

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/678

- Applicant** : Waso Cafe Ping Shan Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 43 S.G (Part) and 43 RP (Part) in D.D. 122, Ha Mei San Tsuen, Ping Shan, Yuen Long, New Territories
- Site Area** : About 184.5m²
- 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** : Proposed Temporary Eating Place (Outside Seating Accommodation (OSA) of a Restaurant) with Ancillary Storage of Kitchenware for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary eating place (OSA of a restaurant) with ancillary storage of kitchenware for a period of three 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 the “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 partly used for eating place covered by valid planning permission under application No. A/YL-PS/667 and partly vacant with some movable sunshades (**Plans A-4a and A-4b**).
- 1.2 According to the applicant, the proposed use is an extension of an existing restaurant on the ground floor of the adjoining NTEH within Lot 43 RP in D.D. 122. The OSA, with an area of about 139m², will provide not more than 13 tables and accommodate not more than 42 patrons at one time. The remaining portion of the Site (i.e. about 45.5m²) will be for ancillary storage of kitchenware. 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, including public holidays. The proposed layout plan and

site plan are at **Drawings A-1 and A-2**.

- 1.3 The Site is involved in seven previous applications (No. A/YL-PS/90, 119, 151, 216, 240, 621 and 667), of which the last two applications for temporary eating place use were approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2021 and 2022 respectively (details at paragraph 6 below).
- 1.4 Compared with last application (No. A/YL-PS/667), the current application is submitted by the same applicant for largely similar use (with the addition of ancillary storage of kitchenware) within a larger site. 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/667 (a)	Current Application No. A/YL-PS/678 (b)	Difference (b) – (a)
Proposed Use	Temporary Eating Place (OSA of a Restaurant) for a Period of 3 Years	Proposed Temporary Eating Place (OSA of a Restaurant) with Ancillary Storage of Kitchenware for a Period of 3 Years	Additional ancillary storage of kitchenware
Site Area	about 57m ²	about 184.5m ²	+127.5m² (+224%)
Seating Capacity	24 patrons	42 patrons	+18 patrons (+75%)
Operation Hours	8 a.m. to 5 p.m. daily		No change

- 1.5 In support of the application, the applicant submitted the following documents:
- (a) Application Form with attachments received on **(Appendix I)** 13.2.2023
 - (b) Supplementary Information (SI) received on **(Appendix Ia)** 17.2.2023

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 would meet the acute demand from villagers of Ha Mei San Tsuen and workers of the adjacent logistics facilities.

- (c) Part of the Site is the subject of a previously approved planning application (No. A/YL-PS/667) for temporary eating place use. As the owner of Lot 43 S.G now allows the applicant to use the lot for the proposed use, a fresh planning application is submitted covering a larger site.
- (d) Similar applications for eating place and OSA of a restaurant have been approved by the Board, such as application No. A/YL-TYST/961 within “Residential (Group B)1” zone.
- (e) The proposed development is compatible with the surrounding environment.
- (f) Insignificant traffic, noise and environmental impacts are anticipated.
- (g) 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

Majority 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 A-1b**). Enforcement Notice was issued on 19.10.2021 requiring discontinuation of the UD by 19.12.2021. Since the UD had not been discontinued upon expiry of the notice, the registered owners and the occupier were prosecuted and convicted on 30.11.2022. The latest site inspection in March 2023 revealed that the UD (excluding the area covered by valid planning permission under application No. A/YL-PS/667) was discontinued. The Site is being closely monitored under established practice.

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 summarised in **Appendix II**.

6. Previous Applications

- 6.1 The Site is involved in seven 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, as well as two approved applications (No. A/YL-PS/621 and 667) for temporary eating place use. Details of these previous applications are shown in **Appendix III** and their locations are shown on **Plan A-1b**.

- 6.2 Applications No. A/YL-PS/621 and 667 for temporary eating place (OSA of a restaurant) for a period of three years were approved with conditions by the Committee in 2021 and 2022 respectively mainly on considerations that the applied use would not frustrate the long-term planning intention of the “V” zone; not incompatible with the surrounding uses; no adverse comments from government departments and technical concerns could be addressed by approval conditions; and being in line with TPB PG-No. 15A. The last planning permission under application No. A/YL-PS/667 is valid until 23.9.2025.

7. Similar Application

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

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

8.1 The Site is:

- (a) partly used for eating place covered by valid planning permission under application No. A/YL-PS/667 and partly vacant with some movable sunshades; and
- (b) accessible via Yung Yuen Street.

8.2 The surrounding areas have the following characteristics. Some of the uses are suspected UD's subject to planning enforcement action:

- (a) to its immediate north is an eating place located on the ground floor of a NTEH in relation to the current application. To the further north are car parks (one of which is covered by valid planning permission under application No. A/YL-PS/626), some open storage yards and vacant/unused land;
- (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 under application No. A/YL-PS/649. To the further south across the MTR Tuen Ma Line is a logistics centre and vehicle park covered by valid planning permission under application No. A/YL-PS/633.

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 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 21.2.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received (**Appendix VI**) from an individual objecting to the application on grounds of environmental hygiene concerns, nuisance and blockage of vehicular and pedestrian accesses.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary eating place (OSA of a restaurant) with ancillary storage of kitchenware for a period of three years at the Site zoned “V” on the OZP. The proposed use is an extension of an existing restaurant on the ground floor of a NTEH at Lot 43 RP in D.D. 122. While the proposed use is not entirely in line with the planning intention of the “V” zone, it could meet the demand for eating place from the local residents and workers nearby. Although part of the Site (Lot 43 S.G in D.D. 122) is a private lot with an approved Small House grant (**Drawing A-2**), District Lands Officer/Yuen Long, Lands Department advises that the Small House development has not been taken forward since 2013 and he has no adverse comment on the application. As such, approval of the application on a temporary basis for a period of three years will unlikely frustrate the long-term planning intention of the “V” zone.
- 12.2 The Site is situated in an area predominated by village houses, car parks and vacant/unused land. The proposed use is small in scale and not incompatible with the surrounding areas.
- 12.3 The application is generally in line with TPB PG-No. 15A. The Site is located at the fringe of Ha Mei San Tsuen and abuts Yung Yuen Road. Relevant

government departments including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Environmental Protection and Director of Fire Services also have no objection to or no adverse comment on the application. The proposed use will unlikely create 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 Part of the Site is involved in two previous applications (No. A/YL-PS/621 and 667) for largely similar use approved with conditions by the Committee in 2021 and 2022 respectively mainly on considerations that the applied use would not frustrate the long-term planning intention of the “V” zone; not incompatible with the surrounding uses; no adverse comments from government departments and technical concerns could be addressed by approval conditions; and being in line with TPB PG-No. 15A. Approval of the current application is generally in line with the previous decisions of the Committee.
- 12.5 There is one public comment objecting to the application mainly on the grounds summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.4 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 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 three years until **31.3.2026**. 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 **30.9.2023**;
- (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 **31.12.2023**;
- (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 **30.9.2023**;

- (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 **31.12.2023**;
- (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 proposed 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

Appendix I	Application Form with Attachments received on 13.2.2023
Appendix Ia	SI received on 17.2.2023

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	Proposed Layout Plan
Drawing A-2	Site 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

**PLANNING DEPARTMENT
MARCH 2023**