

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-TT/497

- Applicant** : Wai Kee Canteen represented by Goldrich Planners & Surveyors Limited
- Site** : Lots 1187 S.O (Part), 1187 S.Q (Part) and 1187 S.R (Part) in D.D. 117 and Adjoining Government Land (GL), Shap Pat Heung, Yuen Long, New Territories
- Site Area** : 642 m² (about) (including about 70.9 m² of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plans** : Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/17 currently in force
Approved Tai Tong OZP No. S/YL-TT/16 at the time of submission
- Zoning** : “Village Type Development” (“V”)
[No change to the “V” zone; restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Canteen for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary canteen at the application site (the Site) for a further period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’ (to which canteen is subsumed under), other than on the ground floor of a New Territories Exempted House (NTEH), is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a to A-4c**).
- 1.2 The Site is the subject of three previous applications for the same use as the current application. The last application (No. A/YL-TT/407) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 28.7.2017. All the approval conditions had been complied with and the planning permission lapsed on 9.8.2020. Compared

with the last application, the current application is submitted by the same applicant for the same use with similar layout and development parameters covering the same site.

- 1.3 The Site is accessible from Tai Tong Shan Road via a vehicular ingress/egress at the southern boundary (**Plan A-2**). A pedestrian access is also provided at the western boundary of the Site (**Drawing A-1** and **Plan A-2**). According to the applicant, the canteen provides catering service to workers in the nearby areas and provides a total of 30 seats. No medium or heavy goods vehicles will be allowed to park, store, enter or exit the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation and landscape proposal, as-built drainage proposal, car parking layout and the catchment of the canteen as submitted by the applicant are at **Drawings A-1** to **A-6** respectively.
- 1.4 The major development parameters of the previously approved application No. A/YL-TT/407 are similar to the current application, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/407 (a)	Current Application No. A/YL-TT/497 (b)	Difference (b) – (a)
Applied Use	Temporary Canteen for a Period of 3 Years		---
Site Area	642 m ² (about) (including GL of about 70.9m ²)		---
Total Floor Area (Non-domestic)	About 298.15 m ²	About 249 m ²	-49.15 m ² (-16.5%)
No. and Height of Structures	11 <ul style="list-style-type: none"> • one for eating area (2.5m, 1 storey) • two for kitchen (2.5m, 1 storey) • five for open shed (1 x 2m, 1 storey; 4 x 2.5m, 1 storey) • two for storeroom (2.5m, 1 storey) • one for toilet (2.5m, 1 storey) 	10 <ul style="list-style-type: none"> • one for eating area (2.5m, 1 storey) • two for kitchen (2.5m, 1 storey) • four for open shed (2.5m, 1 storey) • two for storeroom (2.5m, 1 storey) • one for toilet (2.5m, 1 storey) 	-1 (-9.1%)
No. of Parking Space	3 (for private car)		---
Loading/Unloading (L/UL) Spaces	0	2 (for light goods vehicle)	+2
Operation Hours	7:00 a.m. to 7:00 p.m. daily		---

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with appendix and plans received on 29.5.2020 (**Appendix I**)
- (b) Supplementary Information received on 4.6.2020 providing a replacement page of the appendix (**Appendix Ia**)

- (c) Further Information (FI) received on 5.6.2020 clarifying the change in number of structures compared with the last application **(Appendix Ib)**
- (d) FI received on 13.7.2020 clarifying the proposed operation and enclosing site photos, layout plan with parking spaces and a swept path analysis **(Appendix Ic)**
- (e) FI received on 17.7.2020 clarifying the location of the workplace to which the canteen would serve and the L/UL arrangement **(Appendix Id)**
[(c) to (e) exempted from publication and recounting requirements]

1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 24.7.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application and the application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are mainly detailed in the appendix attached to the Application Form (**Appendix I**) and FI (**Appendix Id**). They can be summarised as follows:

- (a) The Site is the subject of three previous planning approvals for the same use as the current application. Several similar applications for eating place uses have also been approved by the Board in the vicinity of the Site. There is no change in the planning circumstances since the approval of the previous application (No. A/YL-TT/407). All the time-limited approval conditions have been complied with. As such, favourable consideration should be given to the current application.
- (b) No adverse visual, landscape, drainage and traffic impacts arising from the proposal are anticipated. Most of the patrons will travel to the Site on foot. Sufficient space is provided within the Site for maneuvering of vehicles. The two L/UL bays for light goods vehicles are mainly for produce deliveries. No parking, queuing and reverse movement of vehicles is allowed on public roads.

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 a notice of the application at the Site and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as

set out in TPB PG-No. 31A are not applicable.

