

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/262

- Applicant** : Mr. LAI Wing-ming
- Site** : Lot 1445 S.A (Part) in D.D. 114, Kam Sheung Road, Yuen Long
- Site Area** : About 94.86m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zoning** : “Residential (Group D)” (“R(D)”) [restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Rural Workshop (Food Processing Workshop) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary rural workshop (food processing workshop) for a period of 3 years. ‘Rural Workshop’ is neither a Column 1 nor Column 2 use within “R(D)” zone on the Shek Kong OZP. Temporary use or development of any land or building not exceeding a period of three years may be allowed with permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for storage without planning permission and is not the subject of any previous planning application (**Plans A-2 to A-4b**).
- 1.2 The Site is fully occupied by an existing structure with a building height of one-storey (about 3.75m high) and a total non-domestic floor area of about 94.86m². According to the applicant, the Site will be used for the proposed food

processing workshop for the preparation of basin meal (盆菜). The proposed use will exclusively serve as an ancillary food processing workshop for the nearby South Garden Seafood Restaurant (the restaurant) (**Drawing A-2**) located at Kam Sheung Road. It will not serve other restaurants or provide retail services on its own. It will operate from 8 a.m. to 5 p.m. daily. It will only be operated when 50 or more orders of basin meal are received. The Site is accessible via the local access from Kam Sheung Road, and no parking space will be provided on-site. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with planning statement (**Appendix I**)
received on 14.8.2019
- (b) Further Information (FI) received on 26.9.2019 (**Appendix Ia**)
in response to departmental comment
(*exempted from publication requirement*)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the planning statement in **Appendices I to Ia**. They are briefly summarized as follows:

- (a) The proposed use would support South Garden Seafood Restaurant for the preparation for the basin meal especially during the festival seasons. It can optimise the land resources by taking advantage of the location and physical condition of the structure.
- (b) The proposed use is compatible with the surrounding developments. Temporary approval of the application would not jeopardise the long-term planning intention of the “R(D)” zone.
- (c) No adverse traffic impact will be anticipated. The transportation of food materials and basin meal between the Site and restaurant would solely rely on trolley as the walking distance between the Site and the restaurant is about 300m.
- (d) Given the fully covered-design of the structure and all the operation would be carried out indoor only between 8 a.m. and 5 p.m. daily, significant adverse noise and visual impacts are not anticipated.
- (e) No significant adverse drainage impact is anticipated as the proposed use is small in scale and no new permanent structure is proposed. The applicant would submit drainage proposal and implement necessary drainage facilities to the satisfaction of relevant departments in compliance with approval condition(s) if they were considered essential.

- (f) The applicant is committed to strictly follow the Food and Environmental Hygiene Department (FEHD)'s requirements and guidelines regarding the operation of a food factory and environmental hygiene, and the application to FEHD for a food factory license should the application be permitted. Also, the restaurant is FEHD licensed, and the staffs are well trained and familiar with the food processing procedures and the precaution measures to avoid environmental impacts. No significant adverse environmental impact is therefore anticipated.

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 obtaining the land owner's consent. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is not involved in any active enforcement cases.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is no similar application within the same "R(D)" zone on the OZP.

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

7.1 The Site is:

- (a) fully occupied by an existing one storey structure currently used for storage without planning permission; and
- (b) accessible via a local access from Kam Sheung Road (**Plan A-1**).

7.2 The surrounding areas are rural in character predominated by a mixture of open storage/storage yards, workshops, residential dwellings/structures and vacant/unused lands (**Plan A-2**):

- (a) to its immediate east and north are open storage/storage yards. To further north across a nullah are residential dwellings/structures, open storage of vehicles and cans, car repair workshop and vacant/unused lands; and
- (b) to its immediate south and west are vacant/unused lands and metal workshop. To further west is a tofu workshop and further south are residential dwellings/structures, open storage of sands, metalware, food and construction materials and vacant/unused lands.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) The site comprises an Old Schedule Agricultural Lot 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) The site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (c) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. 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 or fee, as may be imposed by the LandsD.

Traffic

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

- (a) Considering that there are neither parking provision nor vehicular access to the lot and the induced traffic impact is minimal, he has no comment on the application.
- (b) The applicant should note that the local access between Kam Sheung Road and the Site is not managed by his department.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Environment

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

- (a) There were no substantiated environmental complaints concerning the Site received by DEP in the past three years.
- (b) Provided that the applicant will provide necessary pollution control measures and ensure that the proposed use would not cause adverse environmental impacts such as oily fume, cooking odour and noise to the nearby sensitive receivers, he has no objection to the application from the environmental planning perspective.
- (c) The applicant is advised to properly design and maintain adequate mechanical ventilation and necessary pollution control measures to avoid accumulation of aerial emission and minimize potential odour and noise nuisances to the public and people living nearby. To minimize oily fume and cooking odour emissions from the proposed use, the applicant should implement the best practical control measures as set out in the EPD's

“Control of Oily Fume and Cooking Odour from Restaurants and Food Business”. The applicant is also advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisances.

