

**Similar Application within the subject “R(A)” Zone in the past 5 years**

**Approved Application**

|   | <b><u>Application No.</u></b> | <b><u>Proposed Use(s)/Development(s)</u></b>                                                                                                   | <b><u>Date of Consideration<br/>(RNTPC)</u></b> |
|---|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| 1 | A/YL-TYST/1215                | Renewal of Planning Approval for Temporary Eating Place (Outside Seating Accommodation (OSA) of a Licensed Restaurant) for a Period of 3 Years | 23.6.2023                                       |

**Government Departments' General Comments**

**1. Land Administration**

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

No comment from land administration point of view.

**2. Traffic**

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

No adverse comment on the application from traffic engineering perspective.

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

No adverse comment on the application.

**3. Food and Environmental Hygiene**

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

No adverse comment on the application.

**4. Environment**

Comments of the Director of Environmental Protection (DEP):

- no objection to the application; and
- no environmental complaint concerning the Site was received in the past three years.

**5. Drainage**

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

No comment from the public drainage point of view.

**6. Fire Safety**

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

No in-principle objection to the application subject to fire service installations being provided to his satisfaction.

**7. Building Matters**

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

No adverse comment on the application.

**8. District Officer's Comments**

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

His office did not receive any feedback from locals.

**9. Other Departments**

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

- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- Director of Electrical and Mechanical Services (DEMS); and
- Commissioner of Police (C of P).

**Recommended Advisory Clauses**

- (a) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that:
- (i) no permission is given for occupation of Government Land (GL) (about 25.2m<sup>2</sup>) included in the application site (the Site). Any occupation of GL without Government's prior approval is not allowed;
  - (ii) the applicant should, at all reasonable times, permit the Far East Consortium Limited ("the Grantee") and/ or its successors and assigns, with or without having given notice, to enter the Site for the purpose of laying, constructing, inspecting, maintaining, repairing and/ or dismantling the pipe(s) for conveying foul water and sewage from Lot 4212 to Lot 4213 in D.D. 124;
- (b) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that:
- (i) the applicant should at his own cost and to the satisfaction to his office make good any damages done to the public roads, street furniture, and drainage;
  - (ii) 24-hour free access to his office or his representative should be provided for any necessary inspection or maintenance works; and
  - (iii) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (c) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that:
- (i) no facilities of his department should be affected;
  - (ii) proper licence/permit issued by this Department is required if there is any food business/ catering service/activities regulated 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 his department. If the operator intends to operate a restaurant business in the territory, a restaurant licence should be obtained from his department in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). For the operation of other types of food business, relevant food licences should also be obtained from his department in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence should be obtained from this department for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. The application for food business licences under Cap.132, if acceptable by his department, will be referred to relevant government departments 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;
  - (iii) when choosing a premises for food business licences, the applicant must ensure that the operation of food business at the subject premises is in compliance with the requirements imposed under the legislation administered by his department, other government departments and the relevant authorities. No part of a food premises shall be located in, under or over any structures built without the approval and consent of the Building

Authority (BA). The applicant should satisfy his department that the premises applying for a food business licence be (i) free of unauthorised building works (UBW); (ii) in compliance with Government lease conditions; and (iii) in compliance with statutory plan restrictions, otherwise his department will not process the application for a licence further;

