

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/574

- Applicant** : Fortune Nine (HK) Company Ltd. represented by Top Bright Consultants Ltd.
- Site** : Lots 3049 RP (Part) and 3050 RP (Part) in D.D.102 and Adjoining Government Land (GL), San Tin, Yuen Long
- Site Area** : About 1,517 m² (including GL of about 1,056 m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Temporary Shop and Services (Retail Shops and Convenient Store) 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 shop and services (retail shops and convenient store) for a period of 3 years (**Plan A-1a**). According to the Notes for the “V” zone of the approved San Tin OZP No. S/YL-ST/8, ‘Shop and Services’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). Part of the Site is currently occupied by some vacant structures (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site (in whole or in part) is the subject of 8 previously approved applications (**Plan A-1b**). The last two applications (Nos. A/YL-ST/488 and 521) submitted by the same applicant were for similar shop and services use as the current application (but with laundry and pharmacy uses) which were approved by the Rural and New Town Planning Committee (the Committee) of the Board on 26.8.2016 and 26.1.2018 respectively with conditions for a period of 3 years each. However, both applications were subsequently revoked on 26.11.2017 and 26.6.2020 respectively due to non-compliance with conditions.
- 1.3 According to the applicant, the proposed shop and services use is to serve the local community and the workers in the surrounding area by providing daily

necessities including basic grocery goods such as dairy products, sweets and over the counter medicines. As shown on the layout plan at **Drawing A-1** and **Plan A-2**, the Site is accessible via a 8m-wide run-in/out from the north off Tung Wing On Road leading to Castle Peak Road – San Tin.

1.4 The comparison of major development parameters under the last application and the current application is summarized as follows:

Major Development Parameters	Last Application (No. A/YL-ST/521)	Current Application (No. A/YL-ST/574)	Difference
Site Area	1,763m ²	1,517m ²	- 246 m ² (-14%)
Total GFA	260m ²	159m ²	-101 m ² (-39%)
No. of Structures	5 structures (2 structures for shop and services; 1 structure for guard house/staff rest room; a Fire Service (FS) water tank and a meter room)	4 structures (1 structure for shop and services; 1 structure for guard house/staff rest room; a FS water tank and a meter room)	- 1 (1 structure for shop and services deleted)
No. of Storeys	1 to 2	1 to 2	-
Building Height	2 to 4.8m	2 to 4.8m	-
No. of Parking Spaces for private cars	12	9	- 3 (-25%)
No. of Loading and Unloading Area for LGV (under 5.5 tonnes)	2	2	-
Operation Hours	8:00a.m. to 8:00p.m. daily	8:00a.m. to 8:00p.m. daily	-

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

- (a) Application form received on 3.6.2020 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Further Information (FI) received on 23.10.2020 providing drainage proposal # **(Appendix Ib)**
- (d) FI received on 3.11.2020 providing fire service installations (FSIs) proposal # **(Appendix Ic)**
- (e) FI received on 19.11.2020 providing responses to comments on the drainage proposal # **(Appendix Id)**

- (f) FI received on 20.11.2020 providing an updated plan on the landscape and tree preservation proposal # **(Appendix Ie)**

exempted from publication requirement

- 1.6 On 24.7.2020, the Committee decided to defer a decision on the application for a period of two months as requested by the applicant pending the submission of FI by the applicant to address departmental comments. The applicant subsequently submitted FI as detailed in paragraph 1.5 above.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement and FI at **Appendix Ia to Ie**. They can be summarized as follows:

