

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/671

- Applicant** : Mr. CHENG Wing Ho
- Site** : Lot 357 in D.D. 122, Ping Shan, Yuen Long, New Territories
- Site Area** : 283.28 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/20
- Zoning** : “Village Type Development” (“V”)
[*restricted to a maximum building height of 3 storeys (8.23 m)*]
- Application** : Temporary Eating Place and Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary eating place and shop and services for a period of three years at the application site (the Site) (**Plans A-1a and 1b**). According to the Notes of the OZP for the “V” zone, ‘Eating Place’ and ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the Site is accessible via footpaths leading from Tsui Sing Road and no parking space would be provided (**Plans A-2 and A-3**). The development comprises a single-storey structure with four units for eating place and shop and services. The lot index plan, layout plan and drainage proposal are at **Drawings A-1 to A-4** respectively.
- 1.3 The Site is involved in three previously approved applications (No. A/YL-PS/561, 576 and 610) (details in paragraph 6 below). The major development parameters of the current application and the previous application No. A/YL-PS/610 for the same uses approved by the Rural and New Town Committee (the Committee) on 21.8.2020 are summarised as follows:

Major Development Parameters	Last Approved Application (No. A/YL-PS/610) (a)	Current Application (No. A/YL-PS/671) (b)	Difference (b) – (a)
Development/ Use	Temporary Eating Place and Shop and Services for a Period of 3 Years		No change
Site Area	About 283.28 m ²		No change
Total Floor Area	105 m ²		No change
No. of Structure	1		No change
Maximum Height of Structure	2.83m		No change
Operation Hours	Eating Place: 4:00p.m. to 11:00p.m. (Tuesdays to Sundays) Shop and Services: 10:00a.m. to 8:00p.m. (Mondays to Sundays)		No change

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

- (a) Application form and attachments received on **(Appendix I)**
27.10.2022
- (b) Further information (FI) received on 12.12.2022 **(Appendix Ia)**
(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 at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed development has no adverse environmental and traffic impacts. Since the Site is located within a short walking distance (about 3 minutes) from Tin Shui Wai Station, no parking space will be provided.
- (b) As a small business operator, the applicant had paid effort to comply with the approval conditions of the last approved application. However, without appointing an agent to manage the progress, the applicant failed to comply with the approval conditions on submission and implementation of drainage proposal within the stipulated time limit. The applicant has appointed professional service to prepare necessary submissions for compliance with the approval conditions under the current application.

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 obtaining consent of the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

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 this application. The relevant assessment criteria of the Guidelines are at **Appendix II**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site is involved in three previous applications. Two of them (Applications No. A/YL-PS/576 and 610) for temporary eating place (light refreshment restaurant) and temporary eating place and shop and services cover the same structure at the Site; and the remaining one (Application No. A/YL-PS/561) for temporary public vehicle park covering a small portion of the Site is not relevant to the current application. Details of these previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-PS/576 covering part of the Site for temporary eating place (light refreshment restaurant) for a period of three years was approved with conditions by the Committee on 21.12.2018 on considerations that the eating place was not incompatible with the surrounding land uses; the proposed development would not jeopardise long-term planning intention; and no adverse comments were received from relevant government departments. All time-limited approval conditions have been complied with and the planning permission lapsed on 21.12.2021.
- 6.3 Application No. A/YL-PS/610 for the same use at the same site was approved with conditions by the Committee for a period of three years on 21.8.2020 on similar considerations in paragraph 6.2 above. However, the application was revoked on 21.7.2022 due to non-compliance with time-limited approval conditions on the submission and implementation of drainage proposal. Compared with the last application No. A/YL-PS/610, the current application is submitted by the same applicant for the same use on the same site with no change to the development parameters.

7. **Similar Applications**

Within the same “V” zone, there are two similar applications (No. A/YL-PS/588 and 600) for temporary animal boarding establishment, dog recreation centre and shop and services (pet supplies retail shop) and temporary shop and services respectively. Both of them were approved with conditions by the Committee in 2019 and 2020 respectively on similar considerations as stated in paragraph 6.2 above. Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) currently being used for the applied use without valid planning permission (**Plans A-2 and A-4**); and
- (b) accessible via footpaths leading from Tsui Sing Road (**Plans A-2 and A-3**).

