

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

APPLICATION NO. A/FLN/22

Applicants Ho Lam Enterprise Investment Limited and Chi Wah Investment Group Limited represented by Land Supreme Surveyors Limited

Site Lots 517 RP, 518 RP, 521 RP, 522, 523 RP, 524 RP, 525, 526, 527 RP, 532 RP (Part), 533 RP (Part), 534 RP (Part), 539 (Part), 540 (Part), 541 (Part), 542 (Part), 543 (Part), 544, 545, 547 (Part), 548 (Part), 551 (Part), 552 and 553 in D.D. 51 and Adjoining Government Land, Sheung Shui, New Territories

Site Area About 29,034.28m²

- Site A: About 20,826.29 m² (72%)
- Site B: About 8,207.99 m² (28%)

**Lease/
Land Status**

	Block Government Lease (demised for agricultural use)	Government Land (GL)	Total
Site A	About 14,102.10 m ²	About 6,724.19 m ²	20,826.29 m ²
Site B	About 7,178.92 m ²	About 1,029.07 m ²	8,207.99 m ²
Total	About 21,281.02 m ² (73%)	About 7,753.26 m ² (27%)	29,034.28 m ² (100%)

Plans

- Site A: Approved Fanling North Outline Zoning Plan (FLN OZP) No. S/FLN/2
- Site B: Approved Fu Tei Au and Sha Ling Outline Zoning Plan (FTA OZP) No. S/NE-FTA/16 and approved FLN OZP No. S/FLN/2

Zonings

Site A: “Government, Institution or Community” (“G/IC”) *[Restricted to a maximum building height of 8 storeys (eastern part) or 5 storeys (western part)]* About 10,829.79 m² (37%)

“Open Space” (“O”) About 5,136.16 m² (18%)

“Other Specified Uses” annotated About 818.76 m²

“Sewage Pumping Station” (“OU(SPS)”) (3%)
[Restricted to a maximum building height of 15mPD]

Area shown as ‘Road’ About 4,041.57 m²
 (14%)

Site B: “Agriculture” (“AGR”) About 7,177.27 m²
[under approved FTA OZP] (25%)

“Other Specified Uses” annotated About 252.60 m²
 “Amenity Area” (“OU(A)”) (1%)
[under approved FLN OZP]

Area shown as ‘Road’ About 778.12 m²
[under approved FLN OZP] (2%)

Application Proposed Temporary Shop and Services and Place of Entertainment for a Period 3 Years

1. **The Proposal**

- 1.1 The applicants seek planning permission for proposed temporary shop and services and place of entertainment uses at the application sites (the Sites) for a period of 3 years. The Sites comprise two portions (**Plan A-1** and **Drawing A-1**). Site A falls within areas zoned “G/IC”, “O” and “OU(SPS)” and shown as ‘Road’ on the approved FLN OZP, whereas Site B falls partly within “AGR” zone on the approved FTA OZP and partly within “OU(A)” zone and ‘Road’ on the approved FLN OZP.
- 1.2 According to the applicants, Site A will be used for proposed temporary shop and services and place of entertainment uses to be accommodated in the market halls, containers and tent/yurt, as well as an ancillary loading/unloading area and visitor carpark at the northwestern portion. Site B will be used for an agricultural rehabilitation area, a greenhouse farming area¹ and an ancillary carpark serving the workers at both Sites A and B (**Drawing A-2**).
- 1.3 According to the Notes of the concerned OZPs, for Site A, ‘Shop and Services’ and ‘Place of Entertainment’ uses are Column 2 uses within the “G/IC” and “O” zones requiring planning permission from the Town Planning Board (the Board), but both are neither Column 1 nor 2 uses within “OU(SPS)” zone. Notwithstanding the above, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Board. Besides, both uses within the ‘Road’ designation require permission from the Board. For Site B, ‘Agricultural Use’ is a Column 1 use which is

¹ According to the applicants, ‘agricultural rehabilitation area’ refers to an open-air farming area, whereas ‘greenhouse farming area’ refers to a farming area covered by nursery shelter.

always permitted within “AGR” zone. Carpark ancillary to ‘Shop and Services’ and ‘Place of Entertainment’ uses are neither Column 1 nor 2 uses within “AGR” zone. Notwithstanding the above, temporary use not exceeding a period of 3 years may be allowed with permission from the Board. Besides, the areas zoned “OU(A)” and shown as ‘Road’ at Site B within the FLN OZP area will only be used for vehicular entrance and circulation area of Site B.

1.4 Whilst Site A is mainly hard-paved and occupied by some vacant temporary structures, parking of vehicles, car washing and children’s playground uses, Site B is partly vacant and partly occupied by active farmland with a few temporary domestic dwellings/structures (**Plan A-2**).

