

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/647

- Applicant** : Mr. LAI Yiu Keung represented by Mr. MO Man Hong Hilton
- Premises** : G/F, 12 Ping Che New Village, Ping Che, New Territories
- Site Area** : About 60.5 m²
- Lease** : (a) Lot 1636 in D.D. 77
(b) Small House Grant under New Grant No. 12892 (shall not be used for any purpose other than non-industrial purposes)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : “Government, Institution or Community” (“G/IC”)
- Application** : Proposed Eating Place (Restaurant)

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed eating place (restaurant) at the application premises (the Premises) (**Plan A-1**). The Site falls within an area zoned “G/IC” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘Eating place (not elsewhere specified)’¹ is a Column 2 use within “G/IC” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is located on the ground floor of an existing three-storey New Territories Exempted House – Small House in Ping Che New Village². The applicant proposes to convert the ground floor of the Small House into an eating place with a total floor area of 60.54m² mainly comprises dining area, kitchen, store room and toilets (**Drawing A-1**). The Site is currently accessible via Ping Che Road (**Plan A-2**). The seating capacity is about 20 and the opening hour of the proposed restaurant are between 7:00 a.m. to 10:00 p.m. from Mondays to Fridays and between 8:00a.m. to 9:00p.m. on Saturdays and Sundays. No car parking spaces would be provided. The layout plan submitted by the

¹ According to the Notes for the “G/IC” zone, ‘Eating Place (Canteen and Cooked Food Centre only)’ is always permitted.

² It is a non-recognized village which involves a total of 29 Small House sites (including the subject site) within the subject “G/IC” zone. These Small House sites were reserved for villagers mainly affected by the North Eastern New Territories landfill project and associated works back in 1989.

applicant are at **Drawing A-1**. The Premises is currently vacant.

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

- (a) Application Form with attachments received on 17.9.2020 (Appendix D)
- (b) Further Information received on 6.10.2020 ^ (Appendix Ia)
- (c) Further Information received on 21.10.2020 ^ (Appendix Ib)

^ accepted but 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 Part 10 of the Application Form and Further Information at **Appendices Ia and Ib**. They can be summarised as follows:

- (a) the applicant would apply food licence from Food and Environmental Hygiene Department upon the receipt of planning approval;
- (b) the proposed restaurant would serve the local villagers;
- (c) there would be no parking space provided for the proposed development;
- (d) goods delivery and means of visiting by customers would be by public transport; and
- (e) all wastewater generated on Site would be collected by the public sewerage system, including but not limited to wastewater from the kitchen (e.g. during food preparation, dish washing, excess liquids from food scraps/ sauces) and rest of the Site.

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 Applications**

There is no previous application for the Premises.

5. **Similar Application**

There is no similar application for eating place in the same “G/IC” zone.

6. **The Premises and Its Surrounding Areas (Plans A-1 to A-2, aerial photo on Plan A-3 and site photos on Plan A-4)**

6.1 The Premises is:

- (a) currently vacant and located at the ground floor of an existing village house;

- (b) located at the village clusters of Ping Che New Village (**Plans A-3 and A-4**); and
- (c) accessible via Ping Che Road (**Plans A-1 and A-2**).

6.2 The surrounding areas have the following characteristics:

- (a) predominantly occupied by 3-storey village houses to the north-east and south-east;
- (b) to the immediate north-west is Ta Kwu Ling Rural Centre Government Offices and an elderly home (**Plans A-2 and A-3**); and
- (c) to the immediate south-west is a car parking area and to further south-west are a logistic centre and some temporary domestic structures within “Open Storage” zone.

7. Planning Intention

- 7.1 The planning intention of the “G/IC” zone is intended 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, organizations providing social services to meet community needs, and other institutional establishments.
- 7.2 The Site falls within the “G/IC” zone designated as the Ta Kwu Ling Rural Centre. According to the Explanatory Statement of the OZP, the Site is intended to accommodate government, community as well as retail/commercial facilities at a convenient location and serve as a focal point of the Area.

8. Comments from Relevant Government Departments

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

Land Administration

- 8.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) the Site within the Lot which is related to a small house grant by way of Private Treaty Grant under New Grant No. 12892. Regarding the user, it shall not be used for any purpose other than non-industrial purposes. Therefore, the proposed use for eating place (restaurant) is not in contravention with the lease; and
 - (b) however, the proposed push out side door will contravene with one of our former approval conditions of the opening of side windows and/or opening which mentioned that the side windows, side doors and openings etc at the ground floor, when opened, shall not project beyond the lot boundaries and

to avoid causing obstruction to pedestrian movement.

Food and Environmental Hygiene

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

- (a) she has no objection to the application from an environmental hygiene perspective;
- (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; and
- (c) the operation of any eating place should be under a food licence issued by the Food and Environmental Hygiene Department (FEHD). If the operator intends to operate any food business at the premises, relevant food licence/restricted food permit should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation.

