

RNTPC Paper No. A/YL-ST/521  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 26.1.2018

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

**APPLICATION NO. A/YL-ST/521**

- Applicant** : Fortune Nine (HK) Company Ltd. represented by Top Bright Consultants Ltd.
- Site** : Lots 3048 S.B, 3048 RP, 3049 RP (Part) and 3050 RP (Part) in D.D.102 and Adjoining Government Land (GL), San Tin, Yuen Long
- Site Area** : About 1,763 m<sup>2</sup> (including GL of about 1,056 m<sup>2</sup>)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Temporary Shop and Services (Retail Shops, Laundry, Pharmacy and Convenience Store) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (retail shops, laundry, pharmacy and convenient store) for a period of 3 years (**Plan A-1a**). According to the Notes for the “V” zone of the approved San Tin OZP No. S/YL-ST/8, ‘Shop and Services’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). Part of the Site is currently used for vehicle park without valid planning permission (**Plan A-2**).
- 1.2 The Site (in whole or in part) is the subject of 7 previously approved applications (Nos. A/YL-ST/57, 104, 288, 317, 343, 391 and 488) (**Plan A-1a**). The last application No. A/YL-ST/488 for the same applied use was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 26.8.2016 with conditions for a period of 3 years. However, the application was revoked on 26.11.2017 due to non-compliance with conditions on the submission and implementation of fire services installations (FSIs) proposal and drainage proposal and the implementation of landscape and tree preservation proposal.
- 1.3 According to the applicant, the proposed shop and services use is to serve the local community including the adjacent seven villages, namely Wing Ping Tsuen,

San Lung Tsuen, Fan Tin Tsuen, On Lung Tsuen, Tung Chan Wai, Yan Shau Wai and Tsing Lung Tsuen. It will help to meet the need of local residents by providing daily necessities including basic grocery goods such as dairy products, sweets and over the counter medicines. As shown on the layout plan at **Drawing A-1** and **Plan A-2**, the Site is accessible from the north off Tung Wing On Road leading to Castle Peak Road – San Tin with a run-in/out of 8m wide and a buffer area provided at the entrance of the Site to avoid queuing of vehicles on Tung Wing On Road.

- 1.4 The comparison of major development parameters under last application and current application is summarised as follows:

| <b>Major Development Parameters</b>                          | <b>Last Application (No. A/YL-ST/488)</b>  | <b>Current Application (No. A/YL-ST/521)</b>   | <b>Difference</b>                              |
|--|--|--|--|
| Site Area  | 1,763m <sup>2</sup>  | 1,763m <sup>2</sup>  | -  |
| Total GFA  | 265m <sup>2</sup>  | 260m <sup>2</sup>  | -5 m <sup>2</sup>                              |
| No. of Structures  | 5 structures<br><br>(4 structures for shop and services and 1 structure for guard house/staff rest room) | 5 structures<br><br>(2 structures for shop and services ;1 structure for guard house/staff rest room; a Fire Service (FS) water tank and a meter room) | -<br><br>( FS water tank and metre room added) |
| No. of Storeys   | 1 to 2   | 1 to 2   | -  |
| Building Height  | 3 to 4.8m  | 2 to 4.8m  |  |
| No. of Parking Spaces for private cars                       | 12   | 12   | -  |
| No. of Loading and Unloading Area for LGV (under 5.5 tonnes) | 2  | 2  | -  |
| Operation Hours  | 8:00a.m. to 8:00p.m. daily   | 8:00a.m. to 8:00p.m. daily   | -  |

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

- (a) Application form received on 8.12.2017 **(Appendix I)**
- (b) Planning Statement including landscape and tree preservation proposal and a drainage proposal **(Appendix Ia)**
- (c) Letter received on 8.12.2017 clarifying the dimensions of **(Appendix Ib)**

the loading/unloading bay and the number of storey for the proposed metre room

- (d) FI received on 13.12.2017 clarifying the building heights of the structures **(Appendix Ic)**  
*(accepted and exempted from publication and recounting requirements)*
- (e) FI received on 12.1.2018 providing swept path analysis to address C for T's comment **(Appendix Id)**  
*(accepted and exempted from publication and recounting requirements)*
- (f) FI received on 18.1.2018 providing revised swept path analysis to address C for T's comment and consent letters signed by Small House Applicants of the concerned lots **(Appendix Ie)**  
*(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 paragraph 6 of the Planning Statement at **Appendix Ia**. They can be summarized as follows:

