

RNTPC Paper No. A/YL-ST/627
For Consideration by the
Rural and New Town
Planning Committee
on 23.9.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/627

<u>Applicant</u>	: 愛回味396飲食集團有限公司 represented by Lanbase Surveyors Limited
<u>Site</u>	: Lot 372 S.D RP (Part) in D.D. 99 and Adjoining Government Land (GL), San Tin, Yuen Long
<u>Site Area</u>	: About 830 m ² (including about 140m ² of GL)
<u>Lease</u>	: Block Government Lease (demised agricultural use)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Other Specified Use” annotated “Service Station” (“OU(SS)”)
<u>Application</u>	: 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 “OU(SS)” 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 currently occupied by a temporary structure.
- 1.2 The Site or part of the Site is the subject of 12 previous applications as detailed in paragraph 6 below.
- 1.3 As shown in **Plans A-1a and A-2**, the Site is accessible from Tun Yu Road with the ingress/egress located at the southeast of the Site. According to the layout plan (**Drawing A-1**), there are two single-storey structures (3m to 7m in height) with a gross floor area of about 220.4m² for restaurant and toilet. There will be four private car parking spaces and one light goods vehicle loading/unloading space within the Site. The operation hours of the proposed use are from 7:00 a.m. to 10:00 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 1.8.2022 (Appendix I)
- (b) Planning statement (Appendix Ia)
- (c) Further information (FI) received on 9.9.2022 and 14.9.2022* (Appendix Ib)

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, planning statement and FI at **Appendices I to Ib**. They can be summarised as follows:

- (a) The planning intention of the “OU(SS)” zone is to provide support service facilities for the cross-boundary traffic and the container related facilities nearby. The proposed use could be regarded as one of the support service facilities and therefore is in line with the planning intention of the subject zone.
- (b) Three similar applications (No. A/YL-ST/529, 565 and 604¹) were approved in the vicinity of the Site. The proposed use could cope with the increasing local demand for eating place.
- (c) Adverse traffic, railway development and environmental impacts arising from the development on the surroundings are not envisaged. Traffic arrangements including the provision of parking, loading/unloading and manoeuvring spaces are proposed. The change from tyre-repairing area under previous planning application to the proposed use would upgrade the site condition in terms of neatness and land use.

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. The remaining part of the Site is GL, and the “owner’s consent/notification” requirements are not applicable.

¹ Applications No. A/YL-ST/565 and 604 fall within the adjacent “Village Type Development” zone on the same OZP.

4. **Town Planning Board Guideline**

According to 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) is relevant to the application, the Site falls within the Wetland Buffer Area (WBA). Relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

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

6. **Previous Applications**

- 6.1 The Site or part of the Site is the subject of 12 previous applications (No. A/YL-ST/12, 94, 157, 200, 295, 312, 363, 411, 438, 447, 506 and 575) for different uses. These previous applications are not relevant to the subject 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 two similar applications (No. A/YL-ST/503 and 529) for commercial development (Eating Place, Place of Entertainment, and Shops and Services) within the same “OU(SS)” zone on the OZP which were approved by the Committee mainly on the considerations that the proposed use is generally in line with the planning intention of the “OU(SS)” zone; and the concerns of government departments could be addressed by approval conditions.
- 7.2 Details of the applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
 - (a) accessible at the southeast via a local access from Tun Yu Road;

- (b) occupied by a temporary structure; and
- (c) located within WBA of Deep Bay Area.

8.2 The surrounding areas are intermixed with open storage, shop and services, workshop and vehicle parks:

- (a) to the north and east across Tun Yu Road are a Nullah, Sai Kwo Road, grassland, Lok Ma Chau Control Point, San Sham Road and MTR (East Rail Line); and
- (b) to the south and west are open storage of construction materials, containers and vehicles, shop and services, vehicle repair workshop & ancillary offices, vehicle parks and San Tin Tsuen Road.

9. Planning Intention

- 9.1 The “OU(SS)” zone is intended primarily to provide support service facilities such as eating places, petrol filling stations, etc. for the cross-boundary traffic and the container related facilities nearby.
- 9.2 According to the Explanatory Statement (ES) of the OZP, sites within the “OU(SS)” zone could be developed for commercial uses subject to planning permission of the Board. In order to have a better control of the impact of any development on drainage, traffic, sewerage, environment and ecology on the nearby extensive fish pond area, for those uses which require planning permission, the applicant has to prepare a layout plan and to demonstrate that due regard has been given to minimize the adverse impacts of the development on the surroundings in particular the Mai Po Nature Reserve and the contiguous fish pond areas.

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 9.8.2022, the application was published for public comments. During the first three weeks of the statutory publication period which ended on 30.8.2022, one public comment was received from San Tin Rural Committee supporting the application on the grounds

that the proposed use could create job opportunity for local villagers and is in line with the planning intention of the land use zoning (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary eating place for a period of 3 years. The Site falls within “OU(SS)” zone which is intended to provide support service facilities such as eating places, petrol filling stations, etc. for the cross-boundary traffic and the container related facilities nearby. According to the ES of the OZP, sites under the “OU(SS)” zone could be developed for commercial uses subject to planning permission of the Board. The proposed temporary eating place could serve the nearby workers and local residents. Approval of the application on a temporary basis for a period of 3 years is in line with the planning intention of the “OU(SS)” zone. The proposed development is also not incompatible with the surrounding uses which are predominated by open storage, shop and services, workshop and vehicle parks.
- 12.2 Although the Site falls within the WBA, it is specified in the TPB PG-No.12C that planning applications for temporary uses are exempted from the requirement of Ecological Impact Assessment. In this regard, DAFC has no comment on the application from nature conservation perspective.
- 12.3 The applicant has submitted a layout plan at **Drawing A-1** and 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.
- 12.4 Since 2017, the Committee has approved two similar applications for commercial development including eating place uses within the same “OU(SS)” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.5 The public comment supporting the application is noted.

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 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

23.9.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (b) no operation between 10:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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 23.3.2023;
- (d) in relation to (c) 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 23.6.2023;
- (e) 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 23.3.2023;
- (f) in relation to (e) 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 23.6.2023;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) if any of the above planning conditions (a), (b) or (g) 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
- (i) if any of the above planning condition (c), (d), (e) or (f) 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 There is no apparent reason to reject the application.

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

Appendix I	Application form with attachments received on 1.8.2022
Appendix Ia	Planning statement
Appendix Ib	FI received on 9.9.2022 and 14.9.2022
Appendix II	Relevant Extract of TPB PG-No. 12C
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Layout plan
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4c	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**