- (a) The proposed shop and services use provides daily necessities and services within walking distance for the local villages/residents and workers in the vicinity. The proposed development is in line with the planning intention of the “V” zone and compatible with the surrounding areas comprising mainly village houses, storages, shops and restaurants. Small House applications at Lots 3048 S.B and 3048 RP in D.D.102 (**Plan A-2**) in the southwestern part of the site of the last application (No. A/YL-ST/521) have been approved by the Lands Department (LandsD) and implementation works will soon commence. The applicant thus carved out the two lots and demolished part of the structures at the Site and submitted a new application with a revised layout.
- (b) Adequate parking, loading/ unloading, manoeuvring space including a buffer zone to avoid vehicle queuing at Tung Wing On Road will be provided within the Site, and the traffic flow will be managed by on-site security guard. As compared with the last application, it is anticipated that no additional traffic will be generated from the Site. Castle Peak Road – San Tin is also well served by public transport. Therefore, no adverse traffic impact is anticipated.
- (c) With minimal scale proposed and keeping most of the activities indoor, the proposed development would not cause significant adverse environmental and visual impacts on the surrounding area. All the existing trees within the Site will be preserved with routine maintenance by the applicant as per the Landscape and Tree Preservation Proposal in **Drawing A-2**.
- (d) The Site is served with some existing drainage facilities which are shared with the adjacent lot owners who have agreed to jointly maintain and share the existing U-channels and share the final discharge outflows. Should this application be approved, the applicant will maintain the existing drainage facilities to the satisfaction of the Drainage Services Department (DSD).
- (e) The applicant has made effort to comply with the approval conditions of the last approved application No. A/YL-ST/521 and has complied with all the conditions except one. The fulfilled conditions include provision of boundary fencing, submission of FSIs proposal, submission and implementation of drainage proposal,

and submission and implementation of landscape and tree preservation proposal. The only condition that could not be complied with was on implementation of FSIs which could not be taken forward as the construction works of the temporary structures was withheld due to the need to carve out two private lots for Small House development, and the planning approval was subsequently revoked due to non-compliance of approval condition on FSIs implementation. In support of the current application, the applicant has submitted a revised FSIs proposal at **Appendix Ic** and committed to complying with the approval condition should the application be approved.

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

The applicant is not the “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 by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “owner’s consent/notification” requirements are not applicable.

4. **Town Planning Board Guidelines**

According to the Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. **Background**

The Site is not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site (in whole or in part) is involved in 17 previous applications, of which 8 were approved by the Committee and 9 were rejected (**Plans A-1b and A-1c**).

Approved Applications

- 6.2 6 applications (Nos. A/YL-ST/57, 104, 288, 317, 343 and 391) submitted by different applicants mainly for container trailer/ tractor park/ public vehicle park (excluding container vehicle) were approved by the Committee from 1998 to 2010 for 12 months/3 years on similar considerations that the proposed development was considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone. However, the planning permission under Application No. A/YL-ST/288 and A/YL-ST/317 were subsequently revoked on 18.2.2006 and 18.7.2007 respectively due to non-compliance with approval conditions.
- 6.3 The last two Applications (Nos. A/YL-ST/488 and 521), submitted by the current applicant for the shop and services use (retail shops, laundry, pharmacy and convenient store) were approved by the Committee on 26.8.2016 and 26.1.2018 respectively for a period of 3 years mainly on the consideration that the proposed development was considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone. The applications were revoked on 26.11.2017 and 26.6.2020 respectively due to non-compliance with conditions on the submission and implementation of FSIs proposal and drainage proposal and the implementation of landscape and tree preservation proposal for the former, and on the implementation of FSIs proposal for the latter.

Rejected Applications

- 6.4 9 applications (Nos. A/YL-ST/16, 34, 41, 126, 153, 203, 222, 270 and 307) submitted by different applicants on larger sites mainly for temporary container vehicle/trailer park and vehicle repair workshop/ public car park were all rejected by the Committee/the Board upon review from 1996 to 2006 mainly for the reasons that the proposed development was not in line with the planning intention of the “V” zone and there were programmes for Small House development within the sites; the proposed developments were not compatible with the surrounding uses; and the approval of the applications would set undesirable precedent for similar applications.
- 6.5 Details of these applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 Since 2008, there are 4 similar applications covering 3 application sites within the same “V” zone, of which 3 were approved and 1 was rejected by the Committee (**Plan A-1a**).
- 7.2 Applications Nos. A/YL-ST/412 and 458 on the same site for temporary shop and services (real estate agency) use and Application No. A/YL-ST/556 for temporary shop and services use in another site were approved by the Committee on 16.3.2012, 5.6.2015 and 20.9.2019 respectively for a period of 3 years each mainly on the consideration that the proposed developments were considered not incompatible with the surrounding land uses and would not frustrate the long-term

planning intention of the “V” zone. However, the two planning permissions under Applications No. A/YL-ST/412 and 458 were revoked on 21.5.2013 and 5.9.2015 respectively due to non-compliance with conditions on no vehicular access to the site at any time during the planning approval period for the former, and on submission of as-built drainage plans and photographic records of existing drainage facilities and submission of FSIs and landscape and tree preservation proposals for the latter.

