

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1189

- Applicant** : Ming Wai Management Limited represented by PlanArch Consultants Limited
- Site** : Lots 2519 RP (Part), 2520 RP and 2521 (Part) in D.D. 124, Hung Shun Road, Hung Shui Kiu, Yuen Long
- Site Area** : 750 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings** : “Government, Institution or Community” (“G/IC”) (about 51.7%); and
“Residential (Group B)1” (“R(B)1”) (about 48.3%)
[Restricted to a maximum plot ratio of 1, a maximum site coverage of 40% and a maximum building height (BH) of 4 storeys over single-storey car park (15m)]
- Application** : Temporary Eating Place for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary eating place for a period of three years at the application site (the Site) (**Plan A-1a**). According to the Notes of the OZP, ‘Eating Place (not elsewhere specified)’ and ‘Eating Place’ are Column 2 uses for the “G/IC” and “R(B)” zones respectively which require planning permission from the Town Planning Board (the Board). The Site is currently partly vacant and partly occupied by the applied use covered with valid planning permission under application No. A/YL-TYST/1110 (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use is for temporary eating place serving the growing demand in the vicinity. There will be no vehicular access within the Site and car parking and loading/unloading (L/UL) activities will take place at the adjoining vehicle park. A plan showing the site layout with landscape proposal submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of five previous applications (No. A/YL-TYST/120, 191, 305, 413 and 1110) (details at paragraph 5 below). The last application (No. A/YL-TYST/1110) for the same use as the current application was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 24.9.2021.
- 1.4 The major development parameters of the current application and the last approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/1110 (a)	Current Application No. A/YL-TYST/1189 (b)	Difference (b)-(a)
Applied Use	Temporary Eating Place for a Period of 3 Years		---
Site Area	About 524 m ²	About 750 m ²	+226 m ² (+43.1%)
Total Floor Area (Non-domestic)	About 524 m ²	About 495 m ²	-29 m ² (-5.5%)
No. and Height of Structure(s)	2 • for eating place and ancillary electricity meter rooms and water tank (6m, 1 storey)	2 • for eating place and ancillary facilities including electricity meter room and fire service installations (3.6 to 5.8m, 1 storey)	Reduction in BH (-0.2 to 2.4m)
No. of Parking Space	Nil		---
No. of L/UL Space	Nil		---
Operation Hours	7:00 a.m. to 10:00 p.m. daily		---

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

- (a) Application Form received on 9.11.2022 (Appendix I)
- (b) Supplementary Planning Statement (Appendix Ia)

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) there is no known development programme at the Site and the temporary use would not jeopardise the long-term planning intention;
- (b) the Site is the subject of previous planning permissions for similar uses. The applicant had demonstrated great effort to comply with the approval conditions of the previous applications. Approval of the application will not set an undesirable precedent;
- (c) in response to Fire Services Department's comments on the submitted fire service installations (FSIs) proposal under the last application (No. A/YL-TYST/1110), the applicant proposed to provide an underground sprinkler tank and ancillary FSIs at

the Site. As a larger site is required to accommodate the additional water tanks and FSIs, a fresh application is made;

- (d) the applied use can meet the growing demand for eating place from residents, students and workers in the neighbourhood and will help improve the visual amenity of the area. The applied use is compatible with the surrounding environment; and
- (e) there will be minimal traffic, environmental, landscape, visual, drainage and sewerage impacts arising from the applied use.

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 posting site notice and publishing notices in local newspapers. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves five previous applications (No. A/YL-TYST/120, 191, 305, 413 and 1110) for various temporary catering uses including eating place, staff canteen and refreshment kiosk covering smaller sites. Details of the application are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1b**.
- 5.2 All five applications were approved with conditions for a period of two or three years by the Committee or by the Board on review between 2000 and 2021 mainly on the considerations that the proposals were not incompatible with the surrounding uses; the development programme on the “G/IC” zone had not been confirmed and no residential development proposal had been received in the “R(B)1” portion of the Site; there were no adverse comments from relevant departments; and the concerns of relevant government departments could be addressed by imposing approval conditions. The last planning permission (No. A/YL-TYST/1110) is valid until 24.9.2024.
- 5.3 Compared with the last application (No. A/YL-TYST/1110), the current application is submitted by a different applicant for the same use at a larger site with different site layout and development parameters (see paragraph 1.4 above).

