temporary structures, open storages, small houses with other similar parking areas in the proximity. The proposed development is considered not entirely incompatible with the landscape character of the surrounding area. The Site does not fall within landscape sensitive zoning and no significant adverse landscape impact is anticipated.

Drainage

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

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

Fire Safety

9.1.7 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.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Food and Environmental Hygiene

9.1.8 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) He has no adverse comment on the application.
- (b) The operation of any eating place should be under a food licence issued by his Department.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Building Matters

9.1.9 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 for the existing structures at the Site, he is not in position to offer comments on the suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Geotechnical

9.1.10 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no adverse comment on the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

District Officer's Comments

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

His office has not received any comment from the locals to the application.

9.2 The following Government departments have no comment on the application:

- (a) Project Manager (West), CEDD(PM(W), CEDD);
- (b) Chief Engineer/Land Works, CEDD(CE/LW, CEDD);
- (c) Director of Electrical & Mechanical Services (DEMS);
- (d) Commissioner of Police (C of P); and
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 3.8.2021, the application was published for public inspection. During the statutory public inspection period, 2 public comments were received from individuals (**Appendices III-1 and III-2**) objecting to the application on the grounds which are summarised below:

- (a) there are concerns on the drainage and hygiene aspects; and
- (b) the proposed development will generate adverse environmental impacts and fire safety issue and affect the safety and living quality of villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary eating place for a period of 3 years. The Site is zoned “R(E)” on the OZP which is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Although the proposed use is not in line with the planning intention of the “R(E)” zone, there is no known development program for the Site. As such, approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “R(E)” zone.
- 11.2 The Site is situated in an area of rural coastal plains landscape character predominated by temporary structures, open storages, small houses, restaurants and parking areas in the proximity. The proposed development is considered not entirely incompatible with the landscape character of the surrounding area.
- 11.3 Relevant Government departments, including DEP, DFEH, C for T, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or no adverse comment on the application. The proposed use will unlikely create significant adverse environmental, food and hygiene, traffic, fire safety, drainage and landscape impacts to the surrounding area. To minimise any possible environmental impacts and nuisance on the surrounding developments and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest “COP” in order to minimise the potential environmental nuisance to the surrounding area.
- 11.4 The Site is not subject to any previous planning approval. However, the Committee has approved 3 similar applications covering the same site for proposed restaurant use within the same “R(E)” zone since 2001 (**Plan A-1**). Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There are 2 public comments received objecting to the application on the grounds as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 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 **24.9.2024**. 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 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium and 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, as proposed by the applicant, at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (d) 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 **24.3.2022**;
- (e) in relation to (d) 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 **24.6.2022**;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) 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 **24.3.2022**;
- (h) in relation to (g) 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 **24.6.2022**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) if any of the above planning conditions (d), (e), (g) or (h) is not complied with by the above 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 attached at **Appendix IV**.

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

the proposed use is not in line with the planning intention of the "R(E)" zone, which is primarily for phasing out of existing industrial uses through redevelopment for

residential use on application to the Board. There is no strong planning justification in the submission for a departure from such planning intention, 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 the planning 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

Appendix I	Application Form received on 27.7.2021
Appendix Ia	Further Information (FI) received on 11.8.2021
Appendix Ib	FI received on 30.8.2021
Appendix II	Similar Applications within the same “R(E)” Zone on the Lau Fau Shan and Tsim Bei Tsui OZP
Appendices III-1 and III-2	Public comments Received During Statutory Publication Period
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan with Access Road
Drawing A-2	Proposed Layout Plan
Drawing A-3	Swept Path Analysis of Vehicle
Drawing A-4	Location Plan of Nearby Private Fee-Paying Vehicle Parks
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**