

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/183

- Applicant** : Pak Hau Properties Limited represented by Land Chartering Limited
- Site** : Lots 517RP, 518RP, 521RP, 522, 523RP, 524RP, 525, 526 and 527RP in D.D. 51 and adjoining Government Land, Sheung Shui, New Territories
- Site Area** : 12,500m² (about) (including about 4,900m² of Government land)
- Lease** : (a) Block Government Lease (demised for agricultural use)
(about 7,450 m² or 59.6% of the Site)
(b) Government Land (about 5,050 m² or 40.4% of the Site)
- Plans** : (i) Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
(ii) Approved Fanling North OZP No. S/FLN/2
- Zonings** : (i) "Agriculture" ("AGR") on the approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/16 (about 8,930 m² or 71.4% of the Site)
(ii) Area shown as 'Road' on the approved Fanling North OZP No. S/FLN/2 (about 2,306 m² or 18.5% of the Site)
(iii) "Other Specified Uses" annotated "Amenity Area" ("OU(A)") on the approved Fanling North OZP No. S/FLN/2 (about 1,264 m² or 10.1% of the Site)
- Application** : Proposed Temporary Exhibition and Convention Hall with Shop and Services and 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 the proposed temporary exhibition and convention hall with shop and services and eating place for a period of 3 years. The Site falls mostly within an area zoned "AGR" (about 71.4%) on the approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/16 with smaller portions of land falling on an area zoned "OU(A)" (about 10.1%) and an area shown as 'Road' (about 18.5%) on the approved Fanling North OZP No. S/FLN/2 (**Plan A-1**) respectively. According to the Notes of the OZPs, temporary use or development of any land or buildings not exceeding a period of three years within "AGR" and "OU(A)" zones requires planning permission from the Town Planning Board (the Board) notwithstanding that the uses are not provided for under the Notes of the OZPs. For area shown as 'Road' on the Fanling North OZP, such uses also require

planning permission from the Board.

- 1.2 According to the information submitted by the applicant, the Site has an area of about 12,500m² with a total floor area of 3,155m². Two irregular shaped 1-storey structures are proposed on the Site. Structure A (with a total floor area of 1,100 m² and 8m in height) is proposed for shop and services use while structure B (with a total floor area of 2,055 m² and 9m in height) is proposed for exhibition hall (**Drawing A-1**). The Site is accessible via a local road leading to Tin Ping Road and Lung Shum Avenue in Sheung Shui. The temporary use under application would provide a total of 10 private car parking spaces (measuring 3.5m x 5m each) and 5 light goods vehicle parking spaces (measuring 3.5m x 7m each). Loading/unloading spaces for 2 container vehicles (3.5m x 16m each), 6 heavy goods vehicles (3.5m x 11m each) and 6 light goods vehicles (3.5m x 7m each) would be provided on the Site. The operation hours of the Site are between 7:30 a.m. and 11:30 p.m. from Mondays to Fridays, 8:30 a.m. to 10:00 p.m. on Saturdays and 10:00 a.m. to 10:00 p.m. on Sundays and public holidays.
- 1.3 The Site is involved in two previous planning applications. Planning application No. A/NE-FTA/98 for temporary vehicle repair workshop for a period of 3 years was dismissed by the Town Planning Appeal Board (TPAB) on 15.6.2012. Planning application No. A/NE-FTA/162 for proposed temporary open storage of construction materials and storage for construction materials and tools with ancillary office for a period of 3 years was rejected by the Board on review on 10.3.2017.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on 22.3.2018 (**Appendix I**)
 - (b) Supplementary Information received on 26.3.2018 (**Appendix Ia**)

2. Justifications from the Applicant

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

- (a) although the Site falls within an area zoned “AGR”, the proposed use is compatible with the existing land use of the locality;
- (b) there are many residential temporary structures in the vicinity, the proposed use would be for display and sale of domestic goods and commodities, providing facilities and catering service for the nearby residents;
- (c) the Site is accessible via a local road leading to Tin Ping Road and Lung Shum Avenue in Sheung Shui;
- (d) there is no adverse drainage, sewage, environmental and traffic impacts arising from the proposed development under application; and
- (e) should the application be approved, an application for a Short Term Waiver (STW) covering the proposed structures would be submitted to Lands Department (LandsD).

