

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/YL-ST/637 and 638

<u>Applicant</u>	: Fortune Nine (HK) Company Limited represented by Top Bright Consultants Ltd.
<u>Sites</u>	: Lot 673 S.C (Part) in D.D. 99 and Adjoining Government Land (GL), San Tin, Yuen Long (Application No. A/YL-ST/637) Lot 673 S.D (Part) in D.D. 99 and Adjoining GL, San Tin, Yuen Long (Application No. A/YL-ST/638)
<u>Site Areas</u>	: About 108 m ² (including about 47 m ² of GL) (Application No. A/YL-ST/637) About 71 m ² (including about 48 m ² of GL) (Application No. A/YL-ST/638)
<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>	: Temporary Eating Place (Outside Seating Accommodation of a Restaurant) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant submitted the subject two applications for planning permission to use the application sites (the Sites) for temporary eating place (outside seating accommodation (OSA) of a restaurant) for a period of 3 years (**Plan A-1a**). According to the Notes of the OZP, while ‘Eating Place’ on the ground floor of a New Territories Exempted House (NTEH) within the “V” zone is always permitted, such use elsewhere within the “V” zone is a Column 2 use and requires planning permission from the Town Planning Board (the Board). The Sites are neighbouring one another, hard paved and are currently used for the applied use without valid planning permission.

- 1.2 The layout plans of the respective OSA are at **Drawings A-1 and A-2**. According to the applicant, the respective OSA involves a 1-storey (3m) temporary fabric shelter serving the existing restaurant located on G/F of the concerned village house at 282 and 283 Wing Ping Tsuen. The corresponding OSA located in front of the village house has a total floor area of 108 m² (approximately 8.5m x 12.7m) and 71 m² (approximately 8.3m x 8.5m) under Applications No. A/YL-ST/637 and 638 respectively. The Sites are accessible from Tung Wing On Road connecting to Castle Peak Road – San Tin via the open area fronting the Sites to its north, east and west (**Plan A-2**). Two footpaths each with a minimum width of 1.2 m are maintained within the Sites to allow sufficient space for the public (**Drawing A-3**). Each of the OSA will serve a maximum of 30 people with operation hours from 7:00 a.m. to 10:00 p.m. daily.
- 1.3 In support of the applications, the applicant has submitted the following documents:
- (a) Application Form for Application No. A/YL-ST/637 received on 23.11.2022 (**Appendix Ia**)
 - (b) Supplementary Planning Statement for Application No. A/YL-ST/637 (**Appendix Ib**)
 - (c) Application Form for Application No. A/YL-ST/638 received on 23.11.2022 (**Appendix Ic**)
 - (d) Supplementary Planning Statement for Application No. A/YL-ST/638 (**Appendix Id**)
 - (e) Further Information (FI) received on 5.1.2023 # providing response to departmental comments and (updated site layout plans) (**Appendix Ie**)

exempted from publication requirement

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the applications are detailed in the Supplementary Planning Statements and FI at **Appendices Ib, Id and Ie**. They can be summarised as follows:

- (a) The applied use provides catering facility to serve the nearby villagers, workers and visitors to San Tin/Lok Ma Chau area.
- (b) The development is a use closely related to the “V” zone and therefore it is in line with the planning intention of the “V” zone.
- (c) The applied use is located at a suitable location, viz. at the fringe of the “V” zone and enjoys direct access from Tung Wing On Road to Castle Peak Road – San Tin in which most of the commercial facilities are located. The Site are well served by public transportation and also surrounded by public vehicle parks.
- (d) The Sites are more than 10 m away from Tung Wing On Road. The restaurant furniture and temporary structures will be kept in the Sites and will not obstruct

traffic aids and sightlines of the vehicles and pedestrians. The two 1.2 m wide footpaths are sufficient for the wheelchair users. The pedestrian environment currently enjoyed by the public in the locality would not be adversely affected. The footpaths are not with high pedestrian flow. Therefore, enough space is allowed along the footpaths for use by the pedestrians and residents.

- (e) The applied use is in line with the TPB PG-No. 15A in that the Site is a suitable place for the applied use; significant adverse impacts on traffic, drainage, sewage disposal, fire safety and environmental aspects from the applied use are not anticipated; and the applied use is located adjacent to places of recreation interest and tourist attraction in the area and could serve as a catering facility for visitors and tourists.
- (f) The Sites are situated at the fringe of the “V” zone with various village, residential, commercial, eating place, temporary and public car park uses. The applied use is compatible with the surrounding land uses. There are other similar eating place and OSA uses approved by 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 TPB 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. For the GL, the “owner’s consent/notification” requirements are not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C) and “Application for Eating Place within “Village Type Development” Zone in Rural Areas under Section 16 of the Town Planning Ordinance (TPB PG-No. 15A)” are relevant to the applications. Relevant extracts of the Guidelines are at **Appendix II**.

5. Background

The Sites is not subject to any planning enforcement action.

6. Previous Applications

The Sites form part of the subject of nine previous applications for temporary uses including container trailer park and vehicle for repairing/washing workshop and public car park. All these previous application were for uses not relevant to the current applications. Details of these applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1b**.