- (iv) whenever restaurant licensees wish to include an Outside Seating Accommodation (OSA) into their licensed premises, they are required to submit application to his department by filling in the application form together with 4 copies of proposed layout cum OSA plan and 2 copies of 1:1000 location map and photo(s) showing the shop front/external wall facing the OSA for approval. If the application of OSA is acceptable for further processing, his department will refer it to the relevant departments including such as Buildings Department, Transport Department, Fire Services Department, Planning Department, Home Affairs Department, Lands Department for clearance. A Letter of Requirements on the captioned would be issued if no objection was raised by the Departments concerned and the OSA licence will be issued upon full compliance of all the requirements;
- (v) from the restaurant licensing point of view, no shelters other than movable sunshades and the like should be allowed in the OSA. Prior approval and consent must be obtained from the BA under the Buildings Ordinance (BO) (Cap. 123) for the construction of awnings or other supporting structures. The main licensing criteria for OSA in respect of Hygiene Requirements are as following:
  - i. an OSA should normally be annexed to restaurant premises, i.e. food and beverages need not be conveyed through an intervening public thoroughfare;
  - ii. additional food preparation space and scullery area equivalent to 1/10 of the OSA area should be provided inside the roofed-over restaurant premises (only applicable to OSA area exceeding 50% of existing area of seating accommodation inside the roofed-over premises);
  - iii. adequate sanitary and ablution facilities should be provided within the roofed-over area of the premises for use by the customers; and
  - iv. area in a backyard/open yard where there are no waste/soil pipes or manholes prejudicing the hygienic operation of the OSA will also be considered;
- (vi) the operation of the eating place must not cause any environmental nuisance to the surrounding. The refuse generated by the proposed eating place are regarded as trade refuse. The management or owner of the Site is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity; and
- (vii) proper licence issued by his department is required if related place of entertainment is involved. 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, a Place of Public Entertainment Licence (or Temporary Place of Public Entertainment Licence) should be obtained from his department whatever the general public is admitted with or without payment;

- (d) to note the comments of the Director of Environmental Protection (DEP) that:
- (i) the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” should be followed to minimise any potential environmental nuisances on the surrounding areas;
  - (ii) environmental requirements in the Environmental Protection Department’s (EPD) “General Environmental Guidelines for Outside Seating Accommodation”, which is in Annex 2 of Appendix B of the Food and Environmental Hygiene Department (FEHD)’s “A Guide to Application for Outside Seating Accommodation” and also available at FEHD’s website, should be observed and adopted;
  - (iii) Guidelines on Industry Best Practices for External Lighting Installations ([https://www.eeb.gov.hk/sites/default/files/en/node78/guidelines\\_ex\\_lighting\\_install\\_en\\_g.pdf](https://www.eeb.gov.hk/sites/default/files/en/node78/guidelines_ex_lighting_install_en_g.pdf)) should be followed for taking appropriate measures (e.g. position and aim the lighting properly to avoid overspill of light to outside the area being lit up and dim down the lighting when a high illumination level is not essential etc.) to minimise the impacts of any lighting installations on the residents in the vicinity;
  - (iv) that the use of public announcement system, portable loudspeaker or any form of audio amplification system and whistle blowing should be avoided; and
  - (v) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances;
- (e) to note the comments of the Director of Fire Services (D of FS) that:
- (i) in consideration of the design/nature of the proposal, fire service installations (FSIs) are anticipated to be required. Relevant layout plans incorporated with the proposed FSIs should be submitted to his department for approval;
  - (ii) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of proposed FSIs to be installed should be clearly marked on the layout plans;
  - (iii) licensing requirements, if any, would be formulated upon receipt of the referral from the relevant licensing authority; and
  - (iv) if the proposed structures are required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
- (f) to note the general comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
- (i) drainage facilities should be provided to collect runoff generated from the site or passing through the Site, and discharge the runoff collected to a proper discharge point;
  - (ii) the development should not obstruct the overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities; and
  - (iii) any conflict/disagreement with relevant lot owner(s) should be resolved and permission from District Lands Office/ Yuen Long should be sought for any works to be carried out outside the Site before commencement of the drainage works; and

- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
- (i) 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;
  - (ii) the Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at building plan submission stage;
  - (iii) before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW under the BO. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - (iv) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are UBW under the BO and should not be designated for any proposed use under the captioned application;
  - (v) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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;
  - (vi) 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; and
  - (vii) any temporary shelters or converted containers for office, storage, washroom or other uses considered as temporary buildings are subject to the control of Part VII of the B(P)R.