

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/266

<u>Applicant</u>	:	Lam Yuen Sheung represented by DeSPACE(International) Limited
<u>Premises</u>	:	Lot 2473 RP in D.D. 120, Yuen Long, New Territories
<u>Site Area</u>	:	2,339m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/23
<u>Zoning</u>	:	“Open Space” (“O”)
<u>Application</u>	:	Proposed Temporary Eating Place with Outside Seating Accommodation and Ancillary Private Vehicle Park for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary eating place with outside seating accommodation (OSA) and ancillary private vehicle park for a period of 6 years. According to the Notes of the OZP for the “O” zone, ‘Eating Place’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). For temporary uses of any land or building expected to be over 5 years, the uses must conform to the zoned use or the Notes. The Site is currently used for parking of heavy vehicles (**Plan A-3**).
- 1.2 According to the applicant, the proposed development involves 4 structures (1 for eating place, 1 for lavatories and 2 for car parking). The total gross floor area (GFA) is about 1,060m² with maximum building height (BH) of 8m (2 storey). The proposed temporary eating place will provide 76 seats and the operation hours are between 8:00 a.m and 11:00 p.m. daily. The Site is accessible via a proposed track leading from Lam Hi Road. The construction of the proposed track would involve felling of two existing trees (**Drawing A-4**). Ten parking spaces for private car, 1 disabled and 2 light goods vehicle (LGV) loading/unloading (L/UL) bays would be provided within the Site. The floor layout plans, section plan and landscape proposal submitted by the applicant are shown in **Drawings A-1 to A-4**.

- 1.3 The major development parameters of the application are given in the following table:

Site Area (m ²)	2,339
<u>Non-domestic GFA (m²)</u>	
Eating Place:	780
Lavatories:	60
Covered Parking Spaces:	220
Total	1,060
No. of Structures	4
<u>BH (m)</u>	
Eating Place:	8 (2 storeys)
Lavatories:	2.8 (1 storey)
Covered Parking Spaces:	2.8 (1 storey)
Landscaped area (m ²)	547
<u>No. of Parking Spaces</u>	
private car	10 (2.5m x 5m)
disabled car parking	1 (3.5 x 5m)
LGV L/UL	2 (3.5m x 7m)

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

- (a) Application form with attachments received on **(Appendix I)** 12.8.2020
- (b) Supplementary Planning Statement attached to **(Appendix Ia)**
Appendix I
- (c) Further information received on 21.9.2020 with a **(Appendix Ib)** revised layout showing the change of vehicular ingress/egress in response to comments from Transport Department
[not exempted from publication and recounting requirements]
- (d) Further information received on 6.11.2020 in response **(Appendix Ic)** to comments from Highways Department
[exempted from publication and recounting requirements]
- (e) Further information received on 11.11.2020 to clarify **(Appendix Id)** background information
[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 at **Appendix Ia**. They are summarised as follows:

- (a) The proposed development on temporary basis would not frustrate the long-term planning intention of the subject “O” zone. The proposed development is considered not incompatible with the surrounding land uses including open storage yards, vacant land, large scale residential developments in the nearby “Residential (Group A)1”, “Residential (Group B)” zones and schools.
- (b) The proposed eating place with OSA and ancillary private vehicle parking would serve the needs of the residents as well as general public in the neighbourhood.
- (c) Ten private car parking spaces, one disabled car parking space and two LGV L/UL bays will be provided for operational needs to support the proposed development. In view of the small scale, the proposed temporary vehicle park with two single storey structures on Site shall not generate adverse traffic impact to the surrounding area.
- (d) The proposed development intends to develop mainly one block of two-storey (8m) temporary structure. In view of the surrounding areas with the overall visual context of medium to high rise residential developments and school, the proposed building height is considered compatible without causing adverse visual impact to the surrounding areas.

3. Compliance with the “Owner’s Consent / Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

The Site is not the subject of any previous application.

5. Similar Application

There is no similar application for the same use within the same “O” zone on the Yuen Long OZP.

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

6.1 The Site is:

- (a) currently used for parking of heavy vehicles; and

- (b) accessible at Lam Hi Road through the adjoining lot to its south.

6.2 The surrounding areas have the following characteristics:

- (a) to its immediate east is a nullah alongside the boundary of the Site, to its further east are intermixed with some residential and temporary structures;
- (b) to its immediate south is the adjoining lot which forms part of the same heavy vehicle park on the Site, to its further south is Yuen Long Highway;
- (c) to its immediate west is Lam Hi Road and to the further west are intermixed with storage and some domestic structures. To its further northwest are three existing schools; and
- (d) to its immediate north are Lam Hi Road and some shrublands, to its further north are intermixed with parking of vehicles and trailers, open storage of construction materials and containers.

