

RNTPC Paper No. A/YL-KTN/607  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 15.6.2018

---

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/607**

- Applicant** : Best China (Hong Kong) Limited represented by R-riches Property Consultants Limited
- Site** : Lots 573, 574 S.A (Part), 574 RP (Part), 575 RP (Part) and 576 RP (Part) in D.D. 107 and Adjoining Government Land, Fung Kat Heung, Kam Tin, Yuen Long
- Site Area** : About 2,107m<sup>2</sup> (Including Government land of about 461m<sup>2</sup>)
- Lease** : Lot 573 in D.D. 107 - Tai Po New Grant No. 5927 (for agricultural purpose)
- 574 S.A (Part), 574 RP (Part), 575 RP (Part) and 576 RP (Part) in D.D. 107 - Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Industrial (Group D)” (“I(D)”) [a maximum plot ratio of 1.6, a maximum site coverage of 80% and a maximum building height of 13m]
- Application** : Proposed Temporary Shop and Services (Food) with Ancillary Storage and Office for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (food) and ancillary storage and office for a period of 3 years at the application site (the Site). According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified)’ use is a Column 2 use under the “I(D)” zone, which requires planning permission from the Town Planning Board (the Board). The

Site is currently occupied by some structures for lard boiling factory (**Plans A-2 and A-4**).

- 1.2 Part of the Site was involved in two previous applications (No. A/YL-KTN/350 and 493) for temporary lard boiling factory which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 10.12.2010 and 18.12.2015 both for 5 years. The last application No. A/YL-KTN/493 was revoked on 18.6.2016 due to non-compliance of approval conditions on submission of cumulative air quality impact assessment.
- 1.3 According to the applicant, the proposed development consists of a one-storey structure with building height not exceeding 8.23m and total floor area of about 1,278m<sup>2</sup> for retail of lard with ancillary storage of lard and office use. The lard is packed in cans elsewhere and delivered to the Site by light goods vehicles. Two car parking spaces for private car and two loading/unloading spaces for light goods vehicle will be provided within the Site. The proposed development will be operated from 9:00 am to 6:00 pm daily. The Site is accessible from San Tam Road via Fung Kat Road. The layout plan and landscape plan submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.3 In support of the application, the applicant has submitted the following document:
  - (a) Application Form with plans and supplementary (**Appendix I**) statement received on 3.5.2018
  - (b) Supplementary Information (SI) received on (**Appendix Ia**) 8.5.2018 and 9.5.2018 with replacement page of the application form and plan and providing the operation details of the proposed use
  - (c) Further Information (FI) received on 31.5.2018 and (**Appendix Ib**) 4.6.2018 clarifying the traffic arrangement and responses to public and departmental comments (*accepted and exempted from publication and recounting requirements*)
  - (d) FI received on 6.6.2018 clarifying the operation (**Appendix Ic**) details of the proposed use (*accepted and 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 statement, SI and FI in **Appendices I to Ic**. They can be summarized as follows:

- 2.1 The Site falls within an area zoned “I(D)” on the OZP. According to the Notes of the OZP, ‘shop and services’ use is a Column 2 use. The proposed use is to serve local residents of Fung Kat Heung. The Site is fenced, vacant and paved and no land filling and excavation works involved which will minimize adverse environmental impact on the surrounding. The proposed development with only 2 car parking spaces and 2 loading/unloading spaces for light goods vehicles will minimize adverse traffic impact.
- 2.2 The product sold at the Site is lard which should not attract much traffic. NO lard will be produced at the Site and no polluting/nuisance should be anticipated. The proposed use is ‘Shop and Services’ which lard will only be stored at the Site for purchase. Part of the Site covered by an approved planning application No. A/YL-KTN/493. Once the application be approved, the Site will be converted in accordance to the proposed scheme of the current application.

## 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. 31) by posting site notice and sending the notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Background**

The Site is not the subject of any active enforcement case.

