

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/667

- Applicant** : Waso Cafe Ping Shan Limited represented by Metro Planning & Development Company Limited
- Site** : Lot 43 RP (Part) in D.D. 122, Ha Mei San Tsuen, Ping Shan, Yuen Long, New Territories
- Site Area** : About 57m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/19
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Temporary Eating Place (Outside Seating Accommodation (OSA) of a Restaurant) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary eating place (OSA of a restaurant) for a period of 3 years at the application site (the Site). The Site falls within an area zoned “V” on the OZP (**Plan A-1a**). According to the Notes of the OZP for “V” zone, ‘Eating Place’, unless on the ground floor of a New Territories Exempted House (NTEH), is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with part of it covered by valid planning permission under application No. A/YL-PS/621 (**Plans A-4a and A-4b**).
- 1.2 According to the applicant, the applied use is an extension of an existing restaurant on the ground floor of the adjoining NTEH within the same lot. The OSA, with an area of about 57m², will provide not more than 8 tables and accommodate not more than 24 patrons at one time. The Site is accessible via Yung Yuen Road (**Plans A-2 and A-3**). No parking facilities will be provided within the Site. The operation hours will be from 8 a.m. to 5 p.m. daily. The layout plan is at **Drawing A-1**.
- 1.3 The Site is involved in six previous applications (No. A/YL-PS/90, 119, 151,

216, 240 and 621) (details at paragraph 6 below).

- 1.4 A comparison of the major development parameters of the current application and the last approved application is summarised as follows:

| Major Development Parameters | Last Approved Application No. A/YL-PS/621 (a) | Current Application No. A/YL-PS/667 (b) | Difference (b) – (a) |
|------------------------------|--|--|------------------------------|
| Applied Use | Temporary Eating Place (OSA of a Restaurant) for a Period of 3 Years | Temporary Eating Place (OSA of a Restaurant) for a Period of 3 Years | No change |
| Site Area | about 10m ² | about 57m ² | +47m ² (+470%) |
| Seating Capacity | 6 patrons | 24 patrons | +18 patrons (+300%) |
| Parking Facilities | Nil. | | No change |
| Operation Hours | 8 a.m. to 11 p.m. daily | 8 a.m. to 5 p.m. daily | -6 hours (-40%) |

- 1.5 In support of the application, the applicant submitted the following documents:

- (a) Application Form with attachments received on (Appendix I) 3.8.2022
 - (b) Supplementary Information (SI) received on 8.8.2022 (Appendix Ia)
 - (c) Further Information (FI) received on 22.8.2022* (Appendix Ib)
 - (d) FI received on 2.9.2022* (Appendix Ic)
- [*exempted from publication requirements]

2. **Justifications from the Applicant**

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

- (a) The proposed development is in line with the planning intention of the “V” zone.
- (b) The proposed development is the only eating place in Ha Mei San Tsuen. The OSA is necessary to meet the acute demand.
- (c) Similar applications have been approved by the Board, such as application No. A/YL-TYST/961 within “Residential (Group B)1” zone.
- (d) The proposed development is compatible with the surrounding environment.
- (e) Insignificant traffic, noise and environmental impacts are anticipated.

- (f) Drainage facilities have been provided by the applicant at the site.

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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending registered mail to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

Part of the Site is the subject of an active planning enforcement action (Case No. E/YL-PS/737) against unauthorized development (UD) involving eating place use (**Plan A1-b**). Enforcement Notice (EN) was issued on 19.10.2021 requiring discontinuation of the UD. As the UD has not been discontinued after expiry of the EN, prosecution may be instituted.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 15A (TPB PG-No. 15A) for ‘Application for Eating Place within “Village Type Development” zone in Rural Areas under section 16 of the Town Planning Ordinance’ is relevant to the application. The relevant planning criteria are summarized in **Appendix II**.