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

8.1 The following Government departments have been consulted and their views on the application and/or the public comments received are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) It is noted that two new pedestrian access connecting the lot and Lam Hi Road is proposed to be built on Government Land (GL). There is no guarantee that any right-of-way over GL to the Site would be granted. In addition, according to the established practice, application of short term tenancy for the purpose of access on GL will not be entertained, even if the planning application is approved by the Board.
- (c) Should planning approval be given to the subject planning

application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularities on Site. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium of rent or fee, as may be imposed by LandsD.

Traffic

8.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The land status of the access road/path/track leading to the Site from Lam Hi Road should be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track should be clarified with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

8.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by the Transport Department (TD).
- (b) The slope between the Site and Lam Hi Road proposed for construction of the pedestrian access is not and will not be maintained by HyD.
- (c) Adequate drainage measures should be provided at the Site to prevent surface water running from the Site to the nearby public roads and drains.
- (d) HyD is not and shall not be responsible for the maintenance of any access connecting the Site and Lam Hi Road.

Environment

8.1.4 Comments of the Director of Environmental Protection (DEP):

Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the

latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (the COP).

Urban Design and Landscape

8.1.5 Comments of the Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD)

Based on the information provided, it is noted that the proposed development consists of one 2-storey block which may not be incompatible with adjacent developments with building height restriction ranging from 8-storey to 25-storey. In this regard, he has no comment from architectural and visual impact point of view.

8.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

Urban Design

- (a) The Site is located at the southwest of the Yuen Long New Town and to the north of Yuen Long Highway and accessible via the junction of Lam Yu Road and Lam Hi Road. It is surrounded by low-rise educational institutions and high-rise residential developments to its northwest and northeast, with low-rise temporary structures and vegetation scattered to the west and east. According to the Expert Evaluation on Air Ventilation Assessment of Yuen Long Town (2008), the strips of land in the southern extension of the Yuen Long Town to which the Site is situated are reserved for the provision of open space to serve as buffer between Yuen Long Highway and the existing developments in the south.
- (b) The application involves four new building structures at the Site including a 2-storey eating place (at 8m high) with an outside seating accommodation on ground floor, two blocks of single-storey parking facilities (at 2.8m high) and a block of single-storey lavatories (at 2.8m high). Given the low-rise nature and no land filling, pond filling or excavation works, the proposal is considered not incompatible with the existing rural environment mixed with scattered temporary structures and low to high-rise developments. As the Site is of temporary nature, the long term planning intention and the integrity of the larger open space strip is not anticipated to be jeopardised.

Landscape

- (c) He has no objection to the application from the landscape planning perspective.
- (d) It is noted that the proposed vehicular access is relocated to

southeastern corner of the Site, connecting to a newly proposed right of way parallel to the southern site boundary. According to the site photos taken by his office on 21.10.2020 and the proposed layout plan, some existing trees in good condition are in conflict with the proposed right of way, including 2 nos. of *Bombax ceiba* (木棉) and a few *Bauhinia* sp. (羊蹄甲屬). In view that these trees are common species and small in size, significant adverse landscape impact arising from the proposed development is not envisaged.

- (e) The applicant is advised that approval of the section 16 application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. Applicant is reminded to approach relevant authority / government department(s) direct to obtain the necessary approval on tree works.

Fire Safety

8.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. In addition, the applicant should be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referred from relevant licensing authority respectively.

Drainage

8.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions on the submission and

implementation of a drainage and sewerage proposal and the implementation and maintenance of the drainage and sewerage proposal for the development to the satisfaction of the Director of Drainage Services or the Board should be included.

- (c) The proposed development consists of toilet facilities but there is no public sewer connection available in the vicinity, the applicant shall seek view and comments from the Environmental Protection Department regarding the sewage disposal arrangement of the proposed development.

Building Matters

8.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on leased land in the Site, prior approval and consent of BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with Building Ordinance (BO).
- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing works or UBW on the Site under BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (d) The Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of B(P)R at the building plan submission stage.
- (e) If the proposed use under application is subject to the issue of a licence, the applicant is reminded that any proposed building works on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

Others

8.1.10 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) He has no in-principle objection to the application since the application involves private lot only and the applicant is the sole

“current land owner”.

- (b) The Site is zoned “O” on the OZP. It is not on the priority list for development agreed by the Yuen Long District Council and he has no plan to develop the Site into public open space at present.
- (c) Two trees which are outside the application boundary (**Drawing A-4**) are proposed to be felled. From tree preservation point of view, every possible effort should be made to preserve existing tree on site as far as possible and minimize the adverse impact to them. Hence, strong justification must be provided to support the felling recommendation. Nevertheless, if the applicant finally consider there is a need to fell the trees, the applicant should submit a Tree Preservation and Removal Proposal (TPRP) to relevant government department(s) for consideration and approval in accordance with DEVB Technical Circular (Works) No. 4/2020.