- 7.3 Application No. A/YL-ST/505 for temporary shop and services (convenient store and currency exchange shop) use was rejected by the Committee on 14.7.2017 for the reasons that the proposed development was not in line with the planning intention of the “V” zone and the applicant failed to demonstrate that the proposed development will not have any adverse impact on pedestrian traffic in the area.
- 7.4 Details of these applications are summarized at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) accessible from the north off Tung Wing On Road leading to Castle Peak Road – San Tin;
- (b) hard-paved and currently vacant with two 1-storey temporary on-site structures; and
- (c) located within the WBA of Deep Bay area.

8.2 The surrounding areas are intermixed with village houses, car parks, storages, shops and restaurants (**Plans A-1a and A-2**):

- (a) to its north across Tung Wing On Road is a temporary cross-boundary shopping centre (the Boxes) approved under Application No. A/YL-ST/529 which is valid until 18.9.2021. The same site was also the subject of a proposed commercial development (eating place, place of entertainment, shops and services) and minor relaxation of height restriction and excavation of land under Application No. A/YL-ST/503 which was approved by the Committee on 26.1.2018 with the planning permission valid until 26.1.2022. A small parcel of the vacant land (612 m²) adjoining the Boxes facing Tung Wing On Road to the northwest of the Site was approved by the Committee for temporary shop and services use on 21.12.2018 for a period of 3 years until 21.12.2021 under Application No. A/YL-ST/533;
- (b) to its west are village houses, shop, restaurant, vacant land and an approved temporary car park;
- (c) to its south are village houses (some are under construction), car parks, vacant land and an approved temporary public vehicle park; and

- (d) to its east across Castle Peak Road - San Tin are vacant land and amenity area; and to its southeast is Highways Department's maintenance centre.

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 New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

10. **Comments from Relevant Government Departments**

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):
- (a) The Site comprises Old Schedule Agricultural Lot held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (b) No Small House application had/has been approved or is being processed in respect of the Site.
 - (c) The GL of the Site is covered by a Short Term Tenancy (STT) No. 3136 for the purpose of "Temporary Shop and Services (Retail Shops, Laundry, Pharmacy and Convenient Store)".
 - (d) According to the proposed scheme, two converted containers (29 sq.m., 2-storey with a height of 4.8m high) will be used for guard house and staff rest room. According to the tenancy conditions of STT 3136, the Site shall not be used for any purpose other than for the purpose of "Temporary Shop and Services (Retail Shops, Laundry, Pharmacy and Convenient Store)". Therefore, LandsD reserves the right to take enforcement action against such uses as guard house and staff rest room as deemed fit.
 - (e) The private land of Lots 3049 RP and 3050 RP in D.D. 102 are covered by STW No. 4711 to permit structures for the purpose of

“Temporary Shop and Services (Retail Shops, Laundry, Pharmacy and Convenient Store)”.

- (f) Should planning approval be given to the application, the STT/STW holder will need to apply to his office for modification of the STT/STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Such applications will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from the traffic engineering point of view.
- (b) Should the application be approved, the following condition should be incorporated into the planning permission:

no vehicle is allowed to queue back or to reverse onto/from the Site at any time during the planning approval period.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed access arrangement of the Site from Tung Wing On Road should be commented by C for T.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Tung Wing On Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

- (a) The Site falls within the area of influence (AOI) of the long-term bifurcation to Lok Ma Chau Station of the proposed Northern Link (NOL), which the proposed NOL is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the alignment of the long-term bifurcation to Lok Ma Chau Station of the NOL are still under review, those areas within the AOI may be required to be vacated at the time for the

construction of the NOL and subject to nuisance, such as noise and vibration, of the NOL.

- (b) He has no objection in principle to the application from the railway development point of view provided that the applicant is satisfied with the surrounding condition of nuisance taking into account the future construction, operation and maintenance of the NOL.