1.5 According to the applicant, the major development parameters are summarized as follows:

	Site A (Site area: 20,826.29m ² / 72%)	Site B (Site area: 8,207.99m ² / 28%)
Proposed Uses	<ul style="list-style-type: none"> • ‘Shop and Services’, • ‘Place of Entertainment’ • Ancillary carparking spaces and Loading/unloading bays • Remaining open area to be used for ancillary sitting-out area, lawn and landscape areas, etc 	<ul style="list-style-type: none"> • ‘Agricultural Use’² (an agricultural rehabilitation area and greenhouse farming area) • Ancillary carparking spaces
No. of Structures / Non-dom. Floor Area	<ul style="list-style-type: none"> • 42 (one-storey; not more than 4.5m) (incl. 4 market halls, 10 containers, 2 tent/yurt, and others for toilets, office and storage uses) • 5,472.21m² 	<ul style="list-style-type: none"> • 3 (one-storey; not more than 4.5m) (incl. a greenhouse, toilet and caretaker’s kiosk) • 6.9m²
Parking & L/U Space Provision	<ul style="list-style-type: none"> • 20 ancillary parking spaces for private cars • 4 loading/unloading bays (for taxi, private cars, light goods vehicles and medium goods vehicles) 	<ul style="list-style-type: none"> • 20 ancillary parking spaces (including 11 for private cars, 5 for light goods vehicles and 4 for medium goods vehicles) serving both Sites A and B

1.6 Currently, there is no vehicular access to the Sites. The only pedestrian access to the Sites is via the Drainage Services Department’s maintenance access (for

² According to the Notes of the OZP, ‘Agricultural Use’ is a Column 1 use within “AGR” zone which is always permitted with the zone. No planning permission from the Board is required.

the purpose of maintenance of Ng Tung River channel) (**Plans A-4b and A-4d**) branching off from an unnamed existing local from Lung Sum Avenue. The proposed operation hours will be from 7:00am to 11:00pm daily. The layout plans showing the details of proposed on-site structures are in **Drawings A-2 and A-3**:

- 1.7 While there is no previous planning application at Site A, Site B is the subject of two previous applications for temporary open storage/storage of construction materials and tools with ancillary office and exhibition and convention hall with shop and services and eating place (**Plan A-1**), which were rejected by the Rural and New Town Planning Committee (the Committee) in 2017 and 2018 respectively.
- 1.8 In support of the application, the applicants have submitted the following documents:
- (a) Application Form with Attachments received on 7.7.2020 (**Appendix I**)
 - (b) Supplementary Planning Statement (**Appendix Ia**)
 - (c) Further information (FI) received on 26.8.2020* (**Appendix Ib**)
 - (d) FI received on 27.8.2020* (**Appendix Ic**)
 - (e) FI received on 28.8.2020* (**Appendix Id**)
 - (f) FI received on 22.3.2021 (**Appendix Ie**)
 - (g) FI received on 28.4.2021* (**Appendix If**)
- * *exempted from publication*
- 1.9 On 4.9.2020, 23.10.2020, 18.12.2020 and 26.2.2021, the Committee agreed to defer a decision on the application for a total of seven months as requested by the applicants, to allow time for the applicants to prepare further information (FI) to address comments from Transport Department (TD). On 22.3.2021, the applicants submitted FI including revision to the applied uses, a revised site layout and a new traffic review report with response-to-comment table. The application is scheduled for the Committee's consideration at this meeting.

2. **Request for Deferment**

- 2.1 On 3.5.2021, the applicants wrote to the Secretary of the Board and requested the Board to defer making a decision on the application for further two months in order to allow time for the applicants to prepare FI to address the comments from TD. The applicant indicated in the above letter that a complaint against the Government land allocation within the Sites was lodged to The Ombudsman, which the investigation may take three to six months (**Appendix Ig**).

Planning Department's Views

- 2.2 The Planning Department does not support the request for the deferment. The application has already been deferred for four times for a total of seven months at the request of the applicants to address departmental comments.

- 2.3 According to the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No. 33), reasonable grounds must be provided to support the request and the proposed deferment period should not be indefinite. As detailed in paragraph 1.9, the Committee had agreed to defer a decision on the application for four times for a total of seven months to allow time for the applicants to prepare FI to address TD's comments. There is no strong reason provided in the latest submission to justify further deferment in allowing time to address the comments from the same department. Since sufficient time has been allowed for the applicants to prepare and submit FI to address departmental comments, in accordance with the TPB PG-No. 33, there is no reasonable ground to allow a fifth deferment.
- 2.4 In agreeing to the fourth deferment, the Committee has advised the applicants that the fourth deferment made on 26.2.2021 is the last deferment of the application and no further deferment would be granted (**Appendix Ih**).
- 2.5 Should the Committee agree not to defer making a decision on the application, the application is ready for consideration by the Committee at this same meeting. Alternatively, should the Committee decide to defer a decision on the application, it will be submitted within two months upon receipt of FI from the applicants. If the FI submitted by the applicants is not substantial and can be processed within a shorter time, the application could be submitted to an earlier meeting for the Committee's consideration. Since it is the fifth deferment of the application, the applicants should be advised that the Committee has allowed a total of nine months for preparation of submission of FI, and this is the last deferment and no further deferment would be granted.

Decision Sought

- 2.6 The Committee is invited to consider whether or not to accede to the applicants' request for deferment. If the request is not acceded to, the consideration of the application is to be proceeded as below.

3. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in **Appendices Ia to If**, and are briefly summarized as follows:

- (a) The proposed development is a low-end retail market with its customer spectrum mainly focusing on residents in Fanling North District and the surrounding vicinity. It would create job opportunities to the local community in the midst of the current economic condition.
- (b) In terms of development density and scale, the proposed development comprising one-storey structures is considered not incompatible with the surrounding environment, while medium/low-rise developments and temporary domestic structures are found in the vicinity. Besides, the application is only for a period of 3 years.

- (c) Based on the advice from the applicants' traffic consultant, the applicants have revised the development proposal (**Appendix Ie**) including replacing the 'place of recreation, sports or culture (barbecue site)' use by ancillary sitting-out area at Site A.
- (d) The northwestern portion of Site A falls within an area which is temporarily allocated to the Civil Engineering and Development Department (CEDD) from 1.1.2021 to 30.6.2024 under Simplified Temporary Land Allocation (STLA) GLA-TDN 4444 (**Plan A-2**) as works area for Fanling Bypass Eastern Section currently under construction. The applicants understood that no Government departments applied for this site at the time when the application was submitted to the Board in July 2020, and CEDD applied for the said STLA after the site was returned from STLA GLA-TDN 3134 as works area for Queen's Hill development in end 2020.
- (e) The applicants originally intended to use Site B for 'public vehicle park (excluding container vehicle)' in support of the proposed development. Taking into account the majority of Site B falling within "AGR" zone and comments from the Agriculture, Fisheries and Conservation Department (AFCD), the applicants have replaced the 'public vehicle park' use by an ancillary carpark use, and reduced the carpark area from 7,170.26m² (accommodating 158 parking spaces) to 935.39m² (accommodating 20 parking spaces) at the western portion of Site B. The remaining area of Site B is proposed to be used as an agricultural rehabilitation area and a greenhouse farming area (6,226.9 m²).
- (f) Site B and adjoining land is situated in a brownfield site at Wa Shan, Fu Tei Au which has been identified by the Government for development. Due to its close proximity to the Sheung Shui MTR Station and the urbanization in the area, Site B is suitable for development.
- (g) There are currently no water channels connecting Site B with the irrigation reservoirs in Lau Shui Heung and Hok Tau. Given that other alternatives (including building water well, using drinking water and on-site open ditch) are not feasible, water for irrigation purpose poses difficulty to Site B for agricultural rehabilitation in the coming 3 years. In response to DAFC's comments on the supply of irrigation water at Site B, the applicants stated that the water supply from a well nearby (**Plans A-2 and A-3**) is not a feasible option. The farmer on-site is actually a trespasser probably without the prior approval of the Water Authority's permission. The pump on-site is out of order and cannot be used to extract water from the well. Despite the above, the applicants agree to include an approval condition to reinstate Site B to the satisfaction of the Board upon the expiry of the planning approval.
- (h) No adverse traffic, landscape and visual impacts will be generated from the proposed development at the Sites. The applicants will also employ professionals to ensure the compliance of sewage and drainage provisions to meet the Government's requirements.
- (i) In terms of sewage treatment, wastewater and soil water of Site A will be temporarily collected by proposed underground tanks before off-site disposal by pump trucks. Wastewater collected from Site B mainly from two mobile toilets

will be disposed off-site regularly by contractor. Thus, there will be no effluent discharging into the adjacent Ng Tung River.

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

The applicants are not the “current land owner” but have 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 publishing notices in local newspapers and posting site notice. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land within the Site, the “Owner’s Consent/Notification” Requirements set out in the TPB PG-No. 31A are not applicable.

5. **Background**

Kwu Tung North (KTN)/FLN New Development Area (NDA)

- 5.1 The entire Site A as well as the southern portion of Site B within “OU(A)” zone and ‘Road’ area on the FLN OZP fall within the boundary of Remaining Works Phase of the KTN/FLN NDA development. The land resumption and clearance as well as site formation and infrastructural works for the Remaining Works Phase will commence in mid-2024 the earliest. Site A and their adjoining areas would be developed into the future ‘Civic and Recreation Area’, comprising the Central Park within the “O” zone and the social welfare and recreational facilities (including a special child care centre, an early education and training centre, a government clinic and a sports/leisure centre) within “G/IC” zone. The southern portion of Site B will form part of the planned Fanling Bypass Western Section to serve the future NDA development (**Plan A-1**).

Study on Existing Profile and Operations of Brownfield Sites in the New Territories (the Brownfield Study)

- 5.2 Site B and adjoining land to the north of Site B zoned “AGR” and “Green Belt” (“GB”) on the FTA OZP (about 4 ha in total) has been identified as one of the four brownfield clusters under the Brownfield Study shortlisted for development. CEDD will commence engineering feasibility studies starting from the second quarter of 2021 on the identified development clusters to ascertain the scope for public housing development and the extent of infrastructure works required.

Planning Enforcement

- 5.3 The southwestern portion of Site A is currently subject to planning enforcement action (No. E/NE-FLN/008) (**Plan A-3**) against unauthorized development (UD) involving parking of vehicles. An enforcement Notice (EN) was issued on 9.11.2020 requiring discontinuation of the UD by 9.12.2020. While the EN has not yet been complied with, the condition of the site is under close monitoring by the Planning Authority. If no action is taken to comply with the EN, prosecution action may be taken.