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

The applicant is not a “current land owner” 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 taking reasonable steps to obtain the consent of or give notification to the owner including advertising on three newspapers, sending notice to the Sheung Shui District Rural Committee and posting site notice. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

- 4.1 According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), part of the Site is subject to planning enforcement actions against an unauthorized development (UD) involving filling of land at the Site (enforcement case No. E/NE-FTA/148) (**Plan A-2b**). An Enforcement Notice (EN) was issued on 17.8.2016 to the concerned parties requiring discontinuance of the UD.
- 4.2 On 1.3.2018, a Reinstatement Notice (RN) was issued to the concerned parties with the requirements to remove the leftovers, debris and all fill materials (including hard paving) on the areas and to grass the areas in the Site (**Plan A-2b**). If the requirement of the RN was not complied with upon expiry of the RN on 1.6.2018, prosecution action would be taken against the notice recipients.

5. **Previous Applications**

- 5.1 The Site is involved in two previous applications. Planning application No. A/NE-FTA/98 for temporary vehicle repair workshop for a period of 3 years, submitted by a different applicant, was dismissed by the Town Planning Appeal Board (TPAB) on 15.6.2012 on the grounds that the proposed use was not in line with the planning intention of “AGR” zone; the proposed use was not compatible with the surrounding land uses which comprised a number of domestic structures and some fruit trees; and the use under application would create environmental nuisance to the location residents.
- 5.2 Planning application No. A/NE-FTA/162 for proposed temporary open storage of construction materials and storage for construction materials and tools with ancillary office for a period of 3 years, submitted by different applicants, was rejected by the Board on review on 10.3.2017 on the grounds that the proposed uses were not in line with the planning intention of the “AGR” zone; the proposed uses did not comply with the TPB PG No. 13E in that there was no previous planning approval granted at the Site; there were adverse departmental comments on the application; the applicant failed to demonstrate that the developments would have no adverse environmental/landscape impacts on the surrounding area; and the setting of undesirable precedent.
- 5.3 Details of the previous application are summarised at **Appendix II** and its location is shown on **Plans A-1**.

6. Similar Applications

There is no similar application for temporary exhibition and convention hall with shops and services and eating place uses within “AGR”, “OU(A)” and ‘Road’ zones on the Fu Tei Au and Sha Ling and Fanling North OZPs in the vicinity of the Site.

7. The Site and Its Surrounding Areas (Plans A-1, A-2a, aerial photo at Plan A-3b and site photos on Plans A-4a to A-4c)

7.1 The Site is:

- (a) currently formed, hard-paved and partly fenced off;
- (b) partly occupied by a raised concrete platform of about 1m in height at the eastern part of the Site; and
- (c) accessible by via a unnamed road and local village track leading to Lung Shum Avenue of Fanling/ Sheung Shui New Town.

7.2 The surrounding areas have the following characteristics:

- (a) to the north and northwest are mainly mixed land uses comprising warehouses, car repairing workshop, oil recycling/processing workshop and some temporary structures for domestic use;
- (b) to the further north and northwest are open storage uses, parking of vehicles, a plant nursery and some unused land;
- (c) to the northeast is a knoll scattered with graves and to the east are temporary structures for domestic and religious uses; and
- (d) to the south is the ramp leading to Ng Tung River and the river channel of Ng Tung River and to the further south are some vacant land, a carpark and a works area.