Traffic

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

in view of the low traffic to be generated, it is considered the traffic impact is tolerable. She has no comment on the application from the traffic engineering point of view.

Environment

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

- (a) having reviewed the Further Information (**Appendix Ia**), he has no comment on the application; and
- (b) should the application be approved, the applicant should be reminded of his obligation to comply with all pollution control / environmental protection guidelines and regulations, in particular the Water Pollution Control Ordinance; good practices stated under PROPECC PN 1/94 "Construction Site Drainage" for construction phase; and to follow the requirements in ProPECC PN 5/93 "Drainage plan subject to control by the EPD" regarding the design of on-site drainage system, including but not limited to Section 5 and Appendix C – Grease Traps; and to observe relevant pollution control ordinances, e.g. Noise Control Ordinance (Cap. 400) and Air Pollution Control Ordinance (Cap. 311), and avoid creating any nuisance.

Drainage

8.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department

(CE/MN, DSD):

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that the proposed development will not cause adverse impact to the adjacent area. In their submission, the applicant requires assessing and identifying the project's potential drainage impacts and demonstrate in their submission with the implementation of necessary mitigation measures, the project will not cause an unacceptable increase in the risk of flooding in areas upstream of, adjacent to or downstream of the development; and
- (c) a sewerage proposal should be submitted for approval if sewer connection to public sewerage is required.

Building Matters

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

- (i) there is no record of approval by the Building Authority in respect of the existing building at the subject site. Noting that the subject existing building is a New Territories Exempted House under the Building Ordinance (Application to New Territories) Ordinance (Cap 121), DLO/N, LandsD should be in better position to comment on the captioned application; and
- (ii) the applicant's attention should be drawn to the following:
 - (i) for unauthorized building works (UBW), if any, erected on leased land, enforcement action may be taken by the BA to affect their removal in accordance with this department'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, if any, on the subject site under the Buildings Ordinance (BO); and
 - (ii) the applicant should be reminded that the Premises intended to be used for "Eating Place" is required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for fire-fighting 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 also 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 FSI to be installed should be clearly marked on the layout plans.

District Officer's Comments

8.1.8 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The incumbent North District Council member of the subject Constituency, the Resident Representative and the Indigenous Inhabitant Representative of Ping Che had no comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD); and
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

9. Public Comments Received During Statutory Publication Period (Appendix II)

On 25.9.2020, the application was published for public inspection. During the statutory public inspection period, three public comment was received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. A North District Council Member and an individual object the application on the ground that the Site within the "G/IC" zone should be reserved for community services for the district and not for commercial use by private sectors.

10. Planning Considerations and Assessments

10.1 The application is for a proposed eating place (restaurant) at the Site falling entirely within the "G/IC" zone on the OZP. This "G/IC" zone is designated as a Ta Kwu Ling Rural Centre in order to concentrate Government, community as well as retail/ commercial facilities at a convenient location and serve as a focal point of the area. Moreover, the Rural Centre also involves 29 Small House sites (including the subject site) mainly for villagers affected by North Eastern New Territories landfill project and associated works back in 1989. While land within the "G/IC" zone is intended 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, the proposed eating place to provide retail/ commercial uses serving the needs of the villagers is considered generally in line with the planning intention of the "G/IC" zone.

- 10.2 The Premises is located in close proximity to Ping Che Road and surrounded by village houses, Government offices building and elderly home (**Plans A-2 and A-3**). The proposed development is considered compatible with the surrounding environment.
- 10.3 In view of the low traffic to be generated, C for T has no comment on the application from the traffic engineering point of view. DEP has no objection to the application and advises that the applicant should follow relevant pollution control / environmental protection guidelines and regulations. DFEH advises that a suitable food business licence should be obtained and no nuisance should be caused to the surrounding environment. Other Government departments consulted, including D of FS, CE/MN of DSD and CE/C of WSD, have no adverse comment on or no objection to the application. The proposed eating place will be subject to control by the licensing authority.
- 10.4 There is no previous application for the Site and there is no similar application for eating place in the same "G/IC" zone.
- 10.5 Regarding the adverse public comments, the Government departments' comments and planning assessments above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessment made in paragraph 10 above and having taken into account the public comments 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 until 6.11.2024, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the provision of fire services installations before the operation of the proposed development to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (b) the submission and implementation of the drainage proposal before the operation of the proposed development to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the submission and implementation of the sewerage proposal before the operation of the proposed development to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

- 11.3 There is no strong reason to recommend rejection of the application.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 date when the validity of the permission should expire.
- 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 17.9.2020
Appendix Ia	Further Information received on 6.10.2020
Appendix Ib	Further Information received on 21.10.2020
Appendix II	Public Comment
Appendix III	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**