

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/294

<u>Applicant</u>	:	Classic Total Limited represented by 328 Inc Limited
<u>Site</u>	:	Lots 1828 RP, 1831 (Part), 1832 S.A and 1832 RP (Part) in D.D. 120, Tai Shui Ha Road East, Yuen Long, New Territories
<u>Site Area</u>	:	911 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/25
<u>Zoning</u>	:	“Open Space” (“O”)
<u>Application</u>	:	Proposed Temporary Eating Place for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary eating place for a period of 6 years. According to the Notes of the OZP for “O” zone, ‘Eating Place’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is mostly occupied by some vacant structures with open storage of vehicles at the south-western portion (**Plans A-1 to A-4**).
- 1.2 The Site is accessible at Tai Shu Ha Road East (**Plan A-2**). The applicant undertakes that no vehicles would queue back or reverse onto/from public road and no outdoor seating accommodation would be involved. According to the applicant, the proposed temporary eating place involves a 1-storey structure with 60 seats. No audio equipment will be used in the open area of the Site. The site layout plan with swept path analysis, landscape plan, drainage layout and fire service installations (FSIs) plan submitted by the applicant are shown on **Drawings A-1 to A-4** respectively.
- 1.3 The Site is the subject of a previous application (No. A/YL/229) (details at paragraph 4 below).

- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/YL/229, which are summarised as follows:

Major Development Parameters	Last Approved Application No. A/YL/229	Current Application No. A/YL/294
Applied Use	Proposed Temporary Eating Place for a Period of 6 Years	
Site Area	About 991 m ²	
Total Floor Area (Non-domestic)	About 420 m ²	
Non-domestic Plot Ratio	0.46	
Non-domestic Site Coverage	46%	
No. of Structure / Building Height	1 / 3.66 m	
No. of Parking Spaces	5 for private car (5m x 2.5m)	
Operation Hours	11:00 a.m. to 11:00 p.m. daily	

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

- (a) Application Form with attachments received on 18.7.2022 (Appendix I)
- (b) Further Information (FI) received on 19.8.2022 (Appendix Ia)
- (c) FI received on 31.8.2022 (Appendix Ib)

[(b) and (c) 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 at **Appendix I** and **Ib**. They can be summarised as follows:

- (a) The previous planning application No. A/YL/229 was approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2017. Throughout the years, all time-limited approval conditions of the last planning application have been complied with, while the proposed eating place is currently undergoing renovation works based on the licensing requirements from the Food and Environmental Hygiene Department. The nature of this application is the same as the last application.
- (b) The Site is abutting Tai Shu Ha Road East which is linked with Shap Pat Heung Road. There are villages and low rise residential developments in its vicinity. There is currently no eating place along the road. The proposed temporary eating place would provide a convenient service to the neighbourhood.
- (c) The scale of the proposed temporary eating place is small and it would not have any special mechanical operation, and no audio equipment will be used. Therefore, it would not have any adverse noise and air quality impact on the surrounding areas.

- (d) An underground septic tank would be provided on Site (**Drawing A-3**). All the waste water would be filtered before discharging. Therefore, there would be no adverse sewerage impact arising from the proposed eating place.
- (e) A vehicular run-in/out of 6.8m wide would be provided. The design of run-in/out shall be carried out in according to highways standard. The traffic generated should be absorbed in the roads and junctions in the vicinity; and the swept path analysis has been carried out to ensure sufficient space would be provided within the Site for access and manoeuvring of vehicles (**Drawing A-1**).

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

- 4.1 The Site is subject to one previous application No. A/YL/229 for proposed temporary eating place for a period of 6 years, which was approved by the Committee of the Board on 13.1.2017 with conditions. The major considerations were that the proposed use would not jeopardize the long-term planning intention; the applied use is not incompatible with the surrounding uses; and no objection or no adverse comment from relevant departments. All time-limited approval conditions have been complied with. Details of the application are summarised at **Appendix II** and its location is shown on **Plan A-1**.
- 4.2 Compared with the last approved application No. A/YL/229, the current application is submitted by the same applicant for the same applied use with same development parameters on the same site, but with changes in the building form and layout of the proposed eating place.