- (a) The proposed shop and services use provides daily necessities and services within walking distance for the local residents in the vicinity, especially those from Wing Ping Tsuen, On Lung Tsuen, Tung Chan Wai and Yan Shau Wai. The proposed development is a use closely related to the village type development on the "V" zone, and therefore is in line with the planning intention of the "V" zone.
- (b) Small House applications at Lots 3048 S.B and 3048 RP in D.D.102 within the Site are being processed by the Lands Department (LandsD). The applicant has reached an agreement with these land owners that once the small house applications were approved by LandsD, the applicant would vacate the Site to make way for the implementation of the small house developments. The applicant also submitted letters (**Appendix Ie**) from the Small House applicants stating that they support the current application as no small house construction work is anticipated in coming three years. Therefore, approval of this application on temporary basis would not jeopardize the planning intention of the "V" zone.
- (c) There are generally lack of shops and services serving the local community in San Tin. Local residents would need to travel to Yuen Long Town Centre or Sheung Shui for daily household needs. With the implementation of small house developments in the vicinity in the past few years, the choices for local residents for daily necessities are still very limited. The proposed development would meet the local demand on shop and services use in the area. The proposed development will offer the much needed shop and services within the walking distance for the local residents.

- (d) The proposed use of the application is the same as the latest previously approved application (No. A/YL-ST/488) and the approval was granted by the Committee in 2016. There is no substantial change in the planning circumstances such as land use and the physical settings surrounding the Site since then. In this regard, no adverse planning implication by approving the current application is anticipated.
- (e) As the surrounding areas are intermixed with village houses, car parks, storages, shops and restaurants, the proposed development is compatible with the surrounding land uses. The proposed development is small in scale, easy to access by local resident, and will provide social and economic benefits to the community. Therefore, it is considered a planning gain to the general public and the local community.
- (f) There will be 4 vehicular trips per day for light goods vehicles (LGV) to deliver the commodities to the Site. As the Site is located within walking distance to the nearby villages, it is anticipated that the vehicular trips for visitors is less than 10 per hour. Adequate parking, loading/unloading, manoeuvring space including a buffer zone will be provided within the Site, and the traffic flow will be managed by on-site security guard. Castle Peak Road – San Tin is also well served by public transport. Therefore, no adverse traffic impact is anticipated.
- (g) With minimal scale proposed and keeping most of the activities indoor, the proposed development would not cause significant adverse environmental and visual impacts on the surrounding area.
- (h) The Site is served with some existing drainage facilities. Should this application be approved, the applicant will maintain the existing drainage facilities and provide additional facilities to the satisfaction of the Drainage Services Department (DSD). Therefore, no adverse drainage impact is anticipated.
- (i) The applicant has made effort to comply with the approval conditions of the last approved application No.A/YL-ST/488 and has complied with conditions on requirement on provision of boundary fencing, buffer zone, and submission of landscape and tree proposal. The applicant has also submitted FSI and drainage proposals but the submissions were not considered acceptable by the concerned departments. The planning approval was subsequently revoked due to non-compliance of approval conditions. The applicant has submitted drainage and landscape and tree proposals under the current application and has committed to comply with the approval condition should the application be approved.

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

The applicant is not a “current land owner” of the private lots within the Site 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 by registered post. Detailed information would be deposited at the meeting for Members’ inspection. The remaining of the Site is GL, and

the “owner’s consent/notification” requirements are not applicable.

#### **4. Town Planning Board Guidelines**

According to 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), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarised as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

#### **5. Background**

The previous planning approval for proposed temporary shop and services (retail shops, laundry, pharmacy and convenient store) for a period of 3 years under Application No. A/YL-ST/488 was revoked on 26.11.2017. The Central Enforcement and Prosecution Section of the Planning Department is closely monitoring the site condition. Should sufficient evidence be collected, enforcement and/or prosecution actions would be taken on the responsible persons of the use on the Site.

#### **6. Previous Applications**

- 6.1 The Site (in whole or in part) is involved in 16 previous applications (Nos. A/YL-ST/16, 34, 41, 57, 104, 126, 153, 203, 222, 270, 288, 307, 317, 343, 391 and 488) of which 7 were approved by the Committee and remaining 9 rejected (**Plan A-1b**).