6. **Previous Applications**

- 6.1 Whilst there is no previous application in respect of Site A, Site B is the subject of two previous planning applications, which were rejected by the Board on review and by the Committee between 2017 and 2018 respectively. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/NE-FTA/162 for temporary open storage/storage of construction materials and tools with ancillary office at a smaller site for 3 years was rejected on review by the Board on 10.3.2017, mainly on the considerations that the development was not in line with the planning intention of the “AGR” zone; the application did not comply with the Town Planning Board Guidelines No. 13E on Application for Open Storage and Port Back-up Uses in that no previous planning approval for open storage use was granted at the application site and the applicant failed to demonstrate that the development would have no adverse environmental and landscape impacts on the surrounding areas.
- 6.3 Application No. A/NE-FTA/183 for proposed temporary exhibition and convention hall with shop and services and eating place at a larger site for 3 years was rejected by the Committee on 18.5.2018, mainly on the considerations that the development was not in line with the planning intentions of the “AGR” and “OU(A)” zones; and the applicant failed to demonstrate that the development would have no adverse traffic, landscape and environmental impacts on the surrounding areas.

7. **Similar Application**

There is a similar application (No. A/FLN/20) for proposed temporary shop and services (fast food shop) for 3 years at two separate small sites within the same “G/IC” and “O” zones of Site A, which was submitted by one of the applicants of the current application. It was approved with conditions by the Committee on 13.12.2019, mainly on the considerations that approval of the application on a temporary basis for 3 years would not frustrate the long-term planning intention of the “G/IC” and “O” zones and adversely affect the scheduled land resumption and site formation works for the Remaining Works Phase of the KTN/FLN NDA development to be commenced in 2024 the earliest; the development was small in scale and not incompatible with the surrounding land uses; and no adverse departmental comments on the application were received. Details of the application are summarized in **Appendix III** and its location is shown on **Plan A-1**.

8. **The Sites and Their Surrounding Areas** (Plans A-1 and A-2, aerial photo on **Plan A-3**, and site photos on **Plans A-4a to A-4e**)

- 8.1 Site A is mainly hard-paved and occupied by some vacant temporary structures, parking of vehicles, car washing and children’s playground uses, with a minor portion at the southeastern portion being used as fallow farmland. The northwestern portion of Site A falls within an area which is temporarily

allocated to CEDD from 1.1.2021 to 30.6.2024 under STLA GLA-TDN 4444 (**Plan A-2**) as works area for Fanling Bypass Eastern Section currently under construction. Site B is partly vacant and partly occupied by active farmland with a few temporary domestic dwellings/structures. Both Sites are accessible from Lung Sum Avenue via an unnamed existing local track.

- 8.2 The area used for parking of vehicles at Site A (**Plans A-2 and A-3**) is currently operating without planning permission.
- 8.3 The Sites are situated on both sides of Ng Tung River. The surrounding areas are predominantly rural in character mixed with domestic structures/dwellings, active/fallow farmland, vegetated areas/pond, open storage/ workshops/ warehouses and parking of vehicles (which are suspected UDs subject to planning enforcement actions).
- (a) to the north and northeast of Site B are a cluster of domestic dwellings/structures intermixed with warehouses, workshops and open storage uses;
 - (b) to the south of Site A across the old Ng Tung River channel (**Plan A-1**) are some domestic dwellings/structures in Shek Wu San Tsuen (**Plan A-1**) and unused land; and
 - (c) to the west of Site A are scattered domestic dwellings/structures in a vegetated area (**Plans A-2 and A-3**);
 - (d) to the east of Site A are a pond and some unused land; and
 - (e) lying between Sites A and B is the Ng Tung River channel. Along both sides of the channel are drainage maintenance accesses managed by the Drainage Services Department (DSD) (**Plan A-2**).

9. **Planning Intentions**

FLN OZP

- 9.1 The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.
- 9.2 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.
- 9.3 The planning intention of the “OU(SPS)” zone is primarily to reserve land for the sewage pumping station use.

9.4 The planning intention of the “OU(A)” zone is primarily for the provision of landscaping and planting to enhance the environment.

9.5 Areas shown as ‘Road’ traversing Sites A and B are intended for planned Road L4 and Fanling Bypass Western Section respectively to serve the future NDA development.