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines for ‘Application for Eating Place within “Village Type Development” Zone in Rural Areas under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 15A) are relevant to this application. The relevant assessment criteria of the Guidelines are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are also relevant to this application. The relevant assessment criteria are attached at **Appendix III**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site was involved in three previous applications (No. A/YL-TT/282, 335 and 407) for the same use as the current application. All three applications were approved by the Committee between 2011 and 2017 each for a period of 3 years mainly on the considerations that they were not incompatible with the surrounding land uses; the proposals would provide catering services to serve the locals; the proposals would not adversely affect the character of the surrounding villages; the proposals generally complied with TPB PG-No. 15A; and the technical concerns of relevant Government departments and local concerns could be addressed by imposing appropriate approval conditions. All the approval conditions under the last application (No. A/YL-TT/407) had been complied with and the permission lapsed on 9.8.2020. Details of the applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1**.
- 6.2 Compared with the last application (No. A/YL-TT/407), the current application is submitted by the same applicant for the same use on the same site, with similar development parameters and site layout.

7. Similar Applications

- 7.1 There are 11 similar applications (No. A/YL-TT/114, 149, 192, 249, 272, 280, 321, 324, 366, 379 and 403) for various temporary eating place/uses within or straddling the subject “V” zone on the OZP. Details of the applications are summarised in **Appendix V** and the locations of the sites are shown on **Plan A-1**.
- 7.2 Out of these 11 applications, 8 were approved by the Committee between 2001 and 2014 mainly on similar considerations that they were not incompatible with the surrounding land uses; the proposals would provide catering services to serve the locals; the proposals would not adversely affect the character of the surrounding

villages; the proposals generally complied with TPB PG-No. 15A; and the technical concerns of relevant Government departments and local concerns could be addressed by imposing appropriate approval conditions. However, amongst these approved applications, 4 were subsequently revoked due to non-compliance with approval conditions.

- 7.3 The other three applications (No. A/YL-TT/280, 366 and 379) were rejected by the Committee or the Board on review between 2012 and 2016 mainly on the grounds that the applications had failed to demonstrate that the development would not cause adverse traffic, drainage and fire safety impacts; and approval of the application with repeated non-compliances would set an undesirable precedent, thus nullifying the statutory planning control mechanism.

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

8.1 The Site is:

- (a) abutting Tai Tong Shan Road to its south. A pedestrian ingress/egress is also provided at the western boundary of the Site (**Plan A-2**);
- (b) paved and partly fenced off; and
- (c) currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a to A-4c**).

8.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) predominantly rural residential in character with scattered parking of vehicles, eating places, open storage/storage yards, workshops, real estate agency, construction sites, warehouse, office and vacant land;
- (b) there are residential structures in the vicinity of the Site with the nearest ones located to its immediate west; and
- (c) except for a real estate agency and an eating place which are operated with planning permissions, as well as two storages and a vehicle workshop, the other warehouse, workshop, parking of vehicles, open storages/storage yards and eating places in its vicinity within the “V” zone are mostly suspected unauthorised development (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support

of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views are summarised as follows:

Land Administration

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

- (a) The Site comprises GL and 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) Within the Site, the GL and Lots 1187 S.O, 1187 S.Q and 1187 S.R in D.D. 117 are currently covered by Short Term Tenancy (STT) No. 2976 and Short Term Waiver (STW) No. 4512 respectively to permit structures erected thereon for the purpose of “Temporary Canteen”.
- (c) Should planning approval be given to the application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. 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 her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department.
- (d) There are no Small House applications approved or under processing within the Site.

Traffic

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

- (a) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (b) 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.

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

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

Food and Environmental Hygiene

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

- (a) He has no specific view on the application from the licensing point of view.
- (b) According to his office's record, the concerned premises is a staff canteen for serving the persons employed in the work place (**Drawing A-6**). In accordance with Section 4 of Food Business Regulation (the Regulation), "food business" means any trade or business for the purpose of which any person engages in the handling of food or food is sold by means of a vending machine. It does not include any canteen in work place (other than a factory canteen referred to in section 31 of the Regulation) for the use exclusively of the persons employed in the work place. As such, a staff canteen that is exclusively used by the staff members of that working place does not require a food business licence from his department. Neither application nor approved case for food licence has been received by his department. However, if the said canteen provided foods to the outsiders with payment, a food business licence is required.
- (c) The applicant should be reminded of the detailed comments at **Appendix VI**.

Environment

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

- (a) One substantiated environmental complaint was received in 2019 relating to suspected polluted effluent discharge from the Site to the nearby surface drain. Follow up inspections were conducted and the person-in-charge was reminded to properly maintain the grease trap to avoid discharge of polluted effluent, as required by the Water Pollution Control Ordinance.