##### Approved Applications

- 6.2 6 applications (Nos. A/YL-ST/57, 104, 288, 317, 343 and 391) submitted by different applicants mainly for container trailer/ tractor park/ public vehicle park (excluding container vehicle) were approved by the Committee from 1998 to 2010 for 12 months/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 permission under Application No. A/YL-ST/288 and A/YL-ST/317 were subsequently revoked on 18.2.2006 and 18.7.2007 respectively due to

non-compliance with approval conditions.

- 6.3 The last Application No. A/YL-ST/488 submitted by the same applicant for the same use was approved by the Committee on 26.8.2016 for a period of 3 years mainly on the consideration 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. The application was revoked on 26.11.2017 due to non-compliance with conditions on the submission and implementation of FSIs and drainage proposal and the implementation of landscape and tree preservation proposal.

#### Rejected Applications

- 6.4 9 applications (Nos. A/YL-ST/16, 34, 41, 126, 153, 203, 222, 270 and 307) submitted by different applicants on larger sites mainly for temporary container vehicle/trailer park and vehicle repair workshop/ public car park were all rejected by the Committee/the Board upon review from 1996 to 2006 mainly for the reasons that the proposed development was not in line with the planning intention of the “V” zone and there were programmes for Small House development within the sites; the proposed developments were not compatible with the surrounding uses; and the approval of the applications would set undesirable precedents for similar applications.
- 6.5 Details of these applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1b**.

### 7. Similar Applications

- 7.1 Since 2008, there are 3 similar applications (Nos. A/YL-ST/412, 458 and 505) covering 2 application sites within the same “V” zone on the OZP of which 2 were approved and 1 was rejected by the Committee (**Plan A-1a**).
- 7.2 Applications Nos. A/YL-ST/412 and 458 on the same site for temporary shop and services (real estate agency) use were approved by the Committee on 16.3.2012 and 5.6.2015 respectively for a period of 3 years, mainly on the consideration 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 two planning permissions under Applications Nos. A/YL-ST/412 and 458 were revoked on 21.5.2013 and 5.9.2015 respectively.
- 7.3 Application No. A/YL-ST/505 for temporary shop and services (convenience store and currency exchange shop) use was rejected by the Committee on 14.7.2017 for the reasons that the proposed 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 To the further north of the Site across Tung Wing On Road are two applications

(Nos. A/YL-ST/476 and 480) for similar temporary shop and services use within the “Other Specified Uses” annotated “Service Station” (“OU(SS)”) zone on the OZP (**Plans A-1a and A-2**). Application No. A/YL-ST/476 for proposed temporary cross boundary shopping centre with ancillary car park, eating place, shop and services (fast food shop), office and storage of consumer goods was approved by the Committee on 18.9.2015 for a period of 3 years; application No. A/YL-ST/480 for proposed temporary shop and services (retail shop) use was approved by the Committee on 19.2.2016 for a period of 3 years. Both applications were approved mainly on the consideration that the proposed developments were considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “OU(SS)” zone.

7.5 Details of these applications are summarized at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) accessible from the north off Tung Wing On Road leading to Castle Peak Road – San Tin;
- (b) hard-paved, currently partly used for vehicle park without valid planning permission and the remaining part is vacant; and
- (c) located within the WBA of Deep Bay area.

8.2 The surrounding areas are intermixed with village houses, car parks, storages, shops and restaurants:

- (a) to its north across Tung Wing On Road is a large piece of land which is the subject of two approved applications (Nos. A/YL-ST/476 and 480) for a proposed temporary cross-boundary shopping centre (about 39,722m<sup>2</sup>) which is valid until 18.9.2018 and for a proposed temporary shop and services (retail shop) (about 612 m<sup>2</sup>) which is valid until 19.2.2019 respectively; Application No. A/YL-ST/503 for proposed commercial development (eating place, place of entertainment, shops and services) and minor relaxation of height restriction and excavation of land (on the same site as Application No. 476) will be considered by the Committee at this meeting (**Plan A-1a**)
- (b) to its west are village houses, shop, restaurant, vacant land and temporary car park approved under Application No. A/YL-ST/491;
- (c) to its south are village houses (some are under construction), car parks, vacant land and a temporary public vehicle park approved under Application No. A/YL-ST/479; and

- (d) to its east across Castle Peak Road - San Tin are vacant land and amenity area; and to its southeast is Highways Department maintenance centre.