5. Similar Application

There is no similar application for the same use within the same “O” zone on the OZP.

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

- 6.1 The Site is:
 - (a) mostly occupied by some vacant structures;
 - (b) currently partly used for open storage of vehicles; and
 - (c) accessible at Tai Shu Ha Road East, with the slope in front of the vehicular run-in/out paved with concrete to level with the adjoining footpath.

6.2 The surrounding areas have the following characteristics:

- (a) to its immediate east and south are some residential structures, and to its further east are a factory, a sitting-out area and a structure used for storage purpose within the same “O” zone (**Plan A-2**);
- (b) to its southwest across Tai Shu Ha Road East and the nullah are some residential structures, a construction site for a cluster of low-density houses¹, warehouses and an orchard;
- (c) to its immediate west and north is a site office and a car park respectively;
- (d) to its further west, across Tai Shu Ha Road East and the nullah, are a planned Po Leung Kuk youth hostel which is under construction, and a temporary storage of construction materials with site office; and
- (e) to its further north, across Shap Pat Heung Road, are some residential structures, a vehicle repair workshop, an area used for parking of vehicles and a food factory.

7. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

8. 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.

9. Public Comments Received During Statutory Publication Period

On 26.7.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received from individuals objecting to the application (**Appendices V-1 to V-3**). The commenters object to the application mainly on the grounds of land use, environmental, hygiene, sewerage and drainage impacts, fire risk and safety concerns, living quality of nearby residents, availability to access eating places in walkable distance, and the number of times of granting extension of time for compliance of approval conditions in the previous application.

¹ It is the subject site of an approved planning application No. A/YL/185 for proposed house development with minor relaxation of building height restriction (from 8.23m to 9.85m), which was approved with conditions by the Committee on 6.7.2012.

10. Planning Considerations and Assessments

- 10.1 The application is for proposed temporary eating place for a period of 6 years at the Site zoned “O” on the OZP. The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Although the proposed use is not in line with the planning intention of the “O” zone, DLCS advises that there is no plan to develop the Site into public open space at present. The proposed development could also provide dining services to meet any such demand in the area. As such, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “O” zone.
- 10.2 The proposed development comprises a single-storey structure (3.66m high) with a total GFA/PR of about 420m²/0.46 and a SC of 46%. It is considered that the proposed scale and use are not incompatible with the surrounding uses, which comprise mainly residential uses, car parks, warehouses and factories.
- 10.3 There is no adverse comment from concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department. Adverse traffic, environmental/sewerage, fire safety and drainage impacts on the surrounding areas are not envisaged. There has been no substantiated environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 11.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will be reminded that the proposed temporary eating place will also need to comply with all the relevant requirements for application of a licence as required by the licensing authority and relevant pollution control ordinance so as to minimize any potential environmental nuisance to the surroundings.
- 10.4 The Site is subject to a previous application (No. A/YL/229) submitted by the same applicant for the same use which was approved with conditions by the Committee on 13.1.2017 and all the time-limited approval conditions have been complied with. Approval of the current application is in line with the Committee’s previous decision.
- 10.5 There were three public comments received objecting to the application during the statutory publication period as summarised in paragraph 9 above. The planning considerations and assessments in the above paragraphs are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments as mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 11.2 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 6 years until 9.9.2028. 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) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record 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 9.12.2022;
- (d) the submission of 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 9.3.2023;
- (e) in relation to (d) above, the implementation of 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 9.6.2023;
- (f) if any of the above planning conditions (a) or (b) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if the above planning condition (c), (d) or (e) is not complied with by the above 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**.

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

the proposed development is not in line with the planning intention of the "O" zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.

12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

13. Attachments

Appendix I	Application Form with plans received on 18.7.2022
Appendix Ia	FI received on 19.8.2022
Appendix Ib	FI received on 31.8.2022
Appendix II	Previous Application covering the Site
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V-1 to V-3	Public Comments received during the statutory publication period
Drawing A-1	Layout Plan with Swept Path Analysis
Drawing A-2	Landscape Proposal
Drawing A-3	Drainage Proposal
Drawing A-4	FSIs Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**