Environment

10.1.5 Comments of the Director of Environmental Protection (DEP):

The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimize potential environmental impacts on the surrounding area.

Nature Conservation

10.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

As the Site is hard-paved and disturbed, he has no comment on the application from nature conservation point of view.

Fire Safety

10.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application and the FSIs proposal as per **Appendix Ic** is considered acceptable.
- (b) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. Details of his comments are at **Appendix IV**.

Building Matters

10.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.

- (b) If the existing structures (not being a NTEH) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. The Site does not abut on a specified street of not less than 4.5m wide, and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plans (BPs) submission stage.

Drainage

10.1.9 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) The applicant should re-submit the proposal to address his detailed comments in **Appendix IV**. The submission should demonstrate how he will collect, convey and discharge rain water falling onto or flowing to the Site. The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on site. The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (c) No public sewerage maintained by CE/MN, DSD is currently available for the connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (d) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.

- (e) The applicant should consult DLO/YL, LandsD regarding all the proposed drainage works outside the site boundary in order to ensure the unobstructed discharge from the Site in future.
- (f) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proper maintenance during occupancy of the Site.

Landscaping

10.1.10 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) She has no objection to the application from the landscape planning point of view.
- (b) The Site falls within an area zoned “V”, and was the subject of 17 previous applications and the latest application (No. A/YL-ST/521) for temporary shop and services (retail shops, laundry, pharmacy and convenient store) for a period of 3 years, to which she had no objection from the landscape planning perspective, was approved with conditions by the Committee on 26.1.2018 until 26.1.2021.
- (c) With reference to the submitted planning statement, it is acknowledged that part of the area of the previous application (No. A/YL-ST/521) would be vacated to the land owners for implementation of the Small House developments. The applicant seeks a new planning permission with a smaller site area without significant material change of the previous approved development proposal in the current application.
- (d) In view of the fact that all the existing landscape trees within the Site will be preserved with maintenance as proposed by the applicant and that the existing trees which act as landscape buffer are along the boundary outside the Site, it is considered not necessary to impose a landscape condition. Should the application be approved by the Board, all existing trees within the Site should be maintained satisfactorily at all times during the planning approval period.

10.1.11 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) He has no comment on the application.
- (b) It is noted that the application covers GL. In this connection, the applicant is also responsible for the maintenance of trees inside the GL within the application site boundary.

Environmental Hygiene

10.1.12 Comments of the Director of Food and Environmental Hygiene (DFEH):

If the proposal involves any commercial/ trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities on site, the applicant should handle on their own/at their expenses. Details of his comments are at **Appendix IV**.

District Officer's Comments

10.1.13 Comments of the District Officer/Yuen Long (DO/YL):

He has no comment on the application and the local comments should be submitted to the Board directly, if any.

10.2 The following Government departments have no objection to/no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Head of the Geotechnical Engineering Office, CEDD (H(GEO), CEDD); and
- (e) Director of Electrical and Mechanical Services (DEMS).

11. Public Comments Received During Statutory Publication Period

On 12.6.2020, the application was published for public comments. During the first three weeks of the statutory publication period, two public comments were received from San Tin Rural Committee and an individual objecting to the application mainly on the grounds that the proposed use would generate adverse traffic impact and affect road safety; there were existing shops and services in the locality; there was no reason to grant the concerned GL for private commercial use without open tender; the progress on reinstatement of WBA is a question; and continuous temporary use of the Site was not good district planning which would hinder the development of the planned residential use in the community. (**Appendix V**)

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary shop and services (retail shops and convenient store) for a period of 3 years within "V" zone. The Site falls within "V" zone which is to reflect the 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. 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. The applied use is considered not incompatible with the planning intention of the “V” zone and it could meet some of the local demand on shop and services use in the vicinity. According to DLO/YL, there is no Small House application being processed/approved at the Site. In this regard, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “V” zone.

