

RNTPC Paper No. A/STT/10
For Consideration by the
Rural and New Town
Planning Committee
on 4.10.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/STT/10

<u>Applicant</u>	: Mainway Investment Holdings Limited represented by Lawson David & Sung Surveyors Limited
<u>Site</u>	: Lot 411 in D.D. 105, Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 1,156m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved San Tin Technopole Outline Zoning Plan (OZP) No. S/STT/2 (<i>currently in force</i>) Draft San Tin Technopole OZP No. S/STT/1 (<i>at the time of submission</i>) [the zoning and development parameters of the application site remain unchanged on the OZP No. S/STT/2]
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Eating Place for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary eating place for a period of three years at the application site (the Site), which falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Eating Place’ other than on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently fenced off and largely vacant (**Plans A-2 and A-4**).
- 1.2 The Site is accessible at its north with a 6m-wide ingress/egress via a local access connecting to Shek Wu Wai Road (**Plan A-2**). According to the applicant, the proposed use involves four single-storey structures (about 1.22m to 4m in height)

for eating place, meter room, fire service pump room and water tank with a total floor area of about 233m² (**Drawing A-1**). The applicant will also install air pollution control equipment in the kitchen ventilation system as a mitigation measure. Six private car parking spaces and one light goods vehicle loading/unloading space will be provided within the Site. All activities will be restricted indoor and the proposed operation hours are from 9:00 a.m. to 6:00 p.m. daily, including public holidays.

- 1.3 The Site, in whole or in part, is the subject of two previous applications. The last application (No. A/YL-NTM/445), involving a smaller floor area (4m² less as compared to the current application) for the same use at the same Site submitted by the same applicant of the current application, was approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2022. The planning permission was subsequently revoked on 25.8.2024 due to non-compliance with the time-limited approval condition on the implementation of the fire service installations (FSIs) proposal (detailed in paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with planning statement and attachments (**Appendix I**) received on 21.8.2024
 - (b) Further information (FI) received on 20.9.2024[#] (**Appendix Ia**)
[#]accepted and exempted from the 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 Application Form, planning statement and FI at **Appendices I and Ia**, and can be summarised as follows:

- (a) The proposed eating place will help meet the local demand. As the Site is currently vacant, the proposed use can also maximise land utilisation which is compatible with the surrounding areas, and create job opportunities for the neighbourhood.
- (b) The proposed temporary use will not jeopardise the planning intention of the “V” zone in the long run. Besides, a number of similar applications were approved in the “V” zone in vicinity of the Site. The approval of the application will not set an undesirable precedent.
- (c) The Site falls within the project area of the San Tin Technopole (the Technopole). Since the Site is not within the concerned resumption limit, the proposed use will not hinder the development of the Technopole. Nevertheless, the applicant undertakes that the Site will be vacated upon request from the government, if necessary.

- (d) Adverse drainage, sewerage, traffic, landscape and environmental impacts arising from the proposed use on the surrounding areas are not envisaged. The applicant will follow the ‘Control of Oil Fume and Cooking Odour from Restaurant and Food Business’ to control oily fume and cooking odour emissions generated from the proposed use during its operation. The applicant will also install air pollution control equipment in the kitchen ventilation system as a mitigation measure. No adverse noise impact is anticipated as all activities will be restricted indoor and the proposed operation hours would be up till 6:00 p.m. The proposed use could be considered in compliance with the Town Planning Board Guidelines No. 15A (TPB PG-No. 15A).

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” of the Site 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. 31B) by posting site notice and sending notice to San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 15A (TPB PG-No. 15A) for ‘Application for Eating Place within “Village Type Development” zone in Rural Areas under Section 16 of the Town Planning Ordinance’ is relevant to the application, and the relevant extract of which is at **Appendix II**.

5. Background

The Site is currently not subject to active planning enforcement action.

6. Previous Applications

- 6.1 The Site (in whole or in part) is the subject of two previous applications (No. A/YL-NTM/392 and 445)¹ which were approved with conditions by the Committee in 2019 and 2022 respectively.
- 6.2 The last previous application (No. A/YL-NTM/445) submitted by the same applicant for the same use at the same Site with a similar layout and slightly smaller floor area for a period of five years was approved by the Committee for

¹ These previous applications fell within the “V” zone on the then approved Ngau Tam Mei OZP No. S/YL-NTM/12 at the time of consideration by the Committee.

three years on 25.11.2022 mainly on the considerations that the temporary approval would not jeopardise the long-term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding land uses; there was no objection to or no adverse comment from concerned government departments; the three-year approval was to retain planning control on the development and in line with the TPB PG-No. 15A. The planning permission was subsequently revoked on 25.8.2024 due to non-compliance with the time-limited approval condition on the implementation of FSIs proposal.

