

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/606

- Applicant** : Ms. LEUNG Tsz Lan
- Site** : Lots 1187 S.N (Part) and 1187 RP (Part) in D.D. 117, Tai Tong Shan Road, Yuen Long, New Territories
- Site Area** : About 181 m²
- Lease** : 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 currently formed and occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is accessible from Tai Tong Shan Road to its north. According to the applicant, the proposed use consists of eight 4m single-storey shelters for OSA of an existing restaurant on the ground floor of two NTEHs at Lots 1187 S.N and 1187 S.L in D.D. 117. The applied use (with a total floor area of 104m²) will only be confined within the boundary of the Site. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site is involved in four previous applications for temporary eating place use including two approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2010 and 2014 respectively (details at paragraph 6 below).

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

- | | | |
|-----|---|---------------|
| (a) | Application Form received on 14.8.2023 | (Appendix I) |
| (b) | Supplementary Planning Statement | (Appendix Ia) |
| (c) | Further Information (FI) received on 4.10.2023* | (Appendix Ib) |
| (d) | FI received on 6.10.2023* | (Appendix Ic) |
- *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 Supplementary Planning Statement (**Appendix Ia**). They can be summarised as follows:

- (a) the Site is situated at the fringe of village area and abutting Tai Tong Shan Road where most of the commercial activities are located. The applied use provides an additional choice of dining for the local residents, workers and visitors and supports the socio-economic development of the surrounding villages. It is in line with the planning intention of the “V” zone and compatible with the surrounding land uses;
- (b) the applied use is in line with Town Planning Board Guidelines No. 15A (TPB PG-No. 15A) mainly for the reasons of its suitable location; no adverse drainage, sewerage, fire safety and traffic impacts; and the Site is in the vicinity of recreation uses and tourist attractions; and
- (c) similar applications were approved with conditions within the same “V” zone and the Site is subject of previous approvals for temporary eating place use, which indicate that the Site is suitable for the applied use on a temporary basis.

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 The Site is involved in four previous applications (No. A/YL-TT/272, 321, 366 and 373) for temporary eating place use. Details of the applications 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 covering larger site area for temporary eating place use 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 and 373 covering larger site area for temporary eating place use each for a period of three years and one year were rejected by the Committee in 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 Compared with the last application (No. A/YL-TT/373), the current application is submitted by a different applicant for similar eating place use (OSA only for the current application) at a smaller site with a different layout and development parameters.

7. Similar Applications

There are four similar applications (No. A/YL-TT/497, 502, 596 and 599) for temporary canteen and temporary eating place (OSA of a restaurant) within the subject “V” zone which were approved with conditions by the Committee for a period of three years between 2020 and 2023 mainly on similar considerations as those mentioned in paragraph 6.2 above. However, the planning permission for one of the planning applications (A/YL-TT/502) was revoked in 2023 due to non-compliance with time-limited approval condition. Details of the application are summarised in **Appendix III** and the locations of the site are 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 Small Houses (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 (**Plan A-2**);
- (b) adjoining two existing NTEHs, the G/F of them are being used as restaurant (**Plan A-4**); and
- (c) formed and currently occupied by 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 places, motor showroom, open storage/storage yards, warehouses, workshops, real estate agency, office, toilets, animal farm, plant nursery and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located 10m to its west; and
- (c) except for the motor showroom, eating places and real estate agency which are covered with planning permissions under applications No. A/YL-TT/565, 497, 558 and 596 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 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 22.8.2023, the application was published for public inspection. During the statutory public inspection period, a total of 91 public comments were received. All comments express support to the application. A full set of public comments will be deposited at the meeting for Members’ inspection.

11.2 The 91 supporting comments are received from Shap Pat Heung Rural Committee (**Appendix VI-1**), New Territories Warehouse & Logistic Business Association (**Appendix VI-2**), village representative from Tai Tong Tsuen (**Appendix VI-3**),

大棠青年團, and local residents and workers, including 88 comments largely based on three sets of standard templates (extracted samples at **Appendices VI-4 to VI-6**). The supporting grounds are summarised as follows:

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

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, there is no SH application approved/under processing at the Site. 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, real estate agency, 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, 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 Given that two previous approvals (No. A/YL-TT/272 and 321) concerning the Site have been granted and three similar applications have been approved by the Committee within the subject “V” zone since 2020, approval of the current application is generally in line with the Committee’s previous decisions. Although there are two previously rejected applications (No. A/YL-TT/366 and 373) 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, the current application is submitted by a different applicant with a much smaller site area which can be considered as a fresh application. According to the applicant, there are existing drainage facilities at the restaurant and the applicant has also committed to provide FSI at the Site, and D of FS and CE/MN, DSD have no in-principle objection to the application.

- 12.5 There are 91 public comments received on the application during the statutory publication period supporting the application as summarised in paragraph 11 above. 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 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 13.10.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a 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 13.4.2024;
- (b) in relation to (a) above, the implementation of the 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 13.7.2024;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 13.4.2024;
- (e) in relation to (d) 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 13.7.2024;
- (f) if the above planning condition (c) 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), (d) or (e) 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 SHs 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 14.8.2023
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI received on 4.10.2023
Appendix Ic	FI received on 6.10.2023
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-6	Public Comments
Drawing A-1	Layout 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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**