

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/596

- Applicant** : LEUNG Chiu Fan represented by LEUNG Ming Kin
- Site** : Lots 1185, 1186 (Part), 1187 S.M, 1187 S.L (Part), 1298 RP (Part) and 2146 in D.D. 117, Tai Tong Shan Road, Tai Tong, Yuen Long, New Territories
- Site Area** : About 1,450 m²
- Lease** : New Grant for Lot 2146 in D.D. 117 (for agricultural purpose and a Small House) and Block Government Lease (demised for agricultural use)
- Plan** : Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/19
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- 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 three years at the application site (the Site) (**Plan A-1a**). According to the Notes of the OZP for the “V” zone, ‘Eating Place’ (other than those 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 partly occupied by a NTEH with an existing restaurant on the ground floor and the remaining area by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Tai Tong Shan Road to its north via a local track. According to the applicant, the Site consists of an existing NTEH (House No. 198) at Lot 2146 in D.D. 117, with a restaurant on the ground floor, four structures for OSA and an ancillary car parking and loading/unloading area. The layout plan and fire service installations (FSIs) plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.3 The Site is involved in seven previous applications for the same/similar use as the current application including four applications approved by the Rural and New

Town Planning Committee (the Committee) of the Board between 2010 and 2020 (details at paragraph 6 below).

- 1.4 Compared with the last application (No. A/YL-TT/502), the current application is submitted by the same applicant for the same use at a larger site with similar layout and development parameters but a different run-in/out (details at paragraph 6).
- 1.5 A comparison of the major development parameters of the current application and the last previously approved application is summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/502 (a)	Current Application No. A/YL-TT/596 (b)	Difference (b)-(a)
Applied Use	Temporary Eating Place (OSA of a restaurant) for a Period of 3 Years		-
Site Area	About 1,225m ² (including Government land (GL) of about 116m ²)	About 1,450 m ² (No GL is involved)	+225m ² (+18.4%)
Total Non-domestic Gross Floor Area	About 466 m ²	About 506 m ²	+40 m ² (+8.6%)
No. of Structures	6 for OSA, storage and rain shelter	8 for OSA, storage, rain shelter and meter room	+2 (+33.3%)
Height of Structures	2.5-4 m (1 storey)	2-5m (1 storey)	+1m (+25%)
No. of Parking Spaces	6 for private car (5m x 2.5m)		-
No. of Loading/Unloading Space	1 for light goods vehicle (7m x 3.5m)		-
Operation Hours	6:00a.m. to 10:00p.m. daily		-

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

- (a) Application Form received on 11.5.2023 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Further Information (FI) received on 9.6.2023* **(Appendix Ib)**
- (d) FI received on 15.6.2023* **(Appendix Ic)**

**accepted and 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 Supplementary Planning Statement **(Appendix Ia)**. They can be summarised as follows:

- (a) the Site is situated in the south-eastern fringe of the subject “V” zone where most commercial activities of Tai Tong Tsuen are located but with limited licensed eating

places. The applied use provide an additional choice of eatery for the local residents, nearby workers and visitors and support the socio-economic development of the surrounding villages. It is in line with the planning intention of the “V” zone and it is compatible with the surrounding land uses;

- (b) the landowners of the subject lots support the application as they have no intention to construct Small House (SH) in the coming few years. The applicant also undertakes to reinstate the Site for development of SH upon expiry of planning permission if the Site is in conflict with SH development;
- (c) the applied use is in line with Town Planning Board Guidelines No. 15A (TPB PG-No. 15A) mainly for reasons of its suitable location; no adverse impact on the land available for village type development; no adverse drainage, sewerage, fire safety, traffic and environmental impacts; and the Site is in the vicinity of recreation uses and tourist attractions; and
- (d) similar applications were approved with conditions within the same “V” zone and the Site is subject of previous approvals for the same use, which indicate that the Site is suitable for the applied use on temporary basis. The last application consists of two portions (i.e. northern and southern portions) bisected by the Tai Tong Shan Road. Under the current application, the site layout is redesigned and the ancillary parking area at the northern portion is relocated to the southern portion for better management.

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 the notice to Shap Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Eating Place within “V” Zone in Rural Areas under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 15A) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

6. Previous Applications

- 6.1 There are seven previous applications (No. A/YL-TT/272, 321, 366, 373, 379, 403 and 502) covering different extents of the Site for the same/similar eating place use.

Details of the application are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.

- 6.2 Applications No. A/YL-TT/272 and 321 for temporary eating place each for a period of three years were approved with conditions by the Committee in 2010 and 2014 respectively, mainly on the considerations that the applications would not jeopardise the long-term planning intention of the subject “V” zone; the proposals were not incompatible with the surrounding land uses; the proposals generally complied with TPB PG-No. 15A; and the technical concerns of relevant government departments could be addressed by imposing appropriate approval conditions. However, the planning permissions for both planning applications were revoked in 2013 and 2015 respectively due to non-compliance with time-limited approval conditions.
- 6.3 Applications No. A/YL-TT/366, 373 and 379 for temporary eating place (the latter application with proposed OSA) for a period of one or three years were rejected by the Committee between 2015 and 2016 mainly on the grounds that the applicant failed to demonstrate the development would not cause adverse traffic, drainage and fire safety impacts on the surrounding areas; and approval of the applications with repeated non-compliances with approval conditions would set an undesirable precedent, thus nullifying the statutory planning control mechanism.
- 6.4 Applications No. A/YL-TT/403 and 502 for temporary eating place (both with OSA) were approved with conditions by the Committee for a period of three years in 2017 and 2020 mainly on similar considerations as mentioned in paragraph 6.2 and that sympathetic consideration was given to the former application as the applicant was different from the previous applications in paragraph 6.2 and 6.3. However, the planning permission for application No. A/YL-TT/502 was subsequently revoked on 15.2.2023 due to non-compliance with time-limited approval condition regarding implementation of the run-in/out proposal.