8. Planning Intentions

8.1 The planning intention of the “AGR” zone in the Fu Tei Au and Sha Ling area is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

8.2 The planning intention of the “OU(A)” zone in Fanling North area is primarily for the provision of landscaping and planting to enhance the environment.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises private lots 517RP, 518RP, 521RP, 522, 523RP, 524RP, 525, 526 and 527RP all in D.D. 51 and adjoining Government land (GL). The lots are Old Schedule lots held under Block Government lease (demised for agricultural use) without any guaranteed right of access;
- (b) the occupation boundary does not tally with the boundary of the Site under application. The GL adjoining Lots 524RP, 525, 526 and 527RP in D.D. 51 is being illegally occupied. It is noted that unauthorized structures were erected on Lots 518RP, 521RP, 522, 524RP, 525, 526 and 527RP all in D.D. 51, and some GL adjoining the Site are being illegally occupied. The unauthorized structures and illegal occupation of GL are not acceptable. He reserves the right to take necessary land control and lease enforcement actions against the above irregularities;
- (c) it is noted that the eastern side of the Site encroaches onto the boundary of Government Land Permit (GLL) No. 6635 adjoining Lot 526 in D.D. 51. The GLL was issued for erection of chicken run, and is still valid. There, the affected GLL area should be excluded from the Site;
- (d) it is noted that the southern side of the Site would affect Government Land Allocation (GLA) No. GLA-TDN 3388, which is allocated to WSD for the purpose of carrying out water main works;
- (e) it is noted that the western side of the Site would affect the following Government land allocations (**Plan A-2a**):
 - (i) GLA-TDN 3427 (STLA) – allocated to DO/N for the purpose of construction of nest letter boxes stand;
 - (ii) GLA-TDN 3541 (STLA) – allocated to CEDD for the purpose of landslip preventive measures (LPM) works;
 - (iii) GLA-TDN 3568 (STLA) – it is a proposed TGLA for the purpose of temporary storage area of slope preventive maintenance;
 - (iv) Short Term Tenancy (STT) No. 435 – issued for putty manufacturing and dwelling, and is still valid; and
- (f) if the planning application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) and STT to cover all the proposed structures on Site and regularized the illegal occupation of GL adjoining the Site. The application for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW and STT are approved, their commencement date will be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as

considered appropriate by his office.

Traffic

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

- (a) in view of the recent traffic condition on roads in the North District, the applicant shall carry out a traffic impact assessment of the application which shall cover Lung Sum Avenue, Po Shek Wu Road, Jockey Club Road, So Kwun Po Road and road network of the Sheung Shui/ Fanling district;
- (b) please advise the proposed width of the ingress/ egress and demonstrate satisfactory manoeuvring of vehicles entering and exiting the Site and no reversing on the local roads, preferably using swept path analysis;
- (c) the applicant should satisfactorily address the above comments before he can further consider the application. He therefore cannot offer his support to the application at this stage; and
- (d) the Site connects Tin Ping Road and Lung Sum Avenue via an unnamed road and local village track, which is not under his department's management. In this regard, the land status of the access leading to the Site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly.

Environment

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

- (a) he does not support the application as there are domestic uses within 100m of the Site (**Plan A-2a**), and the proposed use is expected to generate traffic of heavy vehicles;
- (b) the applicant fails to address the issue of the sewage and wastewater and to prevent surface runoff pollution from entering the Ng Tung River; and
- (c) there was no substantiated environmental complaint received in the past three years.

Landscape

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

- (a) she objects to the application from the landscape planning perspective;
- (b) according to the latest aerial photo of 2017, the Site is located in an area of rural landscape character with mixed uses, mainly comprises of temporary structures, scattered trees, a small village and Ng Tung River. Her site record dated 9.4.2018 reveals that the Site is of 1.25 ha, mostly hard paved

and fenced off. It is divided up into northern (larger) and southern (smaller) portions by a paved footpath used by the public. A raised concrete platform over 1m in height occupies almost one third of the Site is at the northern portion and part of it has spread beyond the eastern boundary. Within the southern portion, some natives trees and fruit trees of various sizes and of good amenity value are mainly found in-between the footpath and the River. An abandoned orchard is found at the western corner. It is also observed that the aforesaid existing trees, footpath and proposed access are within Government land;

