

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/681

<u>Applicants</u>	Messrs. WONG Wong Po Stanley and WONG Pak Sing represented by Ms. YU Tsz Shan
<u>Site</u>	Government land in D.D. 28, Tai Mei Tuk, Tai Po, N.T.
<u>Site Area</u>	About 340m ²
<u>Land Status</u>	Government land
<u>Plan</u>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	“Conservation Area” (“CA”)
<u>Application</u>	Temporary Shop and Services (Selling of Refreshment, Hiring of Fishing related Accessories and Storage) for a Period of Three Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for temporary shop and services (selling of refreshment, hiring of fishing related accessories and storage) for a period of three years. The Site falls within an area zoned “CA” on the approved Ting Kok OZP No. S/NE-TK/19. According to the Notes of the OZP, temporary use not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use is not provided for in terms of the OZP.
- 1.2 The applied use comprises two single-storey structures (2.44m high) converted from containers, with a total floor area of about 45m² (**Drawings A-1 and A-2**). The operation hours are from 7:00 am to 10:00 pm daily. The Site is accessible from Tai Mei Tuk Road.
- 1.3 The Site is involved in two previous planning applications (No. A/NE-TK/174 and 605), submitted by the same applicants of the current application, for the same use and with same development parameters. The last application No. A/NE-TK/605 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 3.3.2017. The planning permission has expired on 4.3.2020. The Site is currently occupied for the applied use without valid planning permission.

1.4 In support of the application, the applicants have submitted the following documents:

- (a) application form and attachments received on **Appendix I** 31.3.2020
- (b) further information received on 17.4.2020 providing **Appendix Ia** the approved fire services installations (FSI) proposal and certificates[^]
- (c) further information received on 12.5.2020 providing **Appendix Ib** minor clarification of the applied use[^]

[^] *accepted and exempted from publication and recounting requirements*

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in Part 9 of the application form and further information at **Appendices I, Ia** and **Ib**. They can be summarized as follows:

- (a) the Site had been granted planning permission for the same use for a period of three years under application No. A/NE-TK/605 which has expired on 3.3.2020;
- (b) the approval conditions related to landscape and tree preservation proposals and FSI proposal have been complied with;
- (c) short term tenancy had been granted by Tai Po District Lands Office for selling of refreshment, hiring of fishing-related accessories and storage with restriction on structures with an area not more than 44.652m² and height not more than 2.44m;
- (d) due to the recent outbreak of coronavirus disease, many shops and restaurants have been closed down and unemployment rate has increased dramatically. In light of the increasing visitors to the countryside, the applicants would like to continue the operation of the applied use in order to promote conservation and environmental protection, and create job opportunities;
- (e) the applied use is to serve visitors to the recreational uses in the vicinity of the Site. Rental of fishing-related accessories is to serve fishing activities in Plover Cove, and is not related to the adjacent fish pond; and
- (f) a fresh application for the applied use, instead of a renewal application of the previous planning approval is submitted because the applicants have missed the deadline for renewal application.

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

As the Site involves Government land only, the “owner’s consent/notification” 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 to this application.

4. Previous Applications

4.1 The Site is the subject of two previous planning applications (No. A/NE-TK/174 and 605), submitted by the same applicants of the current application, for the same use and with the same development parameters. Both applications were approved with conditions by the Committee for a period of three years on 30.4.2004 and 3.3.2017 respectively. The last application No. A/NE-TK/605 was approved mainly on the consideration of being small in scale and causing no adverse environmental, traffic, drainage and fire safety impacts on the surrounding areas. The applicants have complied with all approval conditions including the submission and implementation of landscape and tree preservation proposals and FSI proposal. The planning permission has expired on 4.3.2020.

4.2 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

5. Similar Application

There is no similar application for the applied use within the same “CA” zone.

6. The Site and Its Surrounding Areas (Plans A-1, A-2, photos on Plans A-3 and A-4)

6.1 The Site is :

- (a) hard paved with two trees found at the south-western portion and a 6.6m drainage reserve at the northern portion; and
- (b) located to the east of Tai Mei Tuk Barbecue Area and accessible via Tai Mei Tuk Road.

6.2 The surrounding areas are predominantly rural in character with a fish pond, barbecue area and boat rental stores in the vicinity. Plover Cove Country Park is located to its immediate south and the Plover Cove Reservoir at its further east. A public transport terminus and a public car park are located to the northwest of the Site. Plover Clove is at its further west.