- (b) 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” (Code of Practice) to minimise any potential environmental nuisances on the surrounding environment.

Landscape

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

- (a) According to the aerial photo of 2019 (**Plan A-3**) and the site photos taken by her office on 11.6.2020, the Site is hard paved and partly occupied by temporary structures. Existing trees are observed along the northern boundary and south-eastern corner within the Site. There is no significant change to the surrounding landscape setting since the application was last approved. The Site is situated in an area of village landscape character. Significant change to the landscape character arising from the continued use of the Site is not anticipated.
- (b) The applicant is reminded of the detailed comments in **Appendix VI**.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Based on the drainage proposal and planning statement enclosed in the application (**Appendix I**), apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TT/407.
- (c) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TT/407 and the submission of condition record of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

10.1.8 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. In addition, the applicant should be reminded of the detailed comments at **Appendix VI**.

Building Matters

10.1.9 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 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) The applicant should be reminded of the detailed comments at **Appendix VI**.

District Officer's Comments

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

His office has not received any comment from the village representatives in the vicinity.

10.2 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 Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 5.6.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning permission under previous application No. A/YL-TT/407 for temporary canteen on a site falling within an area zoned "V" on the OZP. The planning intention of the "V" zone is primarily to designate both existing recognised villages and areas of land considered suitable for village expansion, and for development of Small Houses by indigenous villagers. Although the proposed use is not entirely in line with the planning

intention, the canteen could provide catering services to serve any such demand in the area. According to DLO/YL, LandsD, there is currently no Small House application approved or under processing at the Site. As such, approval of the development on a temporary basis for three years would not frustrate the long-term planning intention of the “V” zone.

- 12.2 The proposed use is not incompatible with the surrounding uses which are predominantly rural residential but mixed in nature with scattered parking of vehicles, eating places, open storage/storage yards, warehouse and workshops, etc. (**Plan A-2**).
- 12.3 The application is generally in line with TPB PG-No. 34C in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TT/407; all the approval conditions of the previous application had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 The application is also generally in line with TPB PG-No. 15A in that the eating place is located at the fringe of Tai Tong Tsuen and abuts Tai Tong Shan Road. Concerned government departments consulted, including DFEH, C for T, CHE/NTW of HyD, CE/MN of DSD, D of FS and DEP, have no adverse comments on the application. Significant adverse environmental hygiene, traffic, drainage, sewerage, fire safety and environmental impacts on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to address the technical requirements of the concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding area.
- 12.5 Given that three previous approvals for the same applied use have been granted to the Site and 8 other similar applications have been approved within or straddling the same “V” zone, approval of the current application is generally in line with the Committee’s previous decisions. There are three similar applications rejected within the same “V” zone mainly on the grounds that there were potential adverse traffic, drainage and fire safety impacts and approval of the applications with repeated non-compliances would set an undesirable precedent. However, such considerations are generally not applicable to the current application as there are no adverse comments from relevant departments and all the approval conditions of the previous planning approval had been complied with.
- 12.6 There is no public comment received on the application during statutory publication period.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the application.
- 13.2 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 1.9.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing drainage facilities on the Site should be maintained at all times during the planning approval period;
- (e) all existing trees within the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.12.2020;
- (g) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.3.2021;
- (h) in relation to (g) above, the implementation of fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.6.2021;
- (i) if any of the above planning conditions (a), (b), (c), (d) 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
- (j) if the above planning condition (f), (g) or (h) 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.

[Approval conditions (a), (c), (d), (f) to (h) are same as those under the permission for application No. A/YL-TT/407, condition (b) is imposed as per the current proposal, while condition (e) is updated and the reinstatement clause is deleted to accord with the department's latest requirements.]

Advisory clauses

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

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

the applied use is not in line with the planning intention of the "V" zone which is primarily to designate both existing recognised villages and areas of land considered suitable for village expansion and for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with appendix and plans received on 29.5.2020
Appendix Ia	Supplementary Information received on 4.6.2020
Appendix Ib	FI received on 5.6.2020
Appendix Ic	FI received on 13.7.2020
Appendix Id	FI received on 17.7.2020
Appendix II	Relevant extract of TPB PG-No. 15A
Appendix III	Relevant extract of TPB PG-No. 34C
Appendix IV	Previous Applications covering the Application Site
Appendix V	Similar Applications within or straddling the same "V" zone on the OZP
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan

Drawing A-3	Tree Preservation and Landscape Proposal
Drawing A-4	As-built Drainage Proposal
Drawing A-5	Parking Arrangement Plan
Drawing A-6	Canteen Catchment Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**