

RNTPC Paper No. A/YL-ST/634
For Consideration by the
Rural and New Town
Planning Committee
on 23.12.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/634

<u>Applicant</u>	: Fortune Nine (HK) Company Limited represented by Top Bright Consultants Ltd.
<u>Site</u>	: Lot 3075 RP (Part) and 3058 RP (Part) in D.D. 102, San Tin, Yuen Long
<u>Site Area</u>	: About 265 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Shop and Services (Convenience Store) with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (convenience store) with ancillary office for a period of 3 years (**Plan A-1a**). According to the Notes for the “V” zone of the OZP, ‘Shop and Services’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). The Site is currently fenced and vacant.
- 1.2 The Site or part of the Site is the subject of 17 previous applications as detailed in paragraph 6 below.
- 1.3 According to the layout plan (**Drawing A-1**), the proposed development comprises two single-storey converted containers (not more than 3m) and one signboard (not more than 4m in height) with a total gross floor area of about 40.5m² for convenience store and ancillary office. A light van loading/unloading

space (2.5m x 5m) is provided within the Site. The operation hours are from 8:00 a.m. to 8:00 p.m. daily. As shown on **Plans A-2 and A-3**, the Site is accessible to Castle Peak Road – San Tin via a local access to the south of the Site.

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

- (a) Application form received on 7.11.2022 (Appendix I)
- (b) Planning Statement (Appendix Ia)
- (c) Further Information (FI) received on 7.12.2022* (Appendix Ib)
- (d) FI received on 15.12.2022* (Appendix Ic)

Remarks: * accepted and exempted from publication and recounting requirements.

2. Justifications from the Applicant

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

- (a) The application is to provide convenience store to serve the local community which could meet the needs of daily necessities of the local villagers/residents in the San Tin area.
- (b) The proposed use is in line with the planning intention of the “V” zone. As there are no Small House applications within the Site, the proposed use would not restrict any future implementation of Small House development at the Site.
- (c) The proposed use is compatible with surrounding land uses which include villages, low-rise temporary structures and public car parks.
- (d) The nature of the current application is similar to the previously approved applications at the Site in 2004 and 2007 and the similar applications in the vicinity within the “V” zone.
- (e) Adverse traffic, environmental, visual or drainage impacts arising from the development on the surroundings are not anticipated. Adequate mitigation measures will be provided after planning approval has been granted from the Board.

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 posting site notice and sending notice to San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Development within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) is relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

The Site (in part or in whole) is involved in 17 previous applications, of which eight were approved and nine were rejected by the Committee/the Board on review (**Plan A-1b**). These applications are not relevant to the current application. Details of the applications are summarised at **Appendix III**.

7. **Similar Applications**

- 7.1 During the past five years since 2017, there are six similar applications for temporary shop and services within the same “V” zone on the OZP, of which five were approved and one was rejected by the Committee (**Plan A-1a**).
- 7.2 Five applications (No. A/YL-ST/521, 556, 574, 585 and 605) submitted by different applicants were approved by the Committee for a period of 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 permissions under Applications No. A/YL-ST/521 and 585 were subsequently revoked on 26.1.2018 and 16.4.2021 respectively due to non-compliance with approval conditions.

- 7.3 Application No. A/YL-ST/505 was rejected by the Committee on 14.7.2017 on the considerations that the 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 the applications are summarised at **Appendix III**. Their location are shown on **Plan A-1a**.

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

- 8.1 The Site is:
- (a) accessible at the south via a local access from Castle Peak Road – San Tin;
 - (b) paved, partly fenced off and currently vacant; and
 - (c) located within the Wetland Buffer Area (WBA) of Deep Bay Area.
- 8.2 The surrounding areas are village settlements (Wing Ping Tsuen) with a mix of residential structures and vehicle parks:
- (a) to its north are residential structures, shops and services and parking of vehicles. To its further north across Tung Wing On Road are vacant land, a parking of vehicles and a community isolation facility.
 - (b) to its west and northwest are residential structures and a car park approved under application No. A/YL-ST/624;
 - (c) to its south and southwest are residential structures, shops and a car park; and
 - (d) to its immediate east are a residential structure and a car park approved under application No. A/YL-ST/606. To its further east across Castle Peak Road – San Tin are Drainage Services Department Site Office and vacant land.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised 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. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

11. Public Comment Received During Statutory Publication Period

On 15.11.2022, the application was published for public comments. During the statutory publication period, one public comment was received objecting to the application on the grounds that the development will give rise to hygiene issues, cause nuisance to nearby residents and result in adverse traffic impact (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services (convenience store) with ancillary office for a period of 3 years. The Site falls within “V” zone on the OZP which 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. The proposed use is not entirely in line with the planning intention of the “V” zone. However, the applicant stated that the proposed use could meet some of the local daily household needs in the neighbourhood. The proposed use is also considered not incompatible with the surrounding land uses which are predominantly vehicle parks, community isolation facilities, temporary shops and services, village houses and residential structures. There is no Small House application being processed 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 falls within the WBA of the TPB PG-No.12C and the Guidelines specify that planning applications for temporary uses are exempted from the requirement of Ecological Impact Assessment. DAFC has no adverse comment on the application.
- 12.3 Concerned government departments including C for T, DEP, CE/MN, DSD and D of FS have no objection to the application and their technical

* Except a small portion at the southwestern corner which is part of the adjoining private lot of a constructed Small House.

concerns/requirements could be addressed by approval conditions as recommended in paragraph 13.2 below. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary uses and Open Storage Sites”.

- 12.4 Since 2017, the Committee has approved five similar applications for temporary shop and services use within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.5 One public comment was received during the statutory application period objecting to the application as stated in paragraph 11 above. In this regard, relevant departments’ comments as well as the planning assessments and considerations stated above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 23.12.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (b) the submission of a 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 23.6.2023;
- (c) in relation to (b) above, the implementation of the 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 23.9.2023;
- (d) 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 23.6.2023;
- (e) in relation to (d) above, the implementation of the drainage proposal 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 23.9.2023;

- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) if any of the above planning condition (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; and
- (h) if any of the above planning condition (b), (c), (d) or (e) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

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

the proposed use is not in line with the planning intention of the "V" zone, which is primarily to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within "V" zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant renewal of the planning permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form received on 7.11.2022
Appendix Ia	Planning statement

Appendix Ib	FI received on 7.12.2022
Appendix Ic	FI received on 15.12.2022
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public Comment
Drawing A-1	Layout plan
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
DECEMBER 2022**