FTA OZP

9.6 The planning intention of the “AGR” zone 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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

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

- (a) the application lots are Old Schedule Lots held under the Block Government lease (demised for agriculture use) without any guaranteed right of access. The applicants should make its own arrangement for acquiring access, and there is no guarantee that any adjoining GL will be allowed for the vehicular access of the proposed use;
- (b) the existing structures on the Site are not acceptable under the Leases concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
- (c) the GL adjoining the Site is being occupied without consent from his office. His office reserves the right to take enforcement action against the illegal occupation of GL;
- (d) the Site includes CEDD’s works area (GLA-TDN 4444) (**Plan A-2**). The applicants have to exclude the GL covered by the GLA concerned from the Site;
- (e) with reference to the development schedule provided by the applicants, the ingress and egress of Site A fall within the boundary of GLA-TDN 4444 allocated to CEDD (**Plan A-2**). The applicants have to seek advice from CEDD;

- (f) with reference to the development schedule provided by the applicants, the application boundary of Site B includes some GL which is for greening or Government, Institution or Community (G/IC) uses. The applicants are advised to exclude the GL concerned from the application boundary;
- (g) according to the proposed development, mobile toilets would be erected on the Site. The applicants should note that any proposed toilet facilities should meet current health requirements;
- (h) planning permission for temporary shop and services (fast food shop) at Lots 539, 541 and 542 in D.D. 51 has been granted under Application No. A/FLN/20 (**Plan A-1**) for a period of 3 years until 13.12.2022;
- (i) land search records indicated that Warning Letters have been registered against Lots Nos. 532 RP, 533 RP, 534 RP, 541, 542 & 544 all in D.D. 51 (**Plan A-2**); and
- (j) if the planning application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area. Generally speaking, STT application would be considered only if it meets the criteria under the prevailing LandsD's policy, including but not limited to 'the GL is not required for other uses in the near future'. 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 would 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. No valid STW application has been received by his office so far.

Traffic

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

- (a) having regard to the FI comprising a traffic review (**Appendix Ie**), he could not support the application from traffic engineering perspective as the applicants fail to demonstrate that (i) the unnamed existing local track extending from Lung Sum Avenue (**Plan A-1**) can serve the proposed development without adverse traffic impacts on the surrounding areas; and (ii) adequate parking and loading/unloading facilities would be provided within the Site by resolving the relevant lands and management issues; and
- (b) the vehicular access (i.e. the unnamed local track) between the Sites and Lung Sum Avenue is not managed by Transport

Department (TD). The applicants should seek comment from the responsible party.

Environment

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

- (a) having regard to the FI (**Appendix Ib**), he has no objection to the application from environmental planning perspective, provided that the applicants would minimize any environmental nuisance to nearby sensitive receivers. Approval condition on prohibiting the use of public announcement system, portable loudspeaker or any form of audio amplification system, as proposed by the applicants, shall be imposed, and all wastewater shall be collected in underground tanks and disposed off-site regularly by pump truck at regular interval, so that no effluent will be discharged into the adjacent Ng Tung River;
- (b) should the application be approved, the applicants are also advised to follow the relevant mitigation measures and requirement in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance; and
- (c) in the past three years, DEP has received one substantiated noise complaint in 2018 regarding the barbeque area³ within Site A (**Plan A-3**).

Agriculture and Nature Conservation

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

- (a) Site A comprises paved vacant land, temporary structures and paved land for open storage and barbecue site which has low agricultural value. As such, he has no comment on non-agricultural proposals within Site A from agricultural point of view;
- (b) Site B currently comprises vegetable fields under active cultivation, abandoned land and paved vacant land. Besides, active agricultural activities such as vegetable fields, plant nurseries and orchard were observed in the vicinity, and agricultural infrastructures such as road access and water source are also available in the area;
- (c) with respect to the supply of irrigation water, his general

³ The barbeque area under complaint was subject to a previous planning enforcement action (No. E/NE-FLN/006) (**Plan A-3**) against UD involving use for barbecue area. An EN was issued in December 2018. The UD was subsequently discontinued and the Compliance Notice (CN) was issued in September 2019.

understanding is that, many crop farms in the New Territories rely on supply of irrigation water from irrigation wells. The presence of a well (**Plans A-2 and A-3**) to the northeast of Site B well demonstrates that it is a feasible option for supplying irrigation water, in particular noting that there are active farming activities in the vicinity of the Site, with supply of irrigation water through natural water streams as well. Site B can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. Having regard to the FIs (**Appendices Ie and If**), although the applicants propose agricultural rehabilitation and greenhouse farming at the eastern portion of Site B, the western portion of Site B, being used for an ancillary carpark, is a non-agricultural or related development and therefore is not supported from agricultural point of view, since Site B is currently under active cultivation and possesses potential for agricultural rehabilitation;

- (d) from nature conservation point of view, Site A is immediately adjacent a strip of ecological mitigation woodland, and the southern side of Site B is in close proximity to another strip of ecological mitigation woodland (**Plan A-3**). Both woodlands are maintained by his department for the public project *Main Drainage Channels for Fanling, Sheung Shui and Hinterlands*. Should the application be approved, the applicants should be reminded to avoid disturbing any vegetation within the ecological mitigation woodland; and
- (e) Site A and Site B are in close proximity to the Ng Tung River. Should the application be approved, the applicants shall provide precautionary measures to avoid any disturbance and pollution to the watercourse nearby.