- (c) compared to aerial photo taken in early 2015, it is noted that the Site was mostly covered with natural vegetation with plenty of trees and some active farmlands are in the eastern portion where the raised platform is located. Apparently, significant vegetation clearance and site formation have already been taken place the Site prior to permission;
- (d) the development, with large hard paved area and two proposed covered structures of 0.11 ha x 8m (H) and 0.2 ha x 9m (H) respectively, is very substantive in scale and sizes. It is incompatible with the surrounding environment. In addition, the Site included Government land where existing trees are found. Yet, there is no landscape impact assessment on the existing trees which may be affected by the proposed use and site access, no tree preservation proposal and no landscape mitigation measures/ landscape proposal to alleviate the potential adverse landscape impact on loss of vegetation and provide adequate screening for the development with big structures for assessment;
- (e) the approval of this application would set an undesirable precedent for similar applications and encourage similar vegetation clearance prior to obtaining planning permission, thus causing adverse impact on the landscape resource and degradation to the landscape character within the area;
- (f) should the application be approved, an approval condition on the submission and implementation of tree preservation and landscape proposals should be included; and
- (g) for any affected trees within Government land, the applicant should seek prior agreement with relevant tree management department(s) on tree removal application and compensatory tree planting. Such agreement should be included in the application for consideration.

Drainage

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

- (a) he has no in principle objection to the application;
- (b) his office has no record of having advised the applicant that the concerned location is not a flooding black spot and there is no flooding case;

- (c) should the application be approved, a condition should be included to request the applicant to submit a Drainage Impact Assessment and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (d) there are public drains/channels on the Government land within and along the southwest boundaries of the Site. Should the application be approved, a condition should be included to request the applicant to properly maintain these drainage and, upon expiry of the tenancy, reinstate them to the satisfaction of the Board and DSD; and
- (e) the Site is in an area where no public sewer connection is available.

Building Matters

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

- (a) he has no objection to the application;
- (b) the applicant's attention is drawn to the following points:
 - (i) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent from the BD should be obtained, otherwise they are unauthorised building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO);
 - (ii) if the proposed use under application is subject to the issue of a licence, any existing structures on Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
 - (iii) 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)Rs) respectively;
 - (iv) if the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage; and
 - (v) detailed comments under the BO will be provided at the building plan submission stage.

Nature Conservation and Agriculture Development

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

- (a) he does not support the application from agriculture point of view;
- (b) the Site is a piece of vacant land and possesses high potential for agricultural rehabilitation for green house cultivation or plant nursery as road access and water supply are available;
- (c) the southern side of the Site is immediately adjacent to a strip of ecological mitigation woodland (**Plan A-2a**) maintained by his Department for public project “Main Drainage Channels for Fanling, Sheung Shui and Hinderlands”. Should the application be approved, the applicant should be reminded to avoid disturbing any vegetation within the ecological mitigation woodland; and
- (d) she also notes that the Site is in close proximity to River Indus (Ng Tung River). Should the application be approved, precautionary measures to avoid any disturbance and pollution to the watercourse nearby shall be provided.

Fire Safety

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

- (a) based on the submitted information, he has no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting being provided to his satisfaction; and
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of the general building plans. The arrangement of emergency vehicular access shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administrated by the Buildings Department.

Water Supply

9.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) existing water mains inside the Site will be affected. The applicant is required to either divert or protect the water mains found on Site. His detailed comments are at **Appendix IV**.

Project Interface

9.1.10 Comments of the Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD):

The Site is in close vicinity of the proposed Fanling Bypass (Eastern Section) (FLBP) project (**Plan A-1**) under the Advance Works of Fanling North New Development Area (FLN NDA) development. Subject to works approval and

funding availability, construction of FLBP is scheduled to commence in late 2019 for completion in 2024. During construction, construction vehicles may use the existing DSD access road alongside Ng Tung River for accessing from Tin Ping Road to the FLBP construction site. Although the Site does not fall within the boundaries of the FLBP project, there would likely be substantial conflict of traffic movement on the DSD access road between the customers to the Site and the construction traffic.