## 5. **Previous Applications**

- 5.1 Part of the Site involves two previous Applications No. A/YL-KTN/350 and A/YL-KTN/493 for proposed temporary lard boiling factory (offensive trades) both for a period of 5 years. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Applications No. A/YL-KTN/350 and 493 for proposed temporary lard boiling factory (offensive trades) both for a period of 5 years at one site was approved with conditions by the Committee on 10.12.2010 and 18.12.2015 respectively mainly for the reasons that the proposed development was considered not

incompatible with the surrounding mixed developments; the development would be built with environmental measures and would improve the operation of lard boiling to minimize its environmental impacts on the surroundings; there was no adverse departmental comment; and the local objection could be addressed through imposition of approval conditions. All the approval conditions of application No. A/YL-KTN/350 were complied with. However, the last application no. A/YL-KTN/493 was revoked on 18.6.2016 due to non-compliance of approval conditions on submission of cumulative air quality impact assessment.

## 6. Similar Applications

There are two similar applications for proposed temporary shop and services for retails store (Application No. A/YL-KTN/573) and vehicle parts with ancillary storage and office (Application No. A/YL-KTN/582) in the same “I(D)” zone on the OZP which was approved with conditions by the Committee on 22.9.2017 and 26.1.2018 respectively mainly for the reasons that the temporary approval would not frustrate the long-term planning intention of the “I(D)” zone; the proposed shop and services uses could serve the residents and workers in the locality, and the relevant departments have no major adverse comment on the application. Details of the applications are summarized in **Appendix II** and the locations are shown in **Plan A-1**.

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

7.1 The Site is:

- (a) occupied by some structures for lard boiling factory; and
- (b) accessible via a local track connecting to Fung Kat Heung Road.

7.2 The surrounding areas are predominately rural in character predominated by residential dwellings/structures, parking of vehicles, warehouse, storage and vacant/unused land:

- (a) to its north across Fung Kat Heung Road is the Lam Tsuen Country Park;
- (b) to its east are residential dwellings/structures and warehouse;
- (c) to its west is vacant/ parking of vehicles with planning permission (No. A/YL-KTN/445 for a lard boiling factory), open storage/ storage yard, and vacant/unused land; and
- (d) to its south are residential dwellings/structures, godown and unused land.

## 8. Planning Intention

The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

## 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) Lot 573 in D.D. 107 is held under Tai Po New Grant No. 5927 for agricultural purpose and the remaining portion of the Site comprises Government Land (GL) and Old Scheduled 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) Lot Nos. 573, 574 S.A, 574 RP, 575 RP and 576 RP in D.D. 107 within the Site are covered by Short Term Waiver (STW) No. 3396 to permit structures erected thereon for the purpose of “lard boiling factory”.
- (c) The concerned GL within the Site is covered by Short Term Tenancy (STT) No. 2414 to permit structures erected thereon for the purpose of “lard boiling factory”.
- (d) The Site is accessible to Fung Kat Heung Road via GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the application, the STW and STT holder(s) will need to apply to his office for modification of the STW/STT conditions if there is any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is

no guarantee that such application(s) 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) He has no comment on the application from traffic engineering point of view.
- (b) Should the application be approved, the following approval condition and advisory clause is recommended:
  - (i) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.
  - (ii) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) His department is not and shall not be responsible for the maintenance of Fung Kat Heung Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

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

Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses" issued by the DEP.

**Landscape**

- 9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) :
- (a) She has no objection to the application from the landscape planning point of view.
  - (b) There is an existing tree within the Site. Should the application be approved, approval conditions requiring the existing trees and vegetation on the Site shall be maintained at all times during the planning approval period should be included.

**Drainage**

- 9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) He has no in-principle objection to the proposed development.
  - (b) Should the application be approved, approval conditions requiring the submission and implementation of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

**Building Matters**

- 9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
  - (b) 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.
  - (c) Before any new building works (including containers/ open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD 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.

- (d) 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.
- (e) If 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 the B(P)R at the building plan submission stage.

### **Nature Conservation**

9.1.8 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

Noting that the Site is located in “I(D)” zone and is paved, he has no comment on the application from nature conservation point of view.

### **Fire Safety**

9.1.9 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) 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 FSI 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 BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.