Landscape

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

- (a) he has no objection to the proposed development from landscape planning perspective;
- (b) according to aerial photo of 2019, the Sites are located in an area of rural inland plains landscape character, comprising temporary structures, village houses, clusters of trees. Existing vegetation buffer is observed in close proximity of the Sites;
- (c) majority of Site A falls within “G/IC” zone which is non-landscape sensitive zone, and it is noted from the aerial photo of 2019 that Site A is mostly hard paved with some temporary structures. The proposed development is considered not entirely incompatible with the landscape character within Site A and its surroundings. Although an existing tree is observed to the north

of the proposed market hall H1 (**Drawing A-2** and **Plan A-3**), direct conflict between the existing tree and the proposed development is not anticipated. Significant adverse impact on existing landscape resources within Site A and its surroundings arising from the proposed development is not anticipated; and

- (d) it is noted from the FI (**Appendix Ie**) that Site B, which was originally proposed for an extensive vehicle parking area, has been amended as an agricultural rehabilitation area with a nursery shelter of about 3,800 m² and a smaller ancillary carpark. The revised development at Site B is considered not incompatible with the surrounding environment, and significant adverse landscape impact arising from the development is not anticipated.

Future Development

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

- (a) he has no comment on the application from KTN/FLN NDA project interface point of view; and
- (b) part of Site A falls within an area temporarily allocated to CEDD from 1.1.2021 to 30.6.2024 under Simplified Temporary Land Allocation (STLA) GLA-TDN 4444 (**Plan A-2**) as works area for Fanling Bypass Eastern Section under Contract No. ND/2019/04. The said STLA site, which mainly lies within the boundary of the FLN NDA Remaining Phase project, would be cleared and handed over to CEDD for the implementation of FLN NDA in mid-2024.

Drainage

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

- (a) having regard to the FI (**Appendix Ic**), he has no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition requiring the submission and implementation of a drainage proposal for the development should be included in the planning approval, in order to ensure that the Sites would not cause adverse drainage impact to the adjacent areas. His detailed requirements of the drainage submission are at **Appendix VI**;
- (c) the Sites are in an area where no public sewer connection is available; and
- (d) the applicants shall ensure that no DSD's existence maintenance access for the Ng Tung River (**Plan A-2**) would be affected by

the proposed development. The existing track road at the southern bank of Ng Tung River will be taken over by DSD for exclusive use as maintenance access, and the applicants shall note that no public access shall be allowed via this existing track road.

Water Supply

10.1.8 Comments of the Chief Engineer/New Territories East, Water Supplies Department (CE/NTE, WSD):

he has no objection to the application. His detailed comments are at **Appendix VI**.

Building Matters

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

- (a) he has no objection to the application;
- (b) there is no record of approval by the Building Authority (BA) for the existing buildings/structures at the Sites and BD is not in a position to offer comments on their suitability for the proposed use; and
- (c) there is also no record of submission of the proposed building/structure to the BA for approval. His detailed comments are at **Appendix VI**.

Fire Safety

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

- (a) he has no objection in-principle to the proposal subject to fire service installations being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, fire service installations are anticipated to be required. Therefore, the applicants are advised to submit relevant layout plans incorporated with the proposed fire service installations to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed fire service installations to be installed should be clearly marked on the layout plans; and
- (c) the applicants are reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Food and Environmental Hygiene

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

he has no adverse comment on the application. His detailed comments are at **Appendix VI**.

District Officer's Comments

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

(a) he has consulted the locals from 13.7.2020 to 18.8.2020 and from 8.4.2021 to 29.4.2021.

(i) the land owner and business operator of the Sites, the President of Shek Wu Hui Merchants Association Limited, and 7 members of public, including residents in North District and hikers, supported the proposal on the consideration that the development would create enormous employment opportunities and offer a new tourist attraction and entertainment node to residents and tourists;

(ii) the North District Council (NDC) members of Fung Tsui, Tin Ping East, Tin Ping West Constituencies, the Owners' Corporation (OC) Chairman of Woodland Crest (**Plan A-1**), the Chairman, the 1st Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee, the representative of 石湖新村街坊組, the representative of 石湖新村河北段街坊組 and 天平山村街坊組, and other locals via 路德會石湖社區發展計劃中心 objected to the application mainly on the grounds that

- the proposed development would cause adverse impact on the environment (including noise, air and waste pollution) to the immediate surroundings comprising residential settlements and natural wetland/flatland with ecological value. Besides, narrow access road to the Sites and the road bridge across the Ng Tung River could not support the additional traffic flow generated. The development would create traffic congestion and increase potential risk of road traffic injuries to pedestrians; and
- the outlet development is considered inappropriate in terms of its scale and location,

causing disturbance to the residents in the surrounding. The existing operation of the barbecue and entertainment use at the Sites have already created nuisance to residents, even during midnights.

- (iii) the Chairman of 香港工商總會區分會, the Chairman of Sheung Shui District Rural Committee, the Indigenous Inhabitant Representative and Resident Representative of Sheung Shui Wa Shan, the three Indigenous Inhabitant Representatives and Resident Representative of Sheung Shui Heung and 路德會石湖社區發展計劃中心 had no comment on the application;
- (iv) the NDC member of Queen's Hill Constituency and the OC Chairman of nearby buildings did not reply to the consultation; and

- (b) the Committee on Land Development, Housing and Works of the NDC passed a motion on its 5th meeting on 16.11.2020 opposing to the proposed development at the Sites (**Appendix IV**) mainly on the grounds that the location is not suitable for the development of shopping facilities and the development may turn into a shopping arcade for parallel trading.