District Officer's Comments

9.1.11 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Chairman of the Sheung Shui District Rural Committee (SSDRC), the Indigenous Inhabitant Representatives (IIRs) and the Resident Representatives (RRs) of Sheung Shui Heung and Wa Shan Tsuen have no comment on the application. The representative of 石湖新村(河北段)街坊組 objects to the application on the grounds of increasing traffic demand in the area in addition to the ongoing construction works in the vicinity of the Site; adverse drainage, sewerage, traffic and environmental impacts and road safety risk to the residents/ elderly/ children nearby; inclusion of public facilities including letter boxes, village roads and lamp posts into the Site

9.2 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Divisional Commander (Sheung Shui Division), Hong Kong Police Force (DVC SSDIV, HKPF).

10. Public Comments Received During Statutory Publication Period

On 3.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 20 public comments were received (**Appendix III**). The Chairman of SSDRC has no comment on the application. The remaining public comments submitted by Kadoorie Farm and Botanic Garden, villagers and individuals object to the application on the grounds that the proposed use being not in line with the planning intention of "AGR" zone; the Site being a remote location for exhibition purpose; increasing traffic demand in the area in addition to the ongoing construction works in the vicinity of the Site; there are adverse drainage, sewerage, traffic and environmental impacts and road safety risk to the residents/ elderly/ children nearby; inclusion of public facilities including letter boxes, village roads and lamp posts into the Site; and a typical 'destroy first, apply later' case.

11. Planning Considerations and Assessment

11.1 The application is for a proposed temporary exhibition and convention hall with shop and services and eating place for a period of 3 years at the Site. The Site falls mainly within an area zoned "AGR" (71.4% of the Site) on the approved Fu Tei Au and Sha

Ling OZP No. S/NE-FTA/16 and minor portion within “OU(A)” (10.1% of the Site) on the approved Fanling North OZP No. S/FLN/2. The proposed development is not in line with the planning intentions of the “AGR” and “OU(A)” zones which are to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes; to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes; and for the provision of landscaping and planting to enhance the environment. DAFC does not support the application from agriculture point of view as the Site possesses high potential for agricultural rehabilitation for green house cultivation or plant nursery. There is no strong justification in the submission for a departure from the planning intentions, even on a temporary basis.

- 11.2 The Site also falls partly within an area shown as ‘Road’ (18.5% of the Site) on the approved Fanling North OZP No. S/FLN/2. According to PM(N), CEDD, the Site is in close vicinity of the proposed Fanling Bypass (Eastern Section) (FLBP) project under the Advance Works of Fanling North New Development Area (FLN NDA) development. The construction of FLBP is scheduled to commence in late 2019. During the construction period, construction vehicles may use the existing DSD access road alongside Ng Tung River for accessing from Tin Ping Road to the FLBP construction site. Although the Site does not fall within the boundaries of the FLBP project, there would likely be substantial conflict of traffic movement on the DSD access road between the customers to the Site and the construction traffic.
- 11.3 The Site is located in an area of rural landscape character with mixed uses, mainly comprises of temporary structures for domestic use, scattered trees and scattered warehouse/ workshop uses mainly to the north of the Site. To the south of the Site are a strip of ecological mitigation woodland maintained by AFCD and Ng Tung River. Compared with the aerial photo taken in 2015, the Site was mostly covered with natural vegetation with plenty of trees and some active farmlands. Apparently, significant vegetation clearance and site formation have already been taken place at the Site prior to obtaining planning permission. In addition, some native trees and fruit trees of various sizes and of good amenity value are mainly found on Government land in-between the existing footpath and the River. CTP/UD&L objects to the application as there is no landscape impact assessment/ tree preservation proposal/ landscape mitigation measures/ landscape proposal in the submission to alleviate the potential adverse landscape impact on Site and the surroundings.
- 11.4 The scale of the proposed development, with a large hard paved area and two large covered structures to be erected at the northern and eastern part of the Site, is very substantial. The eastern portion of the Site is currently occupied by a raised concrete platform over 1m in height. The current application is a “Destroy First, Build Later” case. In this regard, enforcement actions have been taken on the Site, requiring the concerned parties to reinstate the land. The subject application should not therefore be assessed based on the “destroyed” state of the site. Approval of the application would set an undesirable precedent for similar applications in the “AGR” and “OU(A)” zones. The cumulative effect of approving such similar applications would result in a further degradation of the environment in the area.
- 11.5 C for T does not support the application as there is no information in the submission to demonstrate that the proposed development would have no adverse traffic impact to the surrounding areas. DEP does not support the proposed development as there are domestic structures in the vicinity of the Site. He also raises concerns on surface runoff pollution entering the Ng Tung River due to the sewage and wastewater produced

