

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/666

- Applicant** : Sky Link Consultant Investment Limited represented by R-riches Property Consultants Limited
- Site** : Lots 153 (Part) and 154 S.A. (Part) in D.D. 102, Wing Ping Tsuen, San Tin, Yuen Long
- Site Area** : 575m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Village Type Development” (“V”)
- 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 three years at the application site (the Site) which is zoned “V” on the approved San Tin OZP (**Plan A-1a**). According to the Notes of the OZP for the “V” zone, ‘Eating Place’, other than on the ground floor of a New Territories Exempted House (NTEH), is a Column 2 use and requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a temporary structure under renovation.
- 1.2 The proposed use involves a single-storey structure (about 4m in height) with a gross floor area (GFA) of about 225m² for eating place and washroom uses (**Drawing A-1**). Three private car parking spaces and one loading/unloading bay for light goods vehicles will be provided (**Drawing A-2**). The Site is accessible via a local access from Castle Peak Road – San Tin (**Plan A-1a**). The operation hours are between 9:00 am and 10:00 p.m. from Monday to Sunday including public holidays. The estimated number of staff members and visitors per day would be 5 and 30 respectively.
- 1.3 The Site is the subject of 11 previous applications, in which only the last previous application (No. A/YL-ST/604) is relevant to the current application (see paragraph 6.2 below). When compared with the last previous application (No. A/YL-ST/604), there is no change in the development parameters and layout of the development.

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

- (a) Application Form received on 4.1.2024 and (Appendix I)
Supplementary Information (SI) received on 10.1.2024
- (b) Supplementary Statement (Appendix Ia)
- (c) Further Information (FI) received on 19.2.2024[#] (Appendix Ib)

Remarks: # 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, SI and Supplementary Statement at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed use, which is intended to serve the nearby local, is on a temporary basis and will not jeopardise the long-term planning intention of the “V” zone.
- (b) Advanced booking is required for the use of parking space by visitors to the proposed eating place. No medium or heavy goods vehicles including container tractors/ trailers will be allowed to enter/exit the Site. The traffic generated and attracted by the proposed use is minimal and adverse traffic impact is not anticipated.
- (c) The applicant will follow the ‘Control of Oil Fume and Cooking Odour from Restaurant and Food Business’ issued by the Environmental Protection Department (EPD) to control oily fume and cooking odour emissions generated from the eating place during its operation. Adequate air pollution control equipment will be provided at the kitchen ventilation system for treating cooking fume emissions before discharge to the outdoor environment, in order to fulfil the requirements of the Air Pollution Control Ordinance. The applicant will also follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by EPD and statutory requirements under relevant pollution control ordinances to minimise adverse environmental impacts and nuisance to the surrounding area.
- (d) The applicant has complied with the approval conditions of the previous application (No. A/YL-ST/604) relating to the submission of the drainage proposal and fire service installation (FSI) proposal. However, the implementation works could not be commenced as the applicant has been waiting for the approval from the Lands Department (LandsD) for the erection of structures at the Site, which subsequently led to revocation of the previous application. In support of the current application, the applicant has submitted fire service installations proposal and drainage proposal at **Appendix Ia**, and committed to implement these proposals after planning approval and Short Term Waiver have been granted by the Board and LandsD respectively.

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 notifying the concerned land owners through posting site notice and sending notification letter to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Site is located within the Wetland Buffer Area (WBA) (**Plan-A1a**) in Deep Bay Area. Both the Town Planning Board Guidelines for ‘Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB-PG No. 12C) and ‘Application for Eating Place within “Village Type Development” zone in Rural Areas under section 16 of the Town Planning Ordinance’ (TPB-PG No. 15A) currently in force are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. Background

The Site is not subject to any enforcement action.

6. Previous Applications

- 6.1 The Site (in whole or in part) is the subject of 11 previous applications (No. A/YL-ST/16, 34, 41, 126, 135, 245, 315, 383, 481, 541 and 604) of which the first four were rejected by the Rural and New Town Planning Committee (the Committee) and the remaining seven were approved by the Committee with conditions.
- 6.2 The last application (No. A/YL-ST/604) submitted by the same applicant for the same proposed use was approved by the Committee on 18.2.2022 for a period of three years mainly on the considerations that the temporary approval would not jeopardize the long term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding land uses; there was no objection to or no adverse comment from concerned government departments; the proposed use is generally in line with the TPB PG-No. 12C and 15A; and the approval of the application is in line with the previous decisions of the Committee. However, the planning permission was subsequently revoked on 18.11.2023 due to non-compliance with the approval conditions on the implementation of drainage proposal and FSI proposal.
- 6.3 The remaining six approved applications mainly for temporary public car/lorry park (No. A/YL-ST/135, 245, 315, 383, 481, 541) and four rejected applications (No. A/YL-ST/16, 34, 41 and 126) mainly for temporary container vehicle/trailer and lorry repair workshop, container vehicle park, weigh bridge, tyre repair workshop and canteen, or container trailer park with vehicle washing/repair workshop and canteen are not relevant to the current application.
- 6.4 Details of these previous applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 During the past five years, there are six similar applications (No. A/YL-ST/565, 621, 622, 637, 638 and 651) for temporary eating place within the same “V” zone, and were all approved by the Committee between 2019 and 2023 mainly on the considerations as stated in paragraph 6.2 above.
- 7.2 Details of these similar applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) accessible via a local access from Castle Peak Road – San Tin;
- (b) occupied by a temporary structure currently under renovation; and
- (c) located within the WBA in Deep Bay Area.