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

- (a) Chief Estate Surveyor/New Development Area, LandsD (CES/NDA, LandsD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (c) Commissioner of Police (C of P).

11. **Public Comments Received During Statutory Publication Period**

11.1 On 14.7.2020 and 30.3.2021, the application was published for public inspection. During the three-week statutory public inspection periods, a total of 2,235 comments were received. Among the 2,235 comments, 2,177 support the application (in three standard letter formats) (**Appendices Va to Vc**); 50 object to the application (**Appendices Vd to Vm**); one raised concerns on the application (**Appendix Vn**) and seven individuals have no comments or did not indicate any comments.

11.2 The 2,177 supporting comments are from the Chairman and Vice-chairman of Sheung Shui District Rural Committee, Chairman of San Tin Rural Committee, village representative of Yin Kong Tsuen and other individuals in three standard letter formats. Their major views are summarized as follows:

- (a) the comprehensive development is intended for shopping, recreational and entertainment uses, which offers spaces for cultural activities and bazaar-like entertainment uses in the district, creating a landmark representing local culture; and
- (b) the development provides low rent commercial spaces for start-ups and considerable employment opportunities for all ages.

11.3 The 50 objecting comments are from 石湖新村(河北段)街坊會, the NDC members of Ching Ho, Fung Tsui and Tin Ping East Constituencies, World Wildlife Fund Hong Kong, Hong Kong Bird Watching Society, Designing Hong Kong and other individuals. Their major views are summarized as follows:

- (a) the development is not in line with the planning intention of the “AGR” zone and approval of the application would set an undesirable precedent for future applications;
- (b) the unauthorized operation of Site A for entertainment purposes has already created nuisances to surrounding residents, for example, noise from karaoke during midnights;
- (c) the scale of the proposed development would potentially affect the natural landscape of the nearby Ng Tung River and creates substantial air, noise and light pollution to the surrounding environment. It also creates enormous waste disposal and sewerage discharge, causing hygiene and environmental impacts;
- (d) current road facilities (i.e. the local track and pedestrian footpath) could not support the additional traffic flow generated from the proposed development, which would create additional traffic congestion and affect pedestrian safety;
- (e) demand for the proposed market halls is not well justified in consideration of the decreasing number of cross-boundary tourists and the abundance of retail facilities in the district. Further addition of shopping facilities to the district would intensify the disruption to the daily life of locals; and
- (f) under the COVID-19 pandemic, large-scale entertainment place poses public health risks.

11.4 The Kadoorie Farm and Botanic Garden Corporation raised concerns on the application and queried if agricultural rehabilitation and greenhouse farming uses are actually always permitted within the “AGR” zone.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary shop and services and place of

entertainment uses for a period of 3 years at Site A zoned “G/IC”, “O”, “OU(SPS)” and ‘Road’ under the FLN OZP, and at Site B zoned “AGR” under the approved FTA OZP and “OU(A)” and ‘Road’ under the FLN OZP (**Plan A-1**).

Proposed Use and Scale

- 12.2 The proposed shop and services and place of entertainment uses at Site A (about 20,826.29m² (72% of the Site)) with a total of 42 one-storey structures are not entirely in line with the planning intention of “G/IC”, “O” and “OU(SPS)” zones, which are primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory; 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; and for reserving land for the sewage pumping station use respectively. The Site together with the surrounding areas will be resumed and cleared starting from mid-2024 the earliest for the implementation of KTN/FLN NDA. Approval of this application at the Site on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the above land use zones in support of the KTN/FLN NDA development. However, various retail and entertainment uses could be found in the vicinity of the Sites (including Tin Ping Estate, Luen Wo Hui and Shek Wu Hui (**Plan A-1**)) which are currently serving the daily needs of the local community in Fanling/Sheung Shui New Town. There is no strong reason given in the application to justify provision of additional large scale retail and entertainment facilities in this locality. The proposed retail and entertainment uses accommodated in 42 structures, comprising four large market halls ranging from 1,050 m² to 1,552.5 m² each together with other entertainment uses, distributed across a site area of about 2.1 ha is considered excessive in the current rural riverside site context, which is dominated by domestic dwellings cluster in a vegetated area.
- 12.3 Site B is primarily zoned “AGR”, which is primarily intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. To address DAFC’s comments, the applicants reduced the scale of the original carpark to 20 spaces for use by the staff of the proposed shop and services and place of entertainment uses in Site A. Nevertheless, DAFC maintains his stance of not supporting the application as the ancillary carpark is still a non-agricultural use and the Site B possesses potential for agricultural rehabilitation. CTP/UD&L of PlanD has no objection to the proposed development from landscape planning perspective, noting that Site B is proposed for an agricultural rehabilitation area and a smaller ancillary carpark. While the agricultural rehabilitation and greenhouse uses do not require planning permission in the “AGR” zone, the ancillary car park in Site B is serving the uses in Site A and should be considered as a whole with Site A. If the main uses (i.e. shop and services and place of entertainment uses) in Site A are not approved by the Committee, the ancillary car park in Site B would not be justified.