- 6.3 The other previous application (No. A/YL-NTM/392) for public vehicle park is not relevant to the current application.
- 6.4 Details of these previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. Similar Application

There is no similar application within the same “V” zone in the past five years.

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

- 8.1 The Site is:
 - (a) accessible at the north via a local access connecting to Shek Wu Wai Road; and
 - (b) currently largely vacant and fenced-off.
- 8.2 The surrounding areas are predominantly occupied by village houses/residential structures, open storage yard/warehouse, nullah, woodland, grassland and vacant land.

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 this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this 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

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

11. Public Comments Received During Statutory Publication Period

On 30.8.2024, the application was published for public inspection. During the statutory public inspection period, 11 public comments were received. Among them, 10 are supporting comments (**Appendix VIa**) and one raises concerns (**Appendix VIb**). The 10 supporting comments are submitted by the Village Representative of Shek Wu Wai and individuals, who support the application mainly on the grounds that the proposed use could meet the demand for eating place in the vicinity. One comment is submitted by an individual raising concerns on the previous non-compliance with the approval condition at the Site.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary eating place for a period of three years at the Site zoned “V” on the OZP (**Plan A-1**). The planning intention of the “V” zone is primarily for development of Small Houses by indigenous villagers, and certain commercial/community/recreational uses serving the needs of the villagers are permitted with or without planning permission from the Board. Whilst the proposed use is not entirely in line with the planning intention of the “V” zone, the applicant claims that it could provide catering services to meet the local demand for eating place. According to the District Lands Officer/Yuen Long of Lands Department, there is currently no Small House application approved or under processing at the Site. The proposed use of temporary nature would not adversely affect the land availability for NTEH/Small House within the “V” zone in the long term. It is considered that approval of the application on a temporary basis for a period of three years would not jeopardise the long-term planning intention of the “V” zone.
- 12.2 Given its small scale and the nature of serving the local community, the proposed use is considered not incompatible with the surrounding uses which are predominantly residential structures, open storage yard/warehouse, grassland, woodland and vacant land. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application as significant landscape impact arising from the proposed use at the Site is not anticipated.
- 12.3 The application is generally in line with TPB PG-No. 15A in that the proposed use is located at the fringe of Shek Wu Wai and accessible from Shek Wu Wai Road. Concerned government departments consulted, including the Director of Food and Environmental Hygiene, Director of Environmental Protection,

Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services (D of FS) have no objection to or no adverse comments on food and environmental hygiene, environmental, traffic, drainage and fire safety aspects respectively. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 below. Besides, the applicant will be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' and the 'Control of Oily Fume and Cooking Odour from Restaurant and Food Business' issued by the Environmental Protection Department to minimise any potential environmental impacts caused by the proposed use on the surrounding areas.

- 12.4 As detailed in paragraph 6 above, the Site is the subject of a previous approval for the same use submitted by the same applicant. The planning permission of the previously approved application (No. A/YL-NTM/445) was subsequently revoked on 25.8.2024 due to non-compliance with the time-limited approval condition related to the implementation of FSIs proposal, while all other time-limited approval conditions had been complied with. To support the current application, the applicant has submitted a revised FSIs proposal. In this regard, D of FS considers that the FSIs proposal is acceptable. Given that the Committee approved a previous application for the same use at the same Site in 2022 and there has been no major change in the planning circumstances, approval of the current application is in line with the Committee's previous decision. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.5 Regarding the public comments received as detailed in paragraph 11, the planning assessment and departmental comments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11, PlanD 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 4.10.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;

- (b) the submission of records of the existing drainage facilities on the site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.1.2025;
- (c) the implementation of the accepted fire service installations proposal within **9** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 4.7.2025;
- (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 condition (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 attached at **Appendix V**.

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

the proposed use is not in line with the planning intention of the "V" zone which is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended 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 received on 21.8.2024
Appendix Ia	FI received on 20.9.2024
Appendix II	Relevant extract of TPB PG-No. 15A
Appendix III	Previous applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendices VIa and VIb	Public comments
Drawing A-1	Layout plan
Plan A-1	Location plan with previous applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
OCTOBER 2024**