

RNTPC Paper No. A/YL-ST/621  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 15.7.2022

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

**APPLICATION NO. A/YL-ST/621**

<b><u>Applicant</u></b>	: Asia Tender Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lots 196 (Part), 197 and 199 RP in D.D. 102 and Adjoining Government Land (GL), San Tin, Yuen Long
<b><u>Site Area</u></b>	: About 999 m <sup>2</sup> (including about 66 m <sup>2</sup> of GL (about 6.6%))
<b><u>Lease</u></b>	: Block Government Lease (demised agricultural use)
<b><u>Plan</u></b>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<b><u>Zoning</u></b>	: “Village Type Development” (“V”)
<b><u>Application</u></b>	: Proposed Temporary Eating Place for a Period of 3 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 3 years (**Plan A-1a**). 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 vacant (**Plan A-2 and A-4**).
- 1.2 The Site in part is the subject of 7 previous applications (No. A/YL-ST/125, 135, 245, 315, 383, 481, 540) (**Plan A-1b**) (details at paragraph 6 below).
- 1.3 According to the applicant, the proposed temporary eating place involves five single storey structures (about 2.5-4m in height) with a gross floor area of about 476m<sup>2</sup>, providing 10 tables), which is to serve the nearby locals and workers (**Drawing A-1**). As shown in **Plan A-1a** and **Plan A-2**, the Site is accessible from Castle Peak Road – San Tin via a local access. There will be one loading and unloading bay for light goods vehicle. The operation hours of the proposed use are from 9:00 a.m. to 10:00 p.m. daily, including public holidays. The

estimated number of staff working at the Site is 8. The estimated number of visitors per day is about 50.

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

(a) Application form with supplementary document (**Appendix I**) received on 25.5.2022.

(b) Further Information (FI) received on 7.7.2022\* (**Appendix Ia**)

Remarks: \* 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 application form with supplementary document and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed use, which is intended to serve the nearby local, is on a temporary basis and will not jeopardise the long-term planning intention of the “V” zone.
- (b) No adverse or significant traffic, environmental, landscape and drainage impacts are anticipated. Adequate mitigation measures will be provided after planning approval has been granted from the Board.
- (c) No medium and heavy vehicles including container vehicles, 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.
- (d) The applicant will follow ‘Control of Oil Fume and Cooking Odour from Restaurant and Food Business’ issued by the Environmental Protection Department (EPD) to control oily fume and cooking odour emissions generated from the eating place during its operation. Adequate air pollution control equipment will be provided at the kitchen ventilation system for treating cooking fume emissions before discharge to the outdoor environment, in order to fulfil the requirements of the Air Pollution Control Ordinance.
- (e) The applicant will strictly implement good practices under Professional Persons Environmental Consultative Committee Practice Notes 5/93 for sewage treatment at the application site. Licensed collectors will be employed by the applicant to collect and dispose of sewage regularly to minimize adverse environmental impact to the surrounding area.

### 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 requirement 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 the San Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Member’s inspection. The remaining part of the Site is GL, and the “owner’s consent/notification” requirements are not applicable.

### 4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Development within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) and ‘Application for Eating Place within “Village Type Development” (TPB PG-No. 15A) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

### 5. **Background**

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

### 6. **Previous Application**

- 6.1 The Site or part of the Site is the subject of seven previous applications (No. A/YL-ST/125, 135, 245, 315, 383, 481, 540) of which the first one was rejected by the Rural and New Town Committee (the Committee) of the Town Planning Board and the remaining six were approved with conditions. All previous applications are not relevant to the current application.
- 6.2 Details of the applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1b**.

### 7. **Similar Applications**

- 7.1 During the past five years since 2017, there are three similar applications (No. A/YL-ST/499, 565 and 604) for temporary eating place within the same “V” zone on the OZP which was approved by the Committee mainly on the consideration that the developments was considered not incompatible with the surrounding land uses, the eating place could meet some of the demand for eating place in the vicinity, and the applied use was generally in line with the TPB PG-No 12C and 15A.

- 7.2 Details of the applications are summarized at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:

- (a) accessible at the northeast via a local access from Castle Peak Road – San Tin;
- (b) hard paved and vacant currently; and
- (c) located within the Wetland Buffer Area (WBA) of Deep Bay Area.

