

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

**APPLICATION NO. A/YL-ST/651**

<b><u>Applicant</u></b>	: Fortune Nine (HK) Company Limited represented by Top Bright Consultants Ltd.
<b><u>Site</u></b>	: Government Land in D.D. 99, San Tin, Yuen Long
<b><u>Site Area</u></b>	: About 123 m <sup>2</sup>
<b><u>Land Status</u></b>	: Government Land (GL)
<b><u>Plan</u></b>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<b><u>Zoning</u></b>	: “Village Type Development” (“V”)
<b><u>Application</u></b>	: Temporary Eating Place (Outside Seating Accommodation of a Restaurant) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary eating place (outside seating accommodation (OSA) of a restaurant) for a period of three years at the application site (the Site) which falls within an area zoned “V” on the San Tin OZP (**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 Site is hard paved and is currently used for the applied use without valid planning permission.
- 1.2 The applicant of the current application submitted two similar applications (No. A/YL-ST/637 and 638) for temporary eating place to provide two temporary OSAs for a period of three years to the east of the Site (**Plan A-2**). The applications were approved by the Committee on 13.1.2023.
- 1.3 As shown on **Plan A-2**, the Site is accessible from Tung Wing On Road connecting to Castle Peak Road – San Tin via the open area fronting the Site to its

north. The layout plan of the OSA is at **Drawing A-1**. According to the applicant, the OSA involves 8 removable parasols (2.5 m in height) and an ornamental fishpond (about 29 m<sup>2</sup>) serving the existing restaurant located on G/F of the village house at 280 Wing Ping Tsuen. No parking space or loading/unloading space will be provided within the Site. The OSA will serve a maximum of 40 people with operation hours from 7:00 a.m. to 10:00 p.m. daily.

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

- (a) Application Form received on 29.5.2023 (Appendix I)
- (b) Supplementary Planning Statement (Appendix Ia)
- (c) Further Information (FI) received on 21.7.2023\* (Appendix Ib)

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 Supplementary Planning Statement and FI at **Appendices Ia and Ib**. 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.
- (d) The Site is within walking distance of the nearby village settlements and is well served by public transportation such as minibuses and buses. Most of the customers will access the Site on foot/by public transport, the trip generation of private vehicles is expected to be insignificant. There is also sufficient supply of parking spaces in the vicinity of the Site including the public vehicle park adjacent to the Site approved under Application No. A/YL-ST/624 and various public vehicle parks in San Tin area.
- (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 Site is situated at the fringe of the “V” zone with various village, residential, commercial, eating place 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 in the vicinity.

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

As the Site involves GL only, 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) 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 application. Relevant extracts of the Guidelines are at **Appendix II**.

### 5. **Background**

The Site is currently not subject to active planning enforcement action.

### 6. **Previous Applications**

The Site (in part or in whole) is the subject of 13 previous applications mainly 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 application. 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 three similar applications (Application No. A/YL-ST/565, 637 and 638) for temporary eating place (OSA of a restaurant) use within the same “V” zone on the OZP, of which No. A/YL-ST/637 and 638 to the east of the Site are submitted by the current applicant. These applications were approved by the Committee between 2020 and 2023 mainly on the considerations that the applied use 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 was 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 Site and Its Surrounding Areas (Plans A-1a to A-4)**

### **8.1 The Site is:**

- (a) accessible from Tung Wing On Road which connects to Castle Peak Road – San Tin via the open area fronting the Site to its north;
- (b) located within Wing Ping Tsuen, 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 280 Wing Ping Tsuen; 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 its immediate east is two temporary OSAs approved under Application No. A/YL/637 and 638;
- (b) to its further south and west are existing village houses, shop and services and vehicle parks uses, of which the vehicle park to its immediate west is approved under Application No. YL-ST/624 and the vehicle park to its southeast is approved under Application No. YL-ST/606. The area across Castle Peak Road – San Tin is Drainage Services Department (DSD)’s Site Office;
- (c) to its immediate north is an open paved area fronting Tung Wing On Road, further north across Tung Wing On Road are some vacant structures, shop and services under approved Application No. A/YL-ST/592 and former San Tin Community Isolation Facility currently under modification for other community uses.

## **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 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 9.6.2023, the application was published for public comment. During the statutory publication period, no public comment was received.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for a temporary eating place (OSA of a restaurant) for a period of three years at the Site zoned “V” to serve the restaurant located on G/F of the existing village house at 280 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 Site 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 application and advises that there is no Small House application being processed at the Site. The temporary OSA use would not adversely affect the land availability for village type development within the “V” zone in the long term. In this regard, it is considered that approval of the application on a temporary basis for three years would not jeopardise 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 comment on the application from nature conservation point of view.
- 12.3 The application is generally in line with TPB PG-No. 15A. The Site is 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 Site is 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**). The Site adjoins two temporary OSAs

also submitted by the current applicant which are approved under Application No. A/YL-ST 637 and 638. As the three OSAs are considered small scale and local in nature serving nearby residents, it would unlikely generate significant adverse traffic, environmental and sewerage impacts on the surrounding areas. Relevant government departments have no objection to or adverse comment on the application and no local objection was received. Should the application be approved, technical requirements of the concerned government departments are imposed through approval conditions in paragraphs 13.2 below. 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” and relevant ordinance relating to the control of oily fume, cooking odour and waste water from eateries.

- 12.4 Since 2018, the Committee has approved three similar applications for temporary eating place (OSA of a restaurant) 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 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 three years until 28.7.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval conditions

- (a) 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 28.1.2024;
- (b) in relation to (a) 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 28.4.2024;
- (c) 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 28.1.2024;
- (d) in relation to (c) 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 28.4.2024;

- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) if the above planning condition (e) 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
- (g) if any of the above planning condition (a), (b), (c) or (d) 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**

<b>Appendix I</b>	Application Form received on 29.5.2023
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	FI received on 21.7.2023
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 12C and 15A
<b>Appendix III</b>	Previous and similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses

<b>Drawing A-1</b>	Layout plan
<b>Plan A-1a</b>	Location plan with similar applications
<b>Plan A-1b</b>	Previous application plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
JULY 2023**