- 12.2 The Site is fronting Tung Wing On Road and located within walking distance to the nearby villages. According to the applicant, the scale of the proposed shop and services use at the Site is small and would provide local residents a convenient place to support their daily necessities. The surrounding areas mainly comprise village houses (some under construction), car parks and vacant land. To the further north of the Site across Tung Wing On Road are two similar temporary shop and services uses under Applications No. A/YL-ST/529 and 533 within the “OU(SS)” zone. In view of the scale and nature of the proposed shop and services use to serve the local neighbourhood, the proposed development is considered not incompatible with the surrounding land uses.
- 12.3 The Site falls within WBA of TPB PG-No. 12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no comment on the application from nature conservation point of view as the Site is hard-paved and disturbed.
- 12.4 Concerned Government departments, including C for T, DEP, D of DS, D of FS and CTP/UD&L of PlanD, have no objection to/no adverse comment on the application on traffic, environmental, fire safety and landscape aspects. Their technical concerns could be addressed by approval conditions as recommended in paragraphs 13.2 (c) and (e) to (i) below. To mitigate potential environmental impacts on the surrounding areas, approval conditions restricting operation hours on-site, the types of vehicle and requiring provision of boundary fencing are recommended in paragraphs 13.2 (a), (b) and (d) below. Non-compliance with any of the approval conditions would result in revocation of the planning permission. Besides, the applicant would be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize the possible environmental impacts.
- 12.5 The Site is the subject of 8 previously approved applications as detailed in paragraphs 6.2 to 6.3 above, including two applications for similar temporary shop and services (retail shops, laundry, pharmacy and convenience store) use since 1998. The Committee has also approved 3 similar applications for temporary shop and services use involving two other sites within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 Despite revocation of the previous planning permissions (Applications No. A/YL-ST/488 and 521) submitted by the current applicant on 26.11.2017 and 26.6.2020 respectively due to non-compliance with conditions as detailed in paragraph 6.3 above, the approved use has not been carried out and the Site has

been left vacant. The last Application No. A/YL-ST/521 revoked in June 2020 was due to non-compliance with the approval condition on implementation of FSIs. The applicant explained that the FSIs could not be implemented as the construction works of the temporary structures was withheld due to the need to carve out two private lots from the application site for Small House development. Moreover, the applicant has submitted a drainage proposal and a FSIs proposal in support of the current application on a reduced site. It is considered that the subject application can be given sympathetic consideration. Shorter compliance periods are recommended to closely monitor the progress of compliance with the approval conditions should the Committee decide to approve the application. Moreover, should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 12.7 There are 2 public comments objecting to the application as stated in paragraph 11. The planning assessment and departmental comments above are of relevance.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12, and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the proposed temporary shop and services (retail shops and convenience store).
- 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 up to 4.12.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00p.m. and 8:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium/heavy goods vehicles exceeding 5.5 tones as defined in the Road Traffic Ordinance or container trailers/tractors are allowed to enter, park or operate on the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back or to reverse onto/from the Site at any time during the planning approval period;
- (d) the provision of boundary fencing on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.3.2021;
- (e) the provision of fire service installations 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 4.6.2021;

- (f) the submission of drainage proposal 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 4.3.2021;
- (g) in relation to (f) above, the implementation of the 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 4.6.2021;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) all existing trees within the Site shall be maintained at all times during the planning approval period;
- (j) if any of the above planning condition (a), (b), (c), (h) or (i) 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
- (k) if any of the above planning conditions (d), (e), (f) or (g) 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 VI**.

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

previous planning permissions granted to the applicant under Applications No. A/YL-ST/488 and 521 were revoked due to non-compliance with approval conditions. Approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning applications for temporary uses which are also subject to the requirement to comply with the approval conditions, thus nullifying the statutory planning control.

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 applicant.

15. Attachments

Appendix I	Application Form received on 3.6.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI of 23.10.2020 providing drainage proposal
Appendix Ic	FI of 3.11.2020 providing FSIs proposal
Appendix Id	FI of 19.11.2020 providing updated plan and responses to comments
Appendix Ie	FI of 20.11.2020 providing updated plan
Appendix II	Previous applications covering the Site
Appendix III	Similar s.16 applications within “V” and “OU(SS)” zones on the San Tin Outline Zoning Plan No. S/YL-ST/8
Appendix IV	Detailed Departmental Comments
Appendix V	Public comment received during the publication period
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape and Tree Preservation Proposal
Plan A-1a	Location Plan with Similar Applications
Plans A-1b and A-1c	Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**