## **9. Planning Intention**

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

## **10. Comments from Relevant Government Departments**

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

### **Land Administration**

10.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lot held under Block Government Lease under which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) According to their record, there are two Small House applications received which are currently under processing within the Site.
- (c) The private land of Lots Nos. 3048 S.B, 3048 RP, 3049 RP and 3050 RP in D.D. 102 are covered by a Short Term Waiver (STW) No. 4711 to permit structures for the purpose of “Temporary Shop and Services (Retail Shops, Laundry, Pharmacy and Convenient Store)”.
- (d) The Government land (GL) of the Site is covered by a Short Term Tenancy (STT) No. 3136 for the purpose of “Temporary Shop and Services (Retail Shops, Laundry, Pharmacy and Convenient Store)”.
- (e) The Site is accessible to Tung Wing On Road through GL only. His office provides no maintenance works for the GL involved and does not guarantee any right-of-way.



- (f) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (g) Should planning approval be given to the application, the STT/STW holder will need to apply to his office for modification of the STT/STW conditions if there is any irregularity on site. Such application will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

### **Traffic**

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

- (a) He has no objection to the application.
- (b) No vehicle queuing and no reverse movement of vehicles on public road are allowed.

#### 10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed access arrangement of the Site from Tung Wing On Road should be commented by C for T.
- (b) The existing vehicular access connecting the Site and Tung Wing On Road is not and will not be maintained by HyD.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

#### 10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

- (a) He has no comment on the application from railway development viewpoint.
- (b) Part of the Site would fall within the area of influence of the proposed Northern Link (NOL). Although the programme and the alignment of the proposed NOL are still under review, those areas within the railway protection boundary may be required to be vacated at the time for the construction of the proposed NOL. The applicant shall be reminded of the above when planning its land use application.

### **Environment**

#### 10.1.5 Comments of the Director of Environmental Protection (DEP):

The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimize potential environmental impacts on the surrounding area.

### **Nature Conservation**

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

As the Site is hard-paved and disturbed, he has no comment on the application from nature conservation point of view.

### **Fire Safety**

#### 10.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The applicant should also be advised on the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP)

should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).

- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are UBW under the BO and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the site under the BO.
- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (e) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Drainage**

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

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) The drainage proposal attached to the application is considered unacceptable. The applicant should provide full details of the 2 underground pipes and the final discharge outfalls (e.g. cover and invert levels of pipes/outfalls) and justify their use. Should additional drainage works be required, the applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
- (c) After completion of the required drainage works, the applicant shall provide DSD a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan for reference. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (d) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.

- (e) No public sewerage maintained by CE/MN, DSD is currently available for the connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (f) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (g) The applicant should consult DLO/YL regarding all the proposed drainage works outside the site boundary in order to ensure the unobstructed discharge from the Site in future.
- (h) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proper maintenance during occupancy of the Site.

### **Landscaping**

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The Site falls within an area zoned “V”, and was the subject of previous applications (Nos. A/YL-ST/391 and 488) for public vehicle park use/ temporary shop and services use to which he had no objection from the landscape planning perspective. The aforesaid applications were both subsequently approved with conditions. Application No. A/YL-ST/488 was lately revoked on 26.11.2017 and the current application is applying for the same use as application No. A/YL-ST/488 for 3 years with minor change in the reconfiguration of the temporary structures.
- (c) With reference to his site inspection on 21.10.2017, the Site is used as an open storage for vehicles. Existing trees (e.g. Ficus microcarpa 細葉榕) are found along the application site boundary, except the southern and north-western boundary. Adverse landscape impact is not anticipated due to the proposed retail shops. Vehicle parks and village houses are found in the vicinity, and the proposed use is considered not incompatible with the existing landscape character.
- (d) When comparing the submitted landscape and tree preservation proposal with aerial photo, it appears that the location of existing trees indicated on plan do not tally with site conditions.
- (e) Should the application be approved, he would recommend a landscape condition on the submission and implementation of a

landscape and tree preservation proposal to the satisfaction of the Director of Planning or of the Board.

