

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/300

- Applicant** : Mr. Tsang Kam Tong represented by Prosper Consultant Engineering Company Limited
- Site** : Lots 4582 S.A (Part) and 4583 RP (Part) in D.D. 116 and Adjoining Government Land, Tai Kei Leng, Yuen Long, New Territories
- Site Area** : About 188 m² (including Government Land (G.L.) of about 5.7 m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Yuen Long Outline Zoning Plan (OZP) No. S/YL/26
(*currently in force*)
Approved Yuen Long OZP No. S/YL/25
(*at the time of submission*)
- Zoning** : “Open Space” (“O”)
[No change to the zoning of the application site on the current OZP]
- Application** : Proposed Temporary Eating Place (Restaurant with Ancillary Outside Seating Accommodation (OSA)) for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary eating place (restaurant with ancillary OSA) for a period of six years. According to the Notes of the OZP for “O” zone, ‘Eating Place’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by three one to two-storey structures and partly vacant (**Plans A-1 to A-4**).
- 1.2 The Site is accessible via a local track leading from Tai Kei Leng Road to its south (**Plan A-2**). According to the applicant, there are three existing structures on the Site, including a two-storey structure with total gross floor area (GFA) of 38m², of which

the ground floor is proposed for restaurant use, and two single-storey structures for pump room and fire services (F.S.) tank respectively. The open area of the Site will be used for OSA. The operation hours are between 11:00 a.m. to 11:00 p.m. daily. The site layout plan submitted by the applicant is shown in **Drawing A-2**.

- 1.3 Part of the Site is the subject of four previous applications (No. A/YL/192, 200, 221 and 258) for temporary shop and services (retail shop) use approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2012 and 2019 (details at paragraph 4 below) (**Plan A-1**).
- 1.4 A comparison of the major development parameters between the current application and the last approved application No. A/YL/258 is summarised as follows:

Major Development Parameters	Last Approved Application No. A/YL/258 (a)	Current Application No. A/YL/300 (b)	Difference (b) - (a)
Applied Use	Temporary Shop and Services (Retail Shop) for a Period of 3 Years (renewal case)	Proposed Temporary Eating Place (Restaurant with Ancillary OSA) for a Period of 6 Years	Different type of commercial uses
Site Area	About 78.6 m ²	About 188 m ² (including G.L. of about 5.7 m ²)	+109.4 m ² (+139.2%)
Total GFA (Non-domestic)	About 123.2 m ²	About 42.68 m ²	-80.52 m ² (-65.4%)
No. of Structure(s)	1 (retail shop)	3 (restaurant, pump room and F.S. tank)	+2
No. of Storey(s)	3	1	-2 (-66.7%)
Operation Hours	3 p.m. to 8 p.m. daily	11 a.m. to 11 p.m. daily	Lengthened

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

- (a) Application Form with attachments received on 24.11.2022 (**Appendix I**)
(b) Further information (FI) received on 3.1.2023* (**Appendix Ia**)
(c) FI received on 4.1.2023* (**Appendix Ib**)

*[*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 at **Appendix I**. They can be summarised as follows:

- (a) the applicant would provide a eating place to serve the nearby neighbourhood; and
- (b) there is no vehicular access to the Site and only trolleys will be used for loading/unloading of goods.

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 obtaining the consent of the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

- 4.1 The northern portion of the Site is the subject of four previous applications (No. A/YL/192, 200, 221 and 258) for temporary shop and services (retail shop) use submitted by the same applicant. The first two previous applications were approved by the Committee with conditions for a period of three years on 19.10.2012 and 16.8.2013 respectively, mainly on the considerations that the proposed use was small in scale and not likely to cause adverse impacts on the surrounding areas. The remaining two applications (i.e. No. A/YL/221 and 258) for renewal of the planning approval were approved on 24.6.2016 and 16.8.2019 respectively. Except application No. A/YL/192 which was revoked on 19.4.2013 due to non-compliance with approval conditions regarding the submission and implementation of fire services installations proposal, all time-limited approval conditions of the subsequent applications have been complied with. Details of the application are summarised at **Appendix II** and the location of the Site is shown on **Plan A-1**.
- 4.2 Compared with the last approved application No. A/YL/258, the current application is submitted by the same applicant for a different use with a larger site area. The layout plan of the current application is shown on **Drawing A-2**.