6. Similar Applications

- 6.1 There is no similar application within the subject “G/IC” zone. There are three similar applications which involve temporary eating place use concerning one site within the subject “R(B)1” zone. Details of the applications are summarised in **Appendix II** and the location of the site is shown on **Plan A-1a**.
- 6.2 All three applications (No. A/YL-TYST/569, 755 and 824) were approved between 2012 and 2017 mainly on similar considerations as those in paragraph 5.2 above. However, all three planning permissions were subsequently revoked due to non-compliance with approval conditions.

7. Planning Intentions

- 7.1 The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.
- 7.2 The planning intention of the “R(B)” zone is for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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

- 8.1 The Site is:
- (a) abutting Hung Shun Road to its north (**Plan A-3**); and
 - (b) currently partly vacant and partly occupied by the applied use covered with valid planning permission under application No. A/YL-TYST/1110 (**Plans A-2 to A-4**).
- 8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):
- (a) comprise predominantly residential developments and structures, two schools and sitting-out areas, with some warehouses, open storage/storage yards, car parks, parking of trucks and vacant land/structures;
 - (b) there are residential developments (namely Symphony Garden, The Woodville and Ming Wai Court) in the vicinity of the Site with the nearest one located about 20m to its northwest; and
 - (c) except for the car parks and parking of trucks within the “G/IC” zone, the warehouses and open storage/storage yards in the vicinity are suspected unauthorized developments subject to planning enforcement action.

9. 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 III and IV** respectively.

10. Public Comments Received During the Statutory Publication Period

On 18.11.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals. One individual objects to the application on the grounds that the applied use will generate adverse environmental and fire safety impacts on the surrounding area (**Appendix V-1**). The other individual opines that some approval conditions of the previous planning applications have not been complied with and the hygiene concerns should be taken into consideration by relevant authorities (**Appendix V-2**).

11. Planning Considerations and Assessments

11.1 The application is for temporary eating place for a period of three years at the Site partly zoned “G/IC” (about 51.7%) and partly zoned “R(B)1” (about 48.3%) on the OZP. Although the applied use is not entirely in line with the planning intentions of the “G/IC” and “R(B)” zones, it could help serve the demand for eating place in the area. Furthermore, there is currently no known development programme concerning the Site. As such, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.

11.2 The applied use is generally not incompatible with the surrounding area, which comprises predominantly residential developments and other rural uses (**Plan A-2**).

11.3 Concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Food and Environmental Hygiene, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department have no objection to/no adverse comment on the application. Adverse traffic, environmental, hygiene, fire safety and drainage impacts on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 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”.

11.4 Given that five previous approvals for similar uses have been granted to part of the Site and three similar applications within the subject “R(B)1” zone have been approved by the Committee or the Board on review, approval of the current application is generally in line with the Committee’s previous decisions.

11.5 There are two public comments objecting to/providing views on the application as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant. Regarding the concern on non-

compliance with the approval condition under the previous application, the applicant has provided justification as summarised in paragraph 2 above.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 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 23.12.2025. 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 23.6.2023;
- (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 23.9.2023;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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 23.6.2023;
- (e) in relation to (d) above, the implementation of the revised 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 23.9.2023;
- (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 IV**.

- 12.3 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 intentions of the “G/IC” and “R(B)” zones which are primarily for the provision of Government, institution or community facilities and sub-urban medium-density residential developments in rural areas respectively. No strong planning justification has been given in the submission for a departure from the planning intentions, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form received on 9.11.2022
Appendix Ia	Supplementary Planning Statement
Appendix II	Previous and Similar Applications
Appendix III	Government Departments’ General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-2	Public Comments
Drawing A-1	Site Layout Plan with Landscape Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2022**