**Others**

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

He has no comment on the application provided that no FEHD facilities will be affected and such work will not cause any environmental hygiene problem to the surrounding area.

10.1.12 Comments of the Commissioner of Police (C of P):

He has no comment in principle subject to no queuing at the Castle Peak Road and Tung Wing On Road.

10.1.13 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the subject application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the subject application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned Site. Applicant should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.
- (b) It is noted that there is high pressure underground town gas transmission pipeline (running along Castle Peak Road) in the vicinity of the Site.
- (c) The project proponent/consultant/works contractor shall therefore liaise with the Hong Kong and China Gas Company Limited in respect of the exact location of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of development.
- (d) The project proponent/consultant/works contractor is required to observe the requirement of the EMSD’s “Code of Practice on Avoiding Danger from Gas Pipes” for reference.

### **District Officer's Comments**

#### 10.1.14 Comments of the District Officer/Yuen Long (DO/YL):

During the public inspection periods, his office has received a total of 5 representations with adverse comments from one Heung Yee Kuk Special Councillor/village representative of Wing Ping Tsuen and four villagers. The same comments were received during publication inspection period (**Appendix IV**).

#### 10.2 The following Government departments have no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);  
and
- (d) Head of the Geotechnical Engineering Office, CEDD (H(GEO), CEDD).

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

On 15.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 5.1.2018, five objecting public comments were received from one Heung Yee Kuk Special Councillor/village representative of Wing Ping Tsuen, and four villagers, mainly on grounds that the proposed use would generate adverse traffic, environmental and hygiene impacts and affect the 'fung shui' of the nearby villages. (**Appendix IV**).

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

12.1 The Site falls within "V" zone which is to reflect the existing recognized 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. The applied use is not entirely in line with the planning intention of the "V" zone. However, it could meet some of the local demand on shop and services use in the vicinity. Although DLO/YL of LandsD comments that there are two Small House applications received/under processing within the Site, the applicant has indicated that he had reached an agreement with these land owners that once the small house applications were approved by LandsD, the applicant would vacate the Site to make way for the implementation of the small house developments. The applicant also submitted consent letters (**Appendix Ie**) from the Small House applicants stating that they support the current application and would not commence small house construction works in the coming three years. 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 According to the applicant, the scale of the proposed shop and services use at the Site is small and would provide local residents a convenient place to support their daily necessities. The surrounding areas are mainly predominated by car parks, village houses (some under construction) and vacant land. To the further north of the Site across Tung Wing On Road are two similar temporary shop and services uses under applications Nos. A/YL-ST/476 and 480 for within the “OU(SS)” zone on the OZP. In view of the scale and nature of the proposed shop and services use to serve the local neighbourhood, the proposed development is considered not incompatible with the surrounding land uses.
- 12.3 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 EcoIA. DAFC has no comment on the application from nature conservation point of view as the Site is hard-paved and disturbed.
- 12.4 The Site is fronting Tung Wing On Road and located within walking distance to the nearby villages. The applicant states that there will be limited vehicular trips per day, and adequate parking, loading/unloading, manoeuvring space including a buffer zone within the Site with the traffic flow managed by on-site security guard. C for T has no objection to the application and advised that no vehicle queuing and reverse movement of vehicles on public road should be allowed. Approval condition on avoiding vehicle queuing and reverse movement of vehicles on public road is recommended in paragraph 13.2 (c) to address C for T’s comments. Other concerned Government departments, including DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD, have no objection to the application on environmental, fire safety, drainage and landscape aspects respectively. Their technical concerns could be addressed by approval conditions as recommended in paragraph 13.2 (e) to (k) below. To mitigate potential environmental impacts on the surrounding areas, approval conditions restricting operation hours on-site, the types of vehicle and requiring provision of boundary fencing are recommended in paragraphs 13.2 (a), (b) and (d) below. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize the possible environmental impacts.
- 12.5 The Site is the subject of 7 previously approved applications including 6 applications (Nos. A/YL-ST/57, 104, 288, 317, 343 and 391) for temporary container trailer/tractor park/public vehicle park use and one application (No. A/YL-ST/488) for same temporary shop and services (retail shops, laundry, pharmacy and convenience store) use at the Site since 1998. The last application No. A/YL-ST/488 submitted by the same applicant for the same use was approved by the Committee on 26.8.2016 for a period of 3 years on consideration 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. The Committee has previously approved two applications for

similar shop and services use within the same “V” zone based on similar considerations. Approval of the current application is in line with the previous decisions of the Committee.