Traffic and Accessibility Issues

- 12.4 The proposed development is unacceptable in traffic terms. C for T could not

support the application from traffic engineering perspective, as the applicants fail to demonstrate that the unnamed existing local track extending from Lung Sum Avenue (**Plan A-1**) can serve the proposed development without adverse traffic impacts on the surrounding areas; and adequate parking and loading/unloading facilities would be provided within the Site.

- 12.5 The northwestern portion of Site A is proposed to be used as a loading/unloading area and visitor carpark with 20 parking spaces in support of the retail and entertainment uses (**Drawing A-2**). Ingress/egress point of the entire Site A is proposed to be provided at this part of the Site (**Plan A-2**). However, this northwestern portion of Site A falls within an area already allocated to CEDD until mid-2024 under STLA GLA-TDN 4444 (**Plan A-2**) as works area for Fanling Bypass Eastern Section currently under construction. The said STLA site would be cleared and handed over to CEDD for the implementation of FLN NDA Remaining Phase project in mid-2024. DLO/N of LandsD states that there is no guarantee that any adjoining GL will be allowed for the vehicular access of the proposed use subject to application and approval of STT if the planning application is approved.
- 12.6 Other relevant departments consulted including DEP, CHE/NTE of HyD, CE/MN of DSD, CE/NTE of WSD and D of FS have no objection to/no adverse comment on the application.

Previous/Similar Applications

- 12.7 Whilst there is no previous application in respect of Site A, Site B is the subject of two previous planning applications for temporary open storage/storage of construction materials and tools and exhibition/convention hall as stated in paragraph 6, which are not directly relevant to the current application. In addition, there is a similar application for proposed temporary shop and services (fast food shop) for 3 years at two separate small sites within the same “G/IC” and “O” zones of Site A, which was approved by the Committee in 2019. However, the approved application for fast food shop is of a much smaller scale (i.e. site area of about 279 m²), which is not comparable to this application.

Public Comments

- 12.8 Regarding the local views conveyed by DO/N of HAD in paragraph 10.1.12 and public comments in paragraph 11, the departmental comments and planning considerations and assessments as stated in paragraphs 12.1 to 12.7 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the local views conveyed by DO/N of HAD in paragraph 10.1.12 and the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the proposed retail and entertainment uses are excessive in scale considering the rural character of the Site and its surrounding areas; and

- (b) the applicants fail to demonstrate that the proposed development would not result in adverse traffic impacts on the surrounding areas.

13.2 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 14.5.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicants, is allowed during the planning approval period;
- (b) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Sites at any time during the planning approval period;
- (c) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance and its subsidiary regulations are allowed to be parked/stored on or enter/exit the Sites, as proposed by the applicants, at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the Sites at all times to indicate that no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the as defined in the Road Traffic Ordinance and its subsidiary regulations are allowed to be parked/stored on or enter/exit the Sites at any time during the planning approval period;
- (e) no vehicle without valid licences issued under the Road Traffic Ordinance and its subsidiary regulations is allowed to be parked/stored on the Sites at any time during the planning approval period;
- (f) no vehicle washing, vehicle repair, dismantling, paint spraying or other workshop activities is allowed on the Sites at any time during the planning approval period;
- (g) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (h) the submission of ingress/egress and loading/unloading arrangements as well as layout plan for ancillary carparks within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 14.11.2021;
- (i) in relation to (h) above, the implementation of ingress/egress and loading/unloading arrangements as well as layout plan for ancillary carparks within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning

Board by 14.2.2022;

- (j) the submission of a 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 14.11.2021;
- (k) in relation to (j) above, the implementation of the drainage proposal with 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.2.2022;
- (l) in relation to (k) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (m) the submission of a proposal for fire service installations and water supplies for fire-fighting 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 14.11.2021;
- (n) in relation to (m) above, the implementation of the proposal for fire service installations and water supplies for fire-fighting 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 14.2.2022;
- (o) if any of the above planning condition (a), (b), (c), (d), (e), (f), (g) or (l) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice;
- (p) if any of the above planning condition (h), (i), (j), (k), (m) or (n) 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
- (q) upon the expiry of the planning permission, the reinstatement of Site B to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form with Attachments received on 7.7.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Further Information (FI) dated 26.8.2020
Appendix Ic	FI dated 27.8.2020
Appendix Id	FI dated 28.8.2020
Appendix Ie	FI dated 22.3.2021
Appendix If	FI dated 28.4.2021
Appendix Ig	Applicants' Letter dated 3.5.2021 (without attachments)
Appendix Ih	Letter dated 12.3.2021 from the Secretary of the Board to the Applicants' Representative
Appendix II	Previous Applications
Appendix III	Similar Application
Appendix IV	Motion Passed by the North District Council on 16.11.2020
Appendices Va to Vn	Public Comments
Appendix VI	Advisory Clauses
Drawing A-1	Location Plan of Sites A and B
Drawing A-2	Layout Plan of Site A
Drawing A-3	Layout Plan of Site B
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4e	Site Photos

**PLANNING DEPARTMENT
MAY 2021**