7. Similar Application

There is one similar application (No. A/YL-TT/497) for temporary canteen within the subject “V” zone which was approved with conditions by the Committee for a period of three years in 2020 mainly on similar considerations as those mentioned in paragraph 6.2 above. Details of the application are summarised in **Appendix III** and the location of the site is shown on **Plan A-1a**.

8. 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 SHs 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.

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

9.1 The Site is:

- (a) accessible from Tai Tong Shan Road to its north via a local track (**Plan A-2**); and
- (b) formed and currently occupied by an existing restaurant on the ground floor of an NTEH and the applied use without valid planning permission (**Plan A-4**).

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

- (a) predominantly rural residential in character with scattered parking of vehicles, eating place, motor showroom, open storage/storage yards, warehouses, workshops, real estate agency, office, toilet, animal farm, plant nursery, burial urns and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located 10m to its south;
- (c) to the southeast of the Site is an area zoned “Open Storage” (“OS”) on the OZP; and
- (d) except for the motor showroom, eating place and real estate agency which are covered with planning permissions under applications No. A/YL-TT/565, 497 and 558 as well as a storage yard, the remaining parking of vehicles, warehouses, office and open storage/storage yards in its vicinity within the “V” zone are mostly suspected unauthorized developments (UDs) subject to planning enforcement action.

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 the Statutory Publication Period

11.1 On 19.5.2023, the application was published for public inspection. During the statutory public inspection period, a total of 206 public comments were received. Of which, 205 express support and one individual provides view on the application. A full set of public comments will be deposited at the meeting for Members’ inspection.

Supporting Comments (205 comments)

11.2 The 205 supporting comments are received from New Territories Warehouse & Logistic Business Association (**Appendix VI-1**), 大棠村青年團 (**Appendix VI-2**),

Shap Pat Heung District Resident Association (**Appendix VI-3**), village representative from Tai Tong Tsuen (**Appendices VI-4 and VI-5**) and various residents and workers, including 200 comments largely based on seven sets of standard templates (extracted samples at **Appendices VI-6 to VI-12**). The supporting grounds are summarised as follows:

- (a) the applied use could provide a convenient and affordable dining option and gathering place for the residents, workers and visitors;
- (b) the eating place could provide job opportunities and promote local economy;
- (c) the Site is located in an area proximate to several tourist spots and far away from Yuen Long town centre but in lack of eating place; and
- (d) the applied use is in line with planning intention of the “V” zone.

Providing Views (1 comment)

- 11.3 One individual provides views on the application that the applicant has made minor changes to the proposal in order to obtain planning permission on the Site which has history of non-compliances (**Appendix VI-13**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary eating place (OSA of a restaurant) for a period of three years at the Site zoned “V” on the OZP. Although the applied use is not entirely in line with the planning intention of the “V” zone, it could meet any such demand for eating place in the area. According to the District Lands Officer/Yuen Long, Lands Department, apart from the existing SHs within the Site, there is currently no SH application approved/under processing at the Site. The applicant has committed to reinstate the Site for SH development upon expiry of the planning permission if there is conflict for SH development. As such, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The applied use is generally not incompatible with the surrounding uses, which comprise predominantly rural residential dwellings intermixed with parking of vehicles, eating places, motor showroom, office, open storage/storage yards and warehouses (**Plan A-2**).
- 12.3 The application is generally in line with TPB PG-No. 15A in that the Site is located at the fringe of Tai Tong Tsuen and abuts Tai Tong Shan Road. There is no adverse comment from concerned government departments, including the Director of Food and Environmental Hygiene, Commissioner for Transport, Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD), Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD), Director of Fire Services (D of FS) and Director of Environmental Protection. Significant impacts on hygiene, traffic, drainage, fire safety, environmental and sewerage aspects on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to address the technical requirements of concerned government departments. Should the planning

application be approved, the applicant will also be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental impact on the surrounding areas.

- 12.4 Majority of the Site is subject to a previous application (No. A/YL-TT/502) for the same use as the current application which was approved with conditions for a period of three years by the Committee in 2020. While the applicant has complied with the time-limited approval conditions on submission and implementation of drainage and FSIs proposals, the planning permission was revoked on 15.2.2023 due to non-compliance with time-limited approval condition regarding implementation of the run-in/out proposal. Compared with the last application, the current application is submitted by the same applicant with a similar layout and development parameters but a different run-in/out. In this regard, CHE/NTW, HyD has no adverse comment on the application. The applicant has also submitted FSIs proposal and drainage records to support the current application, and D of FS and CE/MN, DSD have no in-principle 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 applications.
- 12.5 Given that four previous approvals concerning the Site have been granted and one similar application have been approved by the Committee within the subject "V" zone in 2020, approval of the current application is generally in line with the Committee's previous decisions.
- 12.6 There are 206 public comments received on the application during the statutory publication period supporting/providing views on the application as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above 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 23.6.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.9.2023;

- (b) in relation to (a) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (c) 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 23.12.2023;
- (d) in relation to (c) 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 23.3.2024;
- (e) if the above planning condition (b) 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
- (f) if any of the above planning condition (a), (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 at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the applied use is not in line with the planning intention of the "V" zone which is primarily for development of SH 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	Application Form received on 11.5.2023
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI received on 9.6.2023

Appendix Ic	FI received on 15.6.2023
Appendix II	Relevant extract of TPB PG-No. 15A
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendices VI-1 to VI-13	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	FSIs Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2023**