

RNTPC Paper No. A/YL-NTM/455A
For Consideration by the
Rural and New Town
Planning Committee
on 11.8.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/455

<u>Applicant</u>	: Zhuang Fortunate Agricultural Co. Limited represented by Wong Sun Wo William
<u>Site</u>	: Lots 1398 and 1637 in D.D. 105, Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 1,032 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
<u>Zoning</u>	: “Residential (Group C)” (“R(C)”) [restricted to a maximum plot ratio (PR) of 0.4 and a maximum building height (BH) of 3 storeys (9m) including car park]
<u>Application</u>	: Proposed Temporary Eating Place with Ancillary Storeroom 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 with ancillary storeroom for a period of 5 years (**Plan A-1**). According to the Notes for the “R(C)” zone of the OZP, ‘Eating Place’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is mainly vacant with its northern portion being hard-paved (**Plans A-2 and A-4**).
- 1.2 The Site is accessible to San Tam Road via a local access, with the entrance being located at the north-eastern corner of the Site. The layout plan is at **Drawing A-1**. The proposed development will include three 1-storey structures (4.5m in height) with a total gross floor area of about 270m² for eating place, toilet and ancillary storeroom uses. One light goods vehicle loading/unloading bay will be provided at the Site. The operation hours will be from 7:00 a.m. to 9:00 p.m. from Mondays to Sundays, including public holidays.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with attachments received on 2.2.2023 (Appendix I)
- (b) Further Information (FI) received on 15.6.2023 and 23.6.2023 [#] (Appendix Ia)
- (c) FI received on 4.8.2023 [#] (Appendix Ib)

[#] *exempted from publication requirement*

1.4 On 31.3.2023, the Committee of the Board agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to prepare FI in support of the application.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form at **Appendices I and Ia**. They can be summarised as follows:

- (a) The Site is located in close proximity to a proposed transitional housing development. Since there is no eating place or convenience store in the vicinity, the proposed eating place can serve the demand of catering services during both the construction and operation phases of the transitional housing development.
- (b) The footpath at the northern tip of the Site will be open to public without fencing off. No tree felling will be involved at the Site and the existing trees will be protected during construction.

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. 31A) by obtaining consent of from "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

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

5. **Previous Application**

The Site (in part) is the subject of one previous application (No. A/YL-NTM/227) for temporary sales centre for new private vehicles and lorries (including medium goods vehicles and container tractors) rejected by the Committee in 2008, mainly on the considerations that the proposed development was not in line with the planning intention of the “R(C)” zone; the proposed development was incompatible with the nearby rural settlements; the proposed development was not in line with the Town Planning Board Guidelines No. 13D; and the approval of the application would set an undesirable precedent. Details of the previous application is summarised at **Appendix II**. The location is shown on **Plan A-1**.

6. **Similar Applications**

- 6.1 During the past five years, there are two similar applications (No. A/YL-NTM/407 and 457) involving two sites for temporary eating place within the same “R(C)” zone on the OZP.
- 6.2 Applications No. A/YL-NTM/407 for temporary eating place (restaurant) and No. A/YL-NTM/457 for temporary eating place, shop and services with ancillary facilities were approved by the Committee in 2020 and 2023 respectively mainly on the considerations that the applied use on a temporary basis would not frustrate the long-term planning intention of the “R(C)” zone; the proposed development was not incompatible with the surrounding land uses; and relevant government departments had no objection to/adverse comment on the application.
- 6.3 Details of the similar applications are summarised at **Appendix II**. Their locations are shown on **Plan A-1**.

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

- 7.1 The Site is:

- (a) mainly vacant and northern portion is partly hard-paved; and
- (b) accessible from San Tam Road via a local access.

- 7.2 The surrounding areas have the following characteristics:

- (a) to its north are storage, residential dwellings, vacant land and a site for proposed temporary eating place, shop and services with ancillary facilities with valid planning permission (No. A/YL-NTM/457);

- (b) to its east are vacant and unused land;
- (c) to its south and southeast are the site for proposed transitional housing development with valid planning permission (No. A/YL-NTM/431); gardening area and unused land; and
- (d) to its west are a retail shop (sales of gardening products) and a site for proposed temporary shop and services (sales of gardening and construction materials) with valid planning permission (No. A/YL-NTM/450); and to its further west across the watercourse and San Tam Road is the Mai Po Electric Substation.

8. **Planning Intention**

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application

9. **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.

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

On 10.2.2023, the application was published for public comment. During the first three weeks of the statutory public inspection period, a total of two public comments were received (**Appendix V**) from the Chairman of Mai Po Village Ko Hang Region Residents’ Association and residents of the village and an individual objecting to the application on the grounds that the northern tip of the proposed development would occupy part of the local road which may obstruct the daily access of villagers; the sewerage and kitchen waste generated from the proposed use would be discharged to the rivers and cause adverse environmental and ecological impacts to the surrounding area and Mai Po area; the proposed development may generate noise nuisance and security concerns which affect local residents; the Site has been used for open storage and may be contaminated; and there is no information provided regarding water supply and drainage impacts.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary eating place with ancillary storeroom for a period of five years at the Site within “R(C)” zone of the OZP. The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Although the proposed temporary use is not entirely in line with the planning intention of the “R(C)” zone, the proposed temporary eating place could provide catering services to the workers and residents of the nearby planned transitional housing development and there is no immediate permanent development proposal for the Site, approval of the application on a temporary basis for a period of five years would not frustrate the long-term planning intention of the “R(C)” zone.
- 11.2 The Site is located at the fringe of “R(C)” zone and in close proximity to San Tam Road. The proposed development is small in scale and is not incompatible with the surrounding land uses with shop and services, residential dwellings, storage and vacant/unused land (**Plan A-2**).
- 11.3 The proposed use would unlikely cause significant adverse impacts on the area. There are no adverse comments from the concerned Government departments, including Director of Food and Environmental Hygiene, Director of Environmental Protection (DEP), Commissioner for Transport, Chief Town Planner/Urban Design and Landscape, Planning Department, Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) and Director of Fire Services (D of FS) on environmental, traffic, landscape, drainage and fire safety aspects. Should the application be approved, technical requirement of CE/MN of DSD and D of FS can be addressed by imposing approval conditions recommended in paragraph 12.2 below. The applicant will also 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’ issued by DEP to minimise any potential environmental impacts.
- 11.4 As detailed in paragraph 6, the Committee has approved two similar applications for temporary eating place within the same “R(C)” zone in the past five years. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Regarding the public comments received during the statutory public inspection period of the application as detailed in paragraph 10, the planning assessment and departmental comments above are relevant. Regarding the public comment on obstructing the daily access of villagers, the applicant advises that the section of footpath at the northern tip of the Site will not be obstructed and remain open to public.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comment in paragraph 10, the Planning Department has no objection to the application.
- 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 5 years until 11.8.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a revised 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 11.2.2024;
- (b) the implementation of the revised 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 11.5.2024;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 11.2.2024;
- (e) the implementation of the fire service installations proposal 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 11.5.2024;
- (f) if the above planning condition (c) 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
- (g) if any of the above planning condition (a), (b), (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**.

- 12.3 There is no strong reason to recommend rejection of the application.

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

Appendix I	Application Form with attachments received on 2.2.2023
Appendix Ia	FI received on 15.6.2023 and 23.6.2023
Appendix Ib	FI received on 4.8.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Layout plan
Plan A-1	Location plan with similar and previous applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
AUGUST 2023**