

RNTPC Paper No. A/YL-NTM/445  
For Consideration by the  
Rural and New Town  
Planning Committee  
on 25.11.2022

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

**APPLICATION NO. A/YL-NTM/445**

<b><u>Applicant</u></b>	: Mainway Investment Holdings Limited represented by Lawson David & Sung Surveyors Limited
<b><u>Site</u></b>	: Lot 411 in D.D. 105, Ngau Tam Mei, Yuen Long
<b><u>Site Area</u></b>	: About 1156 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
<b><u>Zoning</u></b>	: “Village Type Development” (“V”)
<b><u>Application</u></b>	: Proposed Temporary Eating Place for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary eating place for a period of 5 years (**Plan A-1**). According to the Notes of “V” zone of the OZP, ‘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 vacant (**Plan A-2 , A-4a and A-4b**).
- 1.2 Part of the Site is the subject of a previous application for temporary public vehicle park as detailed in paragraph 6 below.
- 1.3 As shown in **Plan A-1 and A-2**, the Site is located at the fringe of the “V” zone and accessible from Shek Wu Wai Road via a local access with the 6m-wide ingress/egress located at the northeast of the Site. According to the layout plan (**Drawing A-1**) submitted by the applicant, there will be a single-storey structure (about 4m in height) for eating place and a meter room (about 2.5m in height) with a total gross floor area of about 229m<sup>2</sup>. Six private car parking spaces and one light goods vehicle loading/unloading space will be provided within the Site.

The operation hours of the proposed use are from 9:00 a.m. to 6:00 p.m. daily, including public holidays.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on 6.9.2022 (Appendix I)
  - (b) Supplementary Planning Statement received on 6.9.2022 (Appendix Ia)
  - (c) Further information (FI) received on 29.9.2022 responding to departmental comments (Appendix Ib)

## **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 to Ib**. They can be summarised as follows:

- (a) The proposed eating place will help meet the local demand for eating place. As the Site is currently vacant, the proposal can also maximise land utilisation which is compatible with the surrounding areas.
- (b) The proposed development which is temporary in nature would not jeopardize the planning intention of the “V” zone in the long run. Also, three similar applications (No. A/YL-ST/604, 621 and 622) were approved in the adjacent OZP (No. S/YL-ST/8) in 2022. The approval of the application would not set an undesirable precedent.
- (c) The Site falls within area of influence (AOI) for the proposed Northern Link (NOL). Since the proposed NOL is still under review, the temporary use will not hinder the future development of the project. The Site will be vacated at the time for the construction of the NOL.
- (d) Adverse drainage, sewage, traffic, landscape and environmental impacts arising from the development on the surroundings 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 development during its operation. The applicant will 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 operation is restricted to 6:00 p.m.. The proposed development could be considered in compliance with 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 private lots within 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. 31A) 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. The relevant planning criteria are summarized in **Appendix II**.

### 5. **Background**

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

### 6. **Previous Application**

Part of the Site involves a previous application (No. A/YL-NTM/392) for temporary public vehicle park (private car only) approved by the Board for a period of 5 years on 4.10.2019. The application was subsequently revoked on 4.1.2022 due to non-compliance with approval conditions. The location is 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-1a to A-4c)**

8.1 The Site is:

- (a) accessible at the northeast via a local access from Shek Wu Wai Road; and
- (b) currently vacant and fenced-off.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are residential dwellings and the Shek Wu Wai sitting-out area, grassland, a cargo handling and forwarding facility and storage yards;
- (b) to its immediate west is grassland and to its further west are the village dwellings within the “V” zone of Shek Wu Wai and some parking of vehicles;
- (c) to its south and southwest are residential dwellings and woodland; and
- (d) to its east is a nullah, some cultivated agricultural land and grassland.

## **9. Planning Intention**

The planning intention of the “V” zone is to designate both existing recognized 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 Town Planning 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 III and IV** respectively.

## **11. Public Comments Received During Statutory Publication Period**

On 13.9.2022 and 11.10.2022, the application and FI were published for public comments. During the first three weeks of the statutory public inspection periods, 13 public comment was received (**Appendix V**). Two comments from individuals object to/raises concerns on the application on the grounds that the proposed use could cause adverse environmental impact; increase the risk on fire to the surroundings; and approval conditions of the previous application was not fulfilled. The remaining 11 comments from the Chairman of San Tin Rural Committee, village representative of Shek Wu Wai, companies and individuals support the application mainly on the grounds that the proposed use could meet the demand for eating place in the vicinity.

## 12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary eating place for a period of 5 years at the Site within “V” zone. The planning intention of “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion and commercial, community and recreational uses may be permitted on application to the Board. Whilst the proposed use is not entirely in line with the planning intention of the “V” zone, it could provide catering services to meet the local demand for eating place. According to the District Lands Officer/Yuen Long, Lands Department, there is no Small House application approved or under processing at the Site. Approval of the application on a temporary basis would not jeopardize the planning intention of the “V” zone and the long-term development of the Site.
- 12.2 Given the scale (total floor area of about 229m<sup>2</sup>) and the nature of the proposed use, it is considered not incompatible with the surrounding uses which are predominantly residential dwellings, storage yards, cargo handling and forwarding facility, cultivated agricultural land, grassland and woodland (**Plan A-2**).
- 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 there is no adverse comment from the concerned Government departments, including DFEH, DEP, C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS on environmental, traffic, landscape, drainage, sewerage and fire safety aspects. Their technical concerns/requirements could be addressed by approval conditions as recommended in paragraph 13.2 below. The applicant also endeavours to follow relevant code of practice and guidelines to minimise environmental nuisances and pollution to the surrounding environment. In view of the scale of the proposed eating place, it would unlikely generate significant adverse traffic, environmental, drainage and sewerage impacts on the surrounding areas. Nevertheless, in accordance with TPB PG-No. 15A, under normal circumstances only temporary approval for a maximum of 3 years should be considered so as to retain planning control on the development at the Site and to cater for changing circumstances in future.
- 12.4 Regarding the public comments received during the statutory public inspection period of the application 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 comment in paragraph 11, the Planning Department has no objection to the proposed temporary eating place for a period of 3 years, instead of 5 years as sought by the applicant.
- 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 25.11.2025. 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. daily, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 25.5.2023;
- (c) in relation to (b) above, the implementation of the 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 25.8.2023;
- (d) the submission of a 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 25.5.2023;
- (e) in relation to (d) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Service or of the Town Planning Board by 25.8.2023;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) if any of the above planning condition (a) or (f) 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
- (h) if any of the above planning condition (b), (c), (d) or (e) 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 IV**.

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

the temporary development is not in line with the planning intention of the "V" zone which is primarily intended for development of NTEHs/Small Houses by indigenous villagers. There is no strong planning justification 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 renewal of the planning 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 applicants.

## **15. Attachments**

<b>Appendix I</b>	Application form received on 6.9.2022
<b>Appendix Ia</b>	Planning statement
<b>Appendix Ib</b>	FI received on 29.9.2022
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 15A
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comments
<b>Drawing A-1</b>	Layout plan
<b>Plan A-1</b>	Location plan with previous application
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a and A-4b</b>	Site photos

**PLANNING DEPARTMENT  
NOVEMBER 2022**