- 12.6 Although the last application No. A/YL-ST/488 was revoked on 26.11.2017 due to non-compliance with approval conditions on the submission and implementation of FSIs proposal and drainage proposal and the implementation of landscape and tree preservation proposals, the applicant has submitted a drainage proposal under the current submission to which CE/MN of DSD has no objection. The applicant has committed to comply with the approval condition should the application be approved. In view that D of FS and CTP/UD&L of PlanD have no objection to or no adverse comment on the application, it is considered that the subject application may be given sympathetic consideration. Shorter compliance periods for closely monitoring of the progress on compliance with the approval conditions are recommended. Should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning mission, sympathetic consideration may not be given to any further application.
- 12.7 There are 5 objecting public comment from one Heung Yee Kuk Special Councillor/village representative, and four villagers, mainly on grounds that the proposed use would generate adverse traffic, environmental and hygienic impact/problems and affect the ‘fung shui’ of the nearby village. Concerned departments including TD and EPD have no adverse comment, and assessment in paragraph 12.1 to 12.4 above is relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12, and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department considers that the temporary shop and services (retail shops, laundry, pharmacy and convenience store) could be tolerated for a period of 3 years.
- 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 up to 26.1.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval Conditions

- (a) no operation between 8:00p.m. and 8:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium/heavy goods vehicles exceeding 5.5 tones as defined in the Road Traffic Ordinance or container trailers/tractors are allowed to enter, park or operate on the Site at any time during the planning approval period;
- (c) no vehicle queuing is allowed back to the public road and no vehicle



reversing into/from the public road is allowed at any time during the planning approval period;

- (d) the provision of boundary fencing on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.4.2018;
- (e) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.4.2018;
- (f) in relation to (e) above, the implementation of 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 26.7.2018;
- (g) the submission of drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.4.2018;
- (h) in relation to (g) above, the implementation 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 26.7.2018;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) the submission of landscape and tree preservation proposal within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.4.2018;
- (k) in relation to (j) above, the implementation of landscape and tree preservation proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.7.2018;
- (l) if any of the above planning condition (a), (b), (c) or (i) 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
- (m) if any of the above planning conditions (d), (e), (f), (g), (h), (j) or (k) 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:

- (a) 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, and
- (b) the applicant fails to demonstrate that the temporary shop and services (retail shops, laundry, pharmacy and convenient store) would not have adverse drainage impact on the surrounding area.

#### **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 8.12.2017   |
| <b>Appendix Ia</b>  | Planning Statement   |
| <b>Appendix Ib</b>  | Letter received on 8.12.2017 clarifying the layout plan  |
| <b>Appendix Ic</b>  | Letter received on 13.12.2017 clarifying the building heights of the structures                          |
| <b>Appendix Id</b>  | FI received on 12.1.2018 providing swept path analysis to address C for T’s comment                      |
| <b>Appendix Ie</b>  | FI received on 18.1.2018 providing revised swept path analysis and consents from Small House Applicants  |
| <b>Appendix II</b>  | Previous applications covering the application site  |
| <b>Appendix III</b> | Similar s.16 applications within “V” and “OU(SS)” zones on the San Tin Outline Zoning Plan No. S/YL-ST/8 |
| <b>Appendix IV</b>  | Public comment received during the publication period  |
| <b>Appendix V</b>   | Recommended Advisory Clauses   |

|                            |  |
|----------------------------|--|
| <b>Drawing A-1</b>         | Layout Plan                              |
| <b>Drawing A-2</b>         | Landscape and tree preservation proposal |
| <b>Plan A-1a</b>           | Location Plan with Similar Applications  |
| <b>Plan A-1b</b>           | Previous Applications                    |
| <b>Plan A-2</b>            | Site Plan                                |
| <b>Plan A-3</b>            | Aerial Photo                             |
| <b>Plans A-4a and A-4b</b> | Site Photos                              |

**PLANNING DEPARTMENT  
JANUARY 2018**