6. Previous Applications

- 6.1 The Site is involved in six previous applications, including four rejected applications (No. A/YL-PS/90, 119, 151 and 240) and one approved application (No. A/YL-PS/216) for temporary vehicle park uses which are not relevant to the current application, and one approved application (No. A/YL-PS/621) for the same use as the current application. Details of these previous applications are shown in **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-PS/621 for temporary eating place (OSA of a restaurant) for a period of 3 years was approved by the Committee on 8.1.2021 on considerations that the applied use would not jeopardize the long-term planning intention of the “V” zone; not incompatible with the immediate surrounding uses; no adverse comments from government departments and technical concerns could be addressed by approval conditions; and the application is considered in line with the TPB PG-No. 15A. All time-limited approval conditions have been complied with.
- 6.3 Compared with last application (No. A/YL-PS/621), the current application is submitted by a different applicant for the same use with a larger site area and

seating capacity.

7. Similar Application

There is no similar application within the same “V” zone on the OZP in the past 5 years.

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

8.1 The Site is:

- (a) being used for the applied use with part of it covered by valid planning permission under application No. A/YL-PS/621; and
- (b) accessible via Yung Yuen Street (**Plans A-2 and A-3**).

8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to the immediate north is an eating place located on the ground floor of a NTEH in relation to the current application. To the further north is a car park covered by valid planning permission and some open storage yards which are suspected UD;
- (b) to the east and west are predominantly residential dwellings of Ha Mei San Tsuen; and
- (c) to the south is a car park partly covered by valid planning permission. To the further south across the MTR Tuen Ma Line is a logistics centre covered by valid planning permission.

9. Planning Intention

The planning intention of “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 the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Town Planning Board.

10. Comments from Relevant Government Departments

All 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 Comment Received During the Statutory Publication Period

On 12.8.2022, the application was published for public inspection. During the statutory public inspection period, one public comment from the Chairman of the Ping Shan Rural Committee was received (**Appendix VI**) supporting the application on the grounds of meeting the demand for OSA at eating place.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary eating place (OSA of a restaurant) for a period of 3 years at the Site zoned “V” on the OZP, which is primarily intended for development of Small Houses by indigenous villagers. 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 NTEH. The applied use is an extension of an existing restaurant on the ground floor of a NTEH at the subject lot. While the applied use is not entirely in line with the planning intention of the “V” zone, it could serve the local residents. Furthermore, according to the District Lands Officer/Yuen Long, Lands Department, there is no Small House application under processing/approved at the Site. Approval of the application on a temporary basis will not frustrate the long-term planning intention of the “V” zone.
- 12.2 The Site is situated in area of miscellaneous rural fringe predominated by village houses with some open storage yards and open-air car parks. The applied use is not incompatible with the surrounding areas.
- 12.3 Relevant government departments including Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Environmental Protection and Director of Fire Services have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse traffic, drainage, environmental and fire safety impacts on the surroundings. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below.
- 12.4 The application is considered in line with the TPB PG-No. 15A. The Site is located at the fringe of the Ha Mei San Tsuen and abuts Yung Yuen Road. The applied use would not have any adverse impacts to the surrounding areas, and the size and location of the Site would not adversely affect the land availability for village type development.
- 12.5 Given that part of the Site is the subject of a previous application (No. A/YL-PS/621) involving the same use approved by the Committee with conditions in 2021, approval of this application is generally in line with the previous decision of the Committee.

- 12.6 There was one public comment supporting to the application mainly on grounds stated in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.5 are relevant.

13. **Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, 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 until **23.9.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a fire service installations proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **23.3.2023**;
- (b) in relation to (a) above, the implementation of the fire service installations proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **23.6.2023**;
- (c) the submission of a drainage proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **23.3.2023**;
- (d) in relation to (c) above, the implementation of the drainage proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **23.6.2023**;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) if the above planning condition (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
- (g) if any of the above planning condition (a), (b), (c) 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.

Advisory clauses

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

- 13.3 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 "V" zone which is primarily for development of Small Houses by indigenous villagers. There is no strong planning justification 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

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| Appendix I | Application Form with Attachments received on 3.8.2022 |
| Appendix Ia | SI received on 8.8.2022 |
| Appendix Ib | FI received on 22.8.2022 |
| Appendix Ic | FI received on 2.9.2022 |
| Appendix II | Extract of the TPB PG-No. 15A |
| Appendix III | Previous Applications |
| Appendix IV | Government Departments' General Comments |
| Appendix V | Recommended Advisory Clauses |
| Appendix VI | Public Comment |
| Drawing A-1 | Layout Plan |
| Plan A-1a | Location Plan |
| Plan A-1b | Previous Applications Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and A-4b | Site Photos |