**Environmental Hygiene**

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

- (a) No Food and Environmental Hygiene Department (FEHD)'s facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) Proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. The operation of any eating place should be under a food licence issued by the FEHD. If the operator intends to operate a restaurant business in the territory, a general restaurant/light refreshment restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by FEHD, will be referred to relevant government departments, such as Buildings Department, Fire Services Department, Planning Department for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements.
- (c) The refuse generated by the proposed eating place/commercial/trading activities are regarded as trade refuse. The management or owner of the site is responsible for its removal and disposal at their expenses.

**District Officer's Comments**

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

His office has not received any local's comment on the application.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);

- (c) Project Manager/NT West, Civil Engineering and Development Department (PM/NTW, CEDD); and
- (d) Commissioner of Police (C of P).

## **10. Public Comment Received During Statutory Publication Period**

- 10.1 On 11.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 1.6.2018, four public comments from Kam Tin Rural Committee, representative of Sha Po Tsuen Indigenous Villages and two general public were received (**Appendices IV-1 to IV-4**).
- 10.2 Three commenters object the application mainly on the grounds that the proposed shop and services use will worsen traffic condition in the area; the proposed use is in relation to the nearby lard boiling factory is an offensive trades with odor nuisance and greasy dirt and sewerage problems that affect the environment of Fung Kat Heung and Sha Po Tsuen; and the Site is not suitable for retail use as the access to the village is blocked by roadside parking. One commenter raises concern about food safety.

## **11. Planning Considerations and Assessments**

- 11.1 The Site proposed for shop and services (food) and ancillary storage and office falls within an area zoned “I(D)” which is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. The proposed shop and services use is not entirely in line with the planning intention of the “I(D)” zone. However, it is considered that temporary approval for a period of three years would not frustrate the long-term planning intention of the “I(D)” zone.
- 11.2 The proposed use is considered not incompatible with the surrounding areas which are rural in character predominated by residential dwellings/structures, parking of vehicles, warehouse, open storage/ storage yards, and vacant/unused land. According to the applicant, the proposed shop and services for selling lard would serve local residents of Fung Kat Heung. There are two similar applications for shop uses (retail and vehicle parts) in the same “I(D)” zone which were approved with conditions by the Committee on 22.9.2017 and 26.1.2018 respectively (**Plan A-1**). Approval of the application is in line with the Committee’s previous decision on similar applications.
- 11.3 Concerned departments consulted including DEP, C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no objection to or adverse comment on the application. To avoid any potential environmental impact, approval

conditions restricting the operation hours and type of vehicle are recommended in paragraphs 12.2 (a) to (b). Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to adopt environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP in order to alleviate any potential impact. Technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions (c) and (h) at paragraph 12.2 below.

- 11.4 Four comments (three objecting comments and one providing view) were received during the statutory publication period as stated in paragraph 10 above. In this regard, relevant department consulted have no objection to the application. The planning assessments and considerations above are also relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the temporary shop and services (food) and ancillary storage and office use 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 15.6.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference.

### Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 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 proposed by the applicant, as defined in the Road Traffic Ordinance are 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 trees and vegetation on the Site shall be maintained at all times during the planning approval period;

- (e) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.12.2018;
- (f) in relation to (e) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.3.2019;
- (g) 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 15.12.2018;
- (h) in relation to (g) 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 15.3.2019;
- (i) if any of the above planning conditions (a), (b), (c) or (d) 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 any of the above planning conditions (e), (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.

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

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

the development is not in line with the planning intention of the "I(D)" zone which is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements and for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. No strong planning justification has been given in the submission to justify 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**

<b>Appendix I</b>	Application Form with plans and supplementary statement received on 3.5.2018
<b>Appendix Ia</b>	SI received on 8.5.2018 and 9.5.2018
<b>Appendix Ib</b>	FI received on 31.5.2018 and 4.6.2018
<b>Appendix Ic</b>	FI received on 6.6.2018
<b>Appendix II</b>	Previous application covering the application site
<b>Appendix III</b>	Similar applications for Shop and Services within the Same “I(D)” Zone on the Kam Tin North Outline Zoning Plan
<b>Appendix IV</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Landscape Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2018**