8.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) He has no specific view on the application provided that the operation of the eating place is under a food licence issued by FEHD.
- (b) Other detailed comments are at **Appendix III**.

8.1.12 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the proposed development from town gas safety aspect.
- (b) There is a high pressure underground town gas transmission pipeline (running along Yuen Long Highway) in close vicinity of the application site. Please refer to the detailed comments at **Appendix III**.

8.1.13 Comments of Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no comment on the planning application.
- (b) The northern side of the subject site is bounded by some existing un-registered slopes on the unallocated government land below Lam Hi Road. In this respect, comments from HyD/LandsD should be sought as appropriate.
- (c) The applicant is reminded to submit the proposed building and site formation works to BD for approval as required under the provisions of the BO.

District Officer's Comments

8.1.14 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received comment from the locals in the two consultation periods and he has no comment on the application.

8.2 The following Government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West) (PM(W)), CEDD; and
- (c) Commissioner of Police (C of P).

9. Public Comment Received During Statutory Publication Period

On 21.8.2020 and 21.9.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection periods, a total of 35 public comments were received from the general public with 15 showing support, 6 objecting and 14 expressing views on the application. The supporting commenters generally welcome the proposed eating place as there is a demand for dining facilities in the area and the proposed eating place can serve users in the vicinity whereas the objecting comments are mainly on traffic grounds. Samples of comments were extracted in **Appendices II-1 to II-12**. A full set of the public comments received will be deposited at the meeting for Members' inspection.

10. Planning Considerations and Assessments

10.1 The application is for proposed temporary eating place with OSA and ancillary private vehicle park for a period of 6 years within the "O" zone on the OZP. 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. The proposed development is not entirely in line with the planning intention of the "O" zone. However, DLCS advises that there is no plan to develop the Site into public open space at present. The proposed development could also provide dining services to meet any such demand in the area. 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 a two-storey structure (8m high) with a total GFA of about 780m² for eating place use, a standalone lavatory and two covered car parking areas, with landscaped area of about 547m². The proposed use and the development scale are not incompatible with the surrounding uses which are intermixed with residential use, temporary structures, open storage, shrublands and parking of vehicles. CA/CMD2, ArchSD and CTP/UD&L, PlanD have no comment on the application from visual impact point of view.

- 10.3 Relevant government departments consulted, including C for T, DEP, CE/MN, DSD, CTP/UD&L, PlanD have no objection to or adverse comment on the application. Significant adverse traffic, environmental, drainage, sewerage and landscape impacts on the surrounding areas are not envisaged. Appropriate approval conditions are suggested in paragraph 11.2 below to minimise any possible environmental nuisances on the surrounding areas or to address the technical requirements of the concerned government departments. Moreover, should the application be approved, the applicant will be reminded that the proposed temporary eating place will also need to comply with all the relevant requirements for application of a food licence as required by the licensing authority.
- 10.4 35 public comments were received on the application during the statutory publication with 6 objecting to the application mainly on traffic grounds. Planning considerations and assessments in paragraphs above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments in paragraph 9 above, the Planning Department has no objection to the proposed temporary eating place with OSA and ancillary private vehicle park for a period of 6 years.
- 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 6 years until 20.11.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00p.m. and 8:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back and reverse onto/from public road at any time during the planning approval period;
- (c) the submission of drainage and sewerage proposal within 6 months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.5.2021;
- (d) in relation to (c) above, the implementation of drainage and sewerage 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 20.8.2021;
- (e) in relation to (d) above, the implemented drainage and sewerage facilities shall be maintained at all times during the planning approval period;
- (f) 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 20.5.2021;

- (g) in relation to (f) 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 20.8.2021;
- (h) if any of the above planning conditions (a), (b) or (e) 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
- (i) if any of the above planning conditions (c), (d), (f), or (g) 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 III**.

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

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. There is no strong planning justification in the submission for a departure from such 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 conditions and advisory clauses, 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 reason(s) for rejection should be given to the applicant.

13. Attachments

- Appendix I** Application form with attachments received on 12.8.2020
- Appendix Ia** Supplementary Planning Statement attached to **Appendix I**
- Appendix Ib** Further information received on 21.9.2020 with a revised layout showing the change of vehicular ingress/egress in

	response to comments from Transport Department
Appendix Ic	Further information received on 6.11.2020 in response to comments from Highways Department
Appendix Id	Further information received on 11.11.2020 to clarify background information
Appendices II-1 to 12	Public comments
Appendix III	Recommended advisory clauses
Drawings A-1 to A-2	Floor Plans
Drawing A-3	Section Plan
Drawing A-4	Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**