7. **Similar Applications**

- 7.1 During the past five years, there are two similar applications (Application No. A/YL-ST/499 and 565 covering the same site) for temporary eating place use within the same “V” zone on the OZP. These applications were approved by the Committee in 2017 and 2020, mainly on the considerations that the development was considered not incompatible with the surrounding land uses, the eating place could meet some of the demand for eating place in the vicinity, and the applied use is generally in line with the TPB PG-Nos. 15A and 12C.
- 7.2 Details of these applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

- 8.1 The Sites are:
- (a) accessible from Tung Wing On Road which connects to Castle Peak Road – San Tin via the open area fronting the Sites to its north, east and west;
 - (b) located within Wing Ping Tsuen, neighbouring one another, paved and currently used for the applied use without valid planning permission;
 - (c) the OSA is to serve the G/F restaurant of the existing 3-storey village house at 282 Wing Ping Tsuen (under Application No. A/YL-ST/637) and 283 Wing Ping Tsuen (under Application No. A/YL-ST/638) respectively; and
 - (d) located within the Wetland Buffer Area (WBA) of the Deep Bay Area.
- 8.2 The surrounding areas are intermixed with village houses, shops and services and car parks with storage yard and community facilities:
- (a) to the east, south and west are existing village houses, further east are shop and services and vehicle park uses approved under Applications No. A/YL-ST/574 and 606, and the area further east of Castle Peak Road – San Tin is Drainage Services Department (DSD)’s Site Office;
 - (b) to the immediate north is an open paved area fronting Tung Wing On Road, further north across Tung Wing On Road are a site with some vacant structures and storage use which is approved for temporary shop and services use under Application No. A/YL-ST/592 and San Tin Community Isolation Facility located further north; and
 - (c) to the further west are a number of village houses, shop and services and vehicle parks.

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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

All 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 2.12.2022, the applications were published for public inspection. During the first three weeks of the statutory publication period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The applications submitted by the same applicant are for temporary eating place (OSA of a restaurant) for a period of 3 years at the Sites zoned “V” to serve the respective restaurant located on G/F of the existing village house at 282 and 283 Wing Ping Tsuen. 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. Although the temporary eating place (OSA of a restaurant) at the Sites is not entirely in line with the planning intention of the “V” zone, it is an extension of a permitted eating place on the ground floor of the village house and it could serve the adjacent villages and meet the local demand for eating place in the vicinity. DLO/YL of LandsD has no adverse comment on the applications and advises that the two concerned village houses where the two subject G/F restaurants are located are approved by DLO/YL and there is no Small House application being processed at the Sites. The temporary OSA use would not adversely affect the land availability for village type development within the “V” zone. In this regard, it is considered that approval of the application on a

temporary basis for 3 years would not jeopardise the long term planning intention of the “V” zone.

- 12.2 The Sites 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 EcoIA. DAFC has no comment on the applications from nature conservation point of view.
- 12.3 The applications are generally in line with TPB PG-No. 15A. The Sites are located at the fringe of Wing Ping Tsuen and is accessible from Tung Wing On Road connecting to Castle Peak Road – San Tin. The OSA at the Sites are considered not incompatible with the surrounding land uses which are rural in character intermixed with village houses, shops and services and car parks with storage yard and community facilities (**Plan A-2**). In view of the small scale of the applied use, it would unlikely generate significant adverse traffic, environmental and sewerage impacts on the surrounding areas. Relevant Government departments consulted including DEP, DFEH, C for T, D of FS and CE/MN of DSD have no objection to or adverse comment on the application and no local objection was received. The technical concerns could be addressed by approval conditions recommended in paragraph 13.2. Besides, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 12.4 Since 2018, the Committee has approved two similar applications covering the same site for temporary eating place use within the same “V” zone on the OZP. Approval of the current application is in line with the previous decisions of the Committee.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12, the Planning Department has no objection to the applications.
- 13.2 Should the Committee decide to approve the applications, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 13.1.2026. 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 fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 13.7.2023;
- (c) in relation to (b) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the

satisfaction of Director of Fire Services or of the Town Planning Board by 13.10.2023;

- (d) the submission of 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 13.7.2023;
- (e) in relation to (d) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Service or of the Town Planning Board by 13.10.2023;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) 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; and
- (h) if any the above planning conditions (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 applied use is not in line with the planning intention of the "V" zone which is primarily intended for development of NTEHs/Small Houses by indigenous villagers. No strong planning justification has been given in the submission to justify 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 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 Ia	Application Form for Application No. A/YL-ST/637 received on 23.11.2022
Appendix Ib	Supplementary Planning Statement for Application No. A/YL-ST/637
Appendix Ic	Application Form for Application No. A/YL-ST/638 received on 23.11.2022
Appendix Id	Supplementary Planning Statement for Application No. A/YL-ST/638
Appendix Ie	FI received on 5.1.2023
Appendix II	Relevant Extracts of TPB PG-No. 12C and 15A
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawing A-1	Layout Plan for Application No. A/YL-ST/637
Drawing A-2	Layout Plan for Application No. A/YL-ST/638
Drawing A-3	Layout Plan of Footpaths within the Sites
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2023**