by the proposed development. Other Government departments consulted, including CHE/NTE of HyD, D of FS, CE/MN of DSD and CE/C of WSD, have no objection to or no adverse comment on the application.

- 11.6 The Site is involved in two previous applications for temporary vehicle repair workshop for a period of 3 years (Application No. A/NE-FTA/98) and proposed temporary open storage of construction materials and storage for construction materials and tools with ancillary office for a period of 3 years (Application No. A/NE-FTA/162) (**Plan A-1**). Both applications were dismissed/ rejected by the Town Planning Appeal Board on 15.6.2012 and the Board on review on 10.3.2017 on similar grounds that the proposed uses were not in line with the planning intention of “AGR” zone; the proposed uses were not compatible with the surrounding land uses which comprised a number of domestic structures and some fruit trees; there were adverse departmental comments on the application; the applicant failed to demonstrate that the developments would have no adverse environmental/landscape impacts on the surrounding area; and the setting of undesirable precedent.
- 11.7 There are adverse public comments mainly on the proposed use being not in line with the planning intention of “AGR” zone; the Site being a remote location for exhibition purpose; increasing traffic demand in the area in addition to the ongoing construction works in the vicinity of the Site; there would be adverse drainage, sewerage, traffic and environmental impacts and road safety risk to the residents/ elderly/ children nearby; inclusion of public facilities including post boxes, village roads and lamp posts into the Site; and a ‘destroy first, apply later’ case. In this regard, enforcement actions have been taken on the Site, requiring the concerned parties to reinstate the land. The Government departments’ comments and the planning considerations and assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “AGR” and “OU(A)” zones for the Fu Tei Au and Sha Ling and Fanling North areas, which are primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes; to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes; and to provide landscaping and planting to enhance the environment. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
 - (b) the applicant fails to demonstrate in the submission that the proposed development would not result in adverse traffic, landscape and environmental impacts on the surrounding areas; and
 - (c) the approval of the application will set an undesirable precedent for similar applications within the “AGR” and “OU(A)” zones. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

12.2 Alternatively, 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 **18.5.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 11:30 p.m. and 7:30 a.m. on Mondays to Fridays, 10:00 p.m. and 8:30 a.m. on Saturdays, and 10:00 p.m. and 10:00 a.m. on Sundays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the submission of water supplies for fire-fighting and 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 **18.11.2018**;
- (c) in relation to (b) above, the implementation of water supplies for fire-fighting and 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 **18.2.2019**;
- (d) the submission of Drainage Impact Assessment (DIA) 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 **18.11.2018**;
- (e) in relation to (d) above, the implementation of drainage proposals identified therein 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 **18.2.2019**;
- (f) the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the submission of tree preservation and landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **18.11.2018**;
- (h) in relation to (g) above, the implementation of tree preservation and landscape proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **18.2.2019**;
- (i) the submission of Traffic Impact Assessment (TIA) within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by **18.11.2018**;
- (j) in relation to (i) above, the implementation of improvement measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by **18.2.2019**;
- (k) if any of the above planning conditions (a) 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;

- (l) if any of the above planning conditions (b), (c), (d), (e), (g), (h), (i) or (j) 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; and
- (m) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

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 22.3.2018
Appendix Ia	Supplementary Information received on 26.3.2018
Appendix II	Previous Applications
Appendix III	Public Comments
Appendix IV	Detailed Comments from Water Supplies Department
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Enforcement Case on Site
Plan A-3a and A-3b	Aerial Photos taken in 2015 and 2017
Plans A-4a to A-4c	Site Photos