- 8.2 The surrounding areas are a mix of residential dwellings, storage yards, vehicle parks and shops:

- (a) to the north are car parks. To further north, northeast and northwest are village houses of Wing Ping Tsuen and vehicle parks, storage yards, shops and vacant structures;
- (b) to the east are vacant residential dwellings. To the further east across Castle Peak Road – San Tin are Highways Department Maintenance Operations Centre and vacant structures (under application No. A/YL-ST/605);
- (c) to the south, southeast and southwest are San Tin Post Office, a public toilet, a refuse collection point and a vacant structure. To the further south and southwest are Castle Peak Road – San Tin, vehicle parks, storage yards, a temple, a church, a school, restaurants, vehicle repair and metalware workshops, residential dwellings and the San Tin Rural Committee Office; and
- (d) to the west are vacant land, residential dwellings and storage yards.

## **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 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 Comment Received During Statutory Publication Period**

On 7.6.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 28.6.2022, four comments were received from individuals (**Appendix VI**) raising objection/concerns on the grounds that the application fails to provide sufficient planning justifications and technical assessments; the development will result in adverse traffic impact, environmental pollution and increase in fire risk, thereby affecting the living quality and safety of the community; eateries in the vicinity have caused environmental problems and information on hygiene measures should be provided.

#### **12. Planning Considerations and Assessments**

- 12.1 The application is for temporary eating place for a period of 3 years. The Site falls within “V” zone which is intended to designate both existing recognised villages and areas of land considered suitable for village expansion. 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. Although the temporary eating place is not entirely in line with the planning intention of the “V” zone, DLO/YL of LandsD advises that there is no Small House application has been approved or is being processed at the Site. The proposed use could also serve the adjacent villages and meet the local demand for eating place in the vicinity. In this regard, it is considered that the approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “V” zone.
- 12.2 Given the small scale (total floor area of about 476m<sup>2</sup>) and the nature of the proposed use, it is considered not incompatible with the surrounding land uses, which are rural in character comprising mainly residential dwellings, storage yards, vehicle parks and shops (**Plan A-2**).
- 12.3 Although the Site falls within the WBA of the TPB PG-No. 12C, the guidelines also specify that planning applications for temporary uses are exempted from the

requirement of Ecological Impact Assessment. DAFC has no comment on the application.

- 12.4 The application is generally in line with TPB PG-No. 15A in that the proposed use is located at the fringe of Wing Ping Tsuen and is accessible from Castle Peak Road – San Tin. Noting that there was an environmental complaint on water pollution causing by the nearby restaurants, the applicant endeavours to follow the code of practice and guidelines issued by the Environmental Protection Department to minimise the air, water and noise pollution to the surrounding environment. In view of the scale of the eating place, it would unlikely generate significant adverse traffic, environmental and sewerage impacts on the surrounding areas. Concerned government departments including DFEH, DEP, C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no adverse comments on food and environmental hygiene, environmental, traffic, landscape, drainage and fire safety aspects respectively, and their technical concerns/requirements could be addressed by approval conditions as recommended in paragraph 13.2 below. Sympathetic consideration could be given to the application.
- 12.5 Since 2017, the Committee has approved three similar applications for temporary eating place use within the same “V” zone. Approval of the current application is therefore in line with the previous decisions of the Committee.
- 12.6 Four public comments were received during the statutory application period raising concern to the application as stated in paragraph 11 above. In this regard, relevant departments’ comments as well as the planning assessments and considerations stated above are relevant.

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

- 13.1 Based on the assessments made in paragraph 12, the Planning Department 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 15.7.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### **Approval Conditions**

- (a) no operation between 10:00 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 and heavy vehicles including container vehicles defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be

parked/stored on or enter/exit the Site at any time during the planning approval;

- (c) no vehicle is allowed to queue back to or reverse onto/from the Site at all times during the planning approval period;
- (d) 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 15.1.2023;
- (e) in relation to (d) above, the implementation of 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 15.4.2023;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the submission of 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 15.1.2023;
- (h) in relation to (g) above, the implementation of 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 15.4.2023;
- (i) if any of the above planning condition (a), (b), (c) 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;
- (j) if any of the above planning condition (d), (e), (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**.

- 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 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 25.5.2022
<b>Appendix Ia</b>	FI received on 7.7.2022
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 12C and 15A
<b>Appendix III</b>	Previous and similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comments
<b>Drawing A-1</b>	Layout plan
<b>Plan A-1a</b>	Location plan with similar applications
<b>Plan A-1b</b>	Previous application plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
JULY 2022**