5. Similar Application

There is no similar application within the same “O” zone on the OZP since 2017.

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

6.1 The Site is:

- (a) currently occupied by a two-storey structure in its north with G/F being vacant and 1/F for residential use, and two small structures (i.e. pump room and F.S. tank) in its south;
- (b) the open area is currently vacant; and
- (c) accessible via a local track leading from Tai Kei Leng Road to its south (**Plan A-2**).

6.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northeast are some residential structures, car park, an eating place, an open storage yard for construction materials, cultivated farmland and some unused/vacant land. To its further north is a residential development, namely “Serenio Verde”, on land zoned “Residential (Group B)” (“R(B)”);
- (b) to its east across the local track are some residential structures, a car park, open storage yards for construction materials and machinery, a vehicle repair workshop and some unused land;
- (c) to its southeast and south are two car servicing sites covered by valid planning applications (No. A/YL/288 and 241), a real estate agency, some residential structures, a car park and a bee farm; and
- (d) to its west are a barbecue site, car washing workshops, a real estate agency, an office and an open-air car park.

7. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

8. 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.

9. Public Comment Received During Statutory Publication Period

On 2.12.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual objecting to the application (**Appendix V**) mainly on the grounds of environmental nuisance, fire risk and safety concerns and living quality of nearby residents.

10. Planning Considerations and Assessments

10.1 The application is for proposed temporary eating place (restaurant with ancillary OSA) for a period of six years at the Site zoned “O” on the OZP. Although the proposed use is not in line with the planning intention of the “O” zone, the proposed development could provide dining services to meet any such demand in the area. DLCS also advises that there is no plan to develop the Site into public open space at present. As such, approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “O” zone.

- 10.2 The proposed development comprises the G/F of an existing two-storey structure and two small structures with a total GFA of about 42.68 m² and open area for OSA. It is considered that the proposed scale and use are not incompatible with the surrounding uses, which comprise mainly residential uses, barbecue site and various types of shop and services.
- 10.3 There is no adverse comment from concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department. Adverse traffic, environmental/sewerage, fire safety and drainage impacts on the surrounding areas are not envisaged. There has been no substantiated environmental complaint concerning the Site received in the past three years. Relevant approval conditions are recommended in paragraph 11.2 below to address the technical requirements of concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission. Should the planning application be approved, the applicant will be reminded that the proposed temporary eating place (restaurant with ancillary OSA) will also need to comply with all the relevant requirements for application of a food licence as required by the licensing authority and relevant pollution control ordinance so as to minimise any potential environmental nuisance to the surroundings.
- 10.4 The Site is the subject of four previous applications (No. A/YL/192, 200, 221 and 258). The last application No. A/YL/258 was submitted by the same applicant for renewal of an approved application for proposed shop and services (retail shop) for a period of three years, which was approved with conditions by the Committee on 16.8.2019. All time-limited approval conditions has been complied with.
- 10.5 There was one public comment received objecting to the application as summarised in paragraph 9 above. The planning considerations and assessments in paragraphs 10.1 to 10.4 above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments as mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 11.2 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 six years until 13.1.2029. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of 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 13.7.2023;

- (b) in related 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 13.10.2023;
- (c) in related 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 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 13.7.2023;
- (e) in relation to (d) 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 13.10.2023;
- (f) if any of the above planning condition (c) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if the above planning condition (a), (b), (d) or (e) is not complied with by the above 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 IV**.

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "O" zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

13. Attachments

Appendix I	Application Form with attachments received on 24.11.2022
Appendix Ia	FI received on 3.1.2023
Appendix Ib	FI received on 4.1.2023
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Lot Index Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2023**