8.2 The surrounding areas are predominantly residential dwellings/village houses of Wing Ping Tsuen intermixed with car parks, vacant land, shops, restaurants and storage yard.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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 IV and V** respectively.

11. Public Comments Received During Statutory Publication Period

On 12.1.2024, the application was published for public comments. During the statutory publication period, one public comment was received from an individual raising objection to the application on the grounds that the previous planning permission was revoked without fulfilling the approval conditions in relation to the drainage and fire aspects (**Appendix VI**).

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary eating place for a period of three years within “V” zone on the OZP. The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Commercial, community and recreational uses may be permitted on application to the Board. Although the proposed use is not entirely in line with the planning intention of the “V” zone, it could serve the adjacent villages and meet the local demand for eating place in the vicinity. District Lands Officer/Yuen Long, LandsD has no adverse comment on the application and advises that there is no Small House application being processed/approved at the Site. The proposed use is temporary in nature which would not adversely affect the land availability for NTEH within the “V” zone in the long term. In

this regard, approval of the application on a temporary basis for three years would not jeopardize the long-term planning intention of the “V” zone.

- 12.2 Given the small scale and the nature of the proposed eating place use to serve the local community, it is considered not incompatible with the surrounding land uses which are mainly residential dwellings intermixed with car parks, vacant land, shops, restaurants and storage yard (**Plan A-2**).
- 12.3 The Site falls within the WBA of the TPB PG-No. 12C currently in force and the guidelines specify that planning applications for temporary uses are exempted from the requirement of Ecological Impact Assessment. Director of Agriculture, Fisheries and Conservation has no comment on the application from nature conservation point of view.
- 12.4 The application is generally in line with TPB PG-No. 15A in that the proposed use is located at the fringe of Wing Ping Tsuen and is accessible via a local access from Castle Peak Road – San Tin. In view of the scale of the proposed eating place, it would unlikely generate significant adverse traffic, environmental and sewerage impacts on the surrounding areas. Concerned government departments including the Director of Food and Environmental Hygiene, Director of Environmental Protection, Commissioner for Transport, Chief Town Planner/Urban Design and Landscape, Planning Department, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Fire Services (D of FS) have no adverse comments on food and environmental hygiene, environmental, traffic, landscape, drainage and fire safety aspects respectively. Should the application be approved, technical requirements of the concerned government departments are imposed through approval conditions in paragraph 13.2 below. Besides, the applicant will be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the EPD and relevant ordinance relating to the control of oily fume, cooking odour and waste water from eateries.
- 12.5 As detailed in paragraph 6, the Site is the subject of 11 previous applications. Amongst which, the last previous application (No. A/YL-ST/604) submitted by the same applicant for the same proposed use is relevant to the current application. However, the planning permission was revoked in 2023 due to non-compliance with the time-limited approval conditions regarding the implementation of drainage proposal and FSIs proposal. In this regard, there has been no material change in the planning circumstance, and the applicant has submitted the FSIs proposal and drainage proposal in support of the current application, and D of FS and CE/MN, DSD have no in-principle objection to the application subject to the provision of FSIs and implementation of the drainage proposal. Should the Committee decide to approve the application, the applicant will be advised that should it fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.6 The Committee has also approved six similar applications within the same “V” zone in the past 5 years as detailed in paragraph 7 above. Approval of the current application is in line with the previous decisions of the Committee.
- 12.7 Regarding the public comment received as detailed in paragraph 11, the planning assessment and departmental comments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment 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 1.3.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 10:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the implementation of the accepted 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 1.12.2024;
- (d) in relation to (c) above, the implemented drainage proposal on the site shall be maintained at all times during the planning approval period;
- (e) the submission of a revised 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 1.9.2024;
- (f) in relation to (e) above, the implementation of 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 1.12.2024;
- (g) if any of the above planning condition (a), (b) or (d) 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
- (h) if any of the above planning condition (c), (e), or (f) 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 "Village Type Development" zone which is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion . There is no strong justification to deviate 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 received on 4.1.2024 and SI received on 10.1.2024
Appendix Ia	Supplementary Statement
Appendix Ib	FI received on 19.2.2024
Appendix II	Relevant Extracts of TPB PG-No. 12C and 15A
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comment
Drawing A-1	Site Layout Plan
Drawing A-2	Location and Vehicular Access of the Site
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2024**