8.2 The surrounding areas have the following characteristics:

- (a) to its north are Tin Shui Wai Light Rail Substation, Tuen Ma Line and Tsui Sing Road;
- (b) to its immediate east is storage use which is suspected unauthorised development (UD);
- (c) to its immediate south is Tat Tak Communal Hall (a declared monument). To the further south are some residential dwellings; and
- (d) to its immediate west are parking of vehicles which is suspected UD, and proposed residential institution (transitional housing) with planning permission under application No. A/YL-PS/623 (**Plan A-2**).

9. **Planning Intention**

The planning intention of the “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 Board.

10. Comments from Relevant Government Departments

All 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 V and VI** respectively.

11. Public Comments received During the Statutory Publication Period

On 4.11.2022, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received (**Appendices VII-1 and VII-2**) objecting to/expressing concern on the application mainly on the grounds that the applied use will cause adverse environmental impact, and hygiene and fire safety issues.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary eating place and shop and services for a period of three years at the Site zoned “V” on the OZP which is primarily intended for development of Small Houses by indigenous villagers. Although the applied use is not entirely in line with the planning intention of the “V” zone, the proposal is intended to serve the local residents and could meet any such demand in the area. According to the District Lands Officer/Yuen Long, Lands Department, there is no Small House application approved or under processing at the Site. As such, approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “V” zone.
- 12.2 The Site is located at the fringe of “V” zone mainly surrounded by residential dwellings, parking of vehicles, Tat Tak Communal Hall (declared monument) and Tin Shui Wai West Rail Station (**Plan A-2**). The applied use is considered not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with the TPB PG-No. 15A. According to TPB PG-No. 15A, eating place use in the “V” zone should not cause any environmental nuisance or cause inconvenience to the residents nearby and should not have adverse traffic, drainage, sewerage or fire safety impacts on its surrounding areas. In this regard, relevant government departments, including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services, Director of Environmental Protection, Director of Food and Environmental Hygiene and Chief Town Planner/Urban Design and Landscape of Planning Department have no objection to or adverse comment on the application. The applied use will unlikely cause significant adverse traffic, drainage, fire safety, environmental and landscape impacts on the surrounding area. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below.

- 12.4 The last application (No. A/YL-PS/610) for the same use at the same site as the current application was approved with conditions for a period of three years by the Committee on 21.8.2020. However, the planning permission was revoked on 21.7.2022 due to non-compliance with time-limited approval conditions on the submission and implementation of drainage proposals. The current application is submitted by the same applicant for the same use at the same site without any changes in development parameters and operation hours. Nevertheless, the applicant has submitted drainage proposals for the current application, and CE/MN of DSD has no objection to the application. As such, sympathetic consideration may be given to the current application. 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 would unlikely be given to any further application.
- 12.5 The Committee has approved two previous applications for temporary eating place and shop and services at the site and two similar applications for temporary shop and services within the same “V” zone. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 Two public comments objecting to/expressing concern on the application were received during the public inspection period as summarised in paragraph 10 above. The planning considerations and assessments in paragraph 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments 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 **23.12.2025**. 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 **23.6.2023**;
- (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 **23.9.2023**;
- (c) the submission of a revised 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 **23.6.2023**;

- (d) in relation to (c) above, the implementation of the revised drainage proposal within **9** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **23.9.2023**;
- (e) in relation to (d) above, the implemented drainage facilities on the Site 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 VI**.

- 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. No strong planning justification has been given 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

Appendix I
Appendix Ia

Application Form and attachments
FI received on 12.12.2022

Appendix II	Extract of TPB PG-No. 15A
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendices VII-1 and VII-2	Public Comments
Drawing A-1	Lot Index Plan
Drawing A-2	Layout Plan
Drawings A-3 and A-4	Drainage Proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMEBR 2022**