- (d) All wastewater collected from food processing workshop, including that from basins, sinks and floor drains, should be discharged through a grease trap in accordance with the requirements of EPD’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”. Effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge license under the WPCO shall be obtained before a new discharge is commenced.

Food and Environmental Hygiene

9.1.5 Comments of the Director of Food and Environmental Hygiene (DEFH):

- (a) Proper licence/permit issued by Food and Environmental Hygiene Department (FEHD) is required if food business and/or related place of public entertainment activity is involved:
 - (i) For the operation of food processing factory, relevant food licences/permits should also be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132).
 - (ii) Any person who desires to keep or use any place of public entertainment for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more, capable of accommodating the public presenting or carrying on public entertainment within Places of Public Entertainment (PPE) Ordinance (Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display or an amusement ride and mechanical device which is designed for amusement should obtain a Place of Public Entertainment Licence (or Temporary Place of Public Entertainment Licence) should be obtained from FEHD

whatever the general public is admitted with or without payment.

- (b) If the proposal involves any commercial/trading activities, there should be no encroachment on the public place and no environmental nuisance should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.
- (c) If any FEHD's facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD.

Drainage

9.1.6 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) The applicant should provide his own drainage facilities to collect the runoff generated from the Site or passing through the Site, and discharge the runoff collected to a proper discharge point. The development should not obstruct overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities.
- (c) The applicant should consult DLO/YL and seek consent from the relevant owners for any works to be carried out outside his lot boundary before commencement of the drainage works.

Fire Safety

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

- (a) He has no objection in principle to the proposal 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. 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 (BO) (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the existing structures at the site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the 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 building works or UBW on the site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) 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) Regulation respectively.

- (f) If the proposed use under application is subject to issue of a license, the applicant should be reminded that any existing structures 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.
- (g) If the site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

District Officer's Comments

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

He has not received any comments from locals upon close of consultation and has no particular comments on the application.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (e) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 27.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 17.9.2019, five public comments were received from the chairman and village representatives of Sheung Tsuen (**Appendix II**). They object to the application mainly on the grounds that the proposed development will generate environmental nuisance and bring adverse impacts on river and soil; and the vehicular access is too narrow to accommodate large amount of traffic with goods vehicles of medium or above sizes.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary rural workshop (food processing workshop) within "R(D)" zone. The planning intention of "R(D)" zone is

primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low density residential developments subject to planning permission from the Board. The proposed use is not entirely in line with the planning intention of the “R(D)” zone. Nevertheless, as there is no known development programme for the Site, approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.

- 11.2 The proposed temporary rural workshop (food processing workshop) is considered not incompatible with the surrounding areas which are rural in character predominated by a mixture of open storage/storage yards, workshops, residential dwellings/structures and vacant/unused lands.
- 11.3 According to the applicant, the proposed temporary rural workshop will be operated indoor within the existing structure between *8 a.m. and 5 p.m. daily*. Besides, in view of its small scale, it would unlikely generate significant adverse environmental, traffic and drainage impacts on the surrounding areas. Relevant Government departments consulted including DEP, DFEH, C for T, D of FS, CTP/UD&L of PlanD and CE/MN of DSD have no objection to or adverse comment on the application. To minimize any possible nuisance generated by the development, approval conditions restricting operation hours is recommended in paragraph 12.2 (a) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development at the Site will be subject to enforcement action by the Planning Authority. In addition, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses” and properly design and maintain adequate mechanical ventilation and necessary pollution control measures to avoid accumulation of aerial emission and minimize potential odour and noise nuisances to the public and people living nearby. To minimize oily fume and cooking odour emissions from the proposed use, the applicant should implement the best practical control measures as set out in the EPD’s “Control of Oily Fume and Cooking Odour from Restaurants and Food Business”. The technical requirements of D of FS could be addressed by approval conditions in paragraph 12.2 (b) and (c) below.
- 11.4 Regarding the public comments received during the statutory publication period raising mainly environmental and traffic concerns as stated in paragraph 10 above, the departmental comments as well as planning considerations and assessments as stated in paragraph 11 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department considers that the proposed temporary rural workshop (food processing workshop) could be tolerated for a period of 3 years.

- 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 3 years until 4.10.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00p.m. and 8:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 4.4.2020;
- (c) in relation to (b) above, the provision of fire service installations 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 4.7.2020;
- (d) if the above planning condition (a) 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
- (e) if any of the above planning conditions (b) or (c) 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 III**.

- 12.3 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 "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low density residential developments subject to planning permission from the Board. No strong planning justification has been given in the submission for a departure from the planning intention, 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 with planning statement received on 14.8.2019
Appendix Ia	FI received on 26.9.2019 in response to departmental comment
Appendix II	Public comments received during the statutory publication period
Appendix III	Advisory clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Location Plan for South Garden Seafood Restaurant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
OCTOBER 2019**