7. Planning Intention

The planning intention of the “CA” zone is to protect and retain the existing natural character or ecological features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest or Country Park from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

8. Comments from Relevant Government Departments

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

Land Administration

8.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the Site consists of a piece of Government land which is covered by a valid Short Term Tenancy (i.e. STT No. 1296) with an area of about 340m² for selling of refreshment, hiring of fishing-related accessories and storage. The Site was granted with a term of 2 years certain commencing from 1.2.2005 and thereafter quarterly. The permitted structures of the STT contain two containers with a total built-over area of not exceeding 44.652m² and a height of not exceeding 2.44m; and
- (c) a recent inspection reveals that an unauthorized metal vehicular gate with an ancillary fencing are found extended beyond the southern side of the Site onto the nearby unallocated Government land. Unauthorized structures were also found within the Site without prior approval from LandsD. Under such circumstances, the applicants are required to rectify such irregularities as soon as possible. Otherwise, appropriate land control action and tenancy enforcement action will be taken by LandsD in due course.

Nature Conservation

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

- the Site is largely hard paved. He has no strong view on the

application from nature conservation point of view provided that the trees on Government land within and in the vicinity of the Site will not be affected.

Environment

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

- (a) no objection to the application;
- (b) there was no complaint record for the Site in the past three years; and
- (c) as the Site is located within “CA” zone on the approved Ting Kok OZP, the applicants are reminded to strictly observe the relevant pollution ordinances such as Water Pollution Control Ordinance and Waste Disposal Ordinance to avoid any pollution during the operation of the applied use.

Landscape

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

- (a) no objection to the application from the landscape planning point of view;
- (b) the Site is situated in an area of miscellaneous rural fringe landscape character comprising transportation facilities, clusters of trees, barbeque site, a pond to the immediate north, and densely vegetated woodland to the immediate south. The Site is paved with no significant sensitive landscape resource observed. Furthermore, no significant change is observed in the development layout compared to that in the previous application;
- (c) in view of the above, significant adverse impact on existing landscape resources arising from the application is not anticipated, and the applied use is considered not entirely incompatible with the landscape character of the surrounding environment;
- (d) since existing trees are found along Tai Mei Tuk Road in close proximity to and within the Site, should the Board approve the application, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent;
- (e) the applicant is advised that approval of the application does

not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO for approval; and

- (f) the applicants should properly maintain all existing trees within the Site at all times during the planning approval period.

Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) the Site is in conflict with the existing 600mm diameter public stormwater drain, and an extent of 3m on each side of this drain pipe measured from its outer edges should be designated as drainage reserve (**Plan A-2**). No structure should be erected on top of any existing drains/manholes within this reserved area. Regarding the application, the two containers should not encroach upon the drainage reserve from drainage maintenance viewpoint; and
- (c) extreme care should be exercised when working in the vicinity of the existing drainage facilities in order not to disturb, interfere with or cause damage to them. Any damage to the existing drainage facilities due to the proposed works shall be made good at the resources and expenses of the applicants to the satisfaction of DSD.

Fire Safety

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

- (a) no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for fire-fighting being provided to the satisfaction of Fire Services Department (FSD);
- (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 FSD for approval. The applicant should also be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and the locations of the proposed FSIs to be installed should be clearly marked on the layout plans; and

- (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

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

- (a) there is no record of approval by the Building Authority for the existing buildings/structures at the Site and the Buildings Department is not in a position to offer comments on their suitability for the applied use; and
- (b) there is no record of submission of the proposed buildings/structures to the Building Authority for approval. For any new proposed buildings, advisory comments under the Buildings Ordinance at **Appendix III** should be noted.

Food and Environmental Hygiene

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

- (i) proper licence / permit issued by Food and Environmental Hygiene Department (FEHD) is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public;
- (ii) the operators of related shop or store should take measures to prevent the existence of nuisance such as noise nuisance, pest nuisance and accumulation of refuse at the Site. The refuse generated by the shop or store are regarded as trade refuse. The management or owner of the Site is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity; and
- (iii) detailed advisory comments are at **Appendix III**.

8.2 The following Government departments have no objection to/comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Director of Leisure and Cultural Services;

- (d) Commissioner for Transport;
- (e) Commissioner of Police;
- (f) Director of Electrical and Mechanical Services;
- (g) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (h) Project Manager (North), Civil Engineering and Development Department; and
- (i) District Officer/Tai Po, Home Affairs Department.

9. Public Comment Received During Statutory Publication Period

On 7.4.2020, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

10. Planning Considerations and Assessments

- 10.1 The application is for temporary shop and services (selling of refreshment, hiring of fishing related accessories and storage) for a period of three years at the Site which falls within an area zoned “CA” on the approved Ting Kok OZP No. S/NE-TK/19 (**Plan A-1**). The “CA” zone is intended to protect and retain the existing natural character or ecological features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest or Country Park from the adverse effects of development. There is a general presumption against development in this zone. The applied use is not in line with the planning intention of the “CA” zone. However, it is only on a temporary basis for a period of three years with a total floor area of about 45m². The Site is hard paved and DAFC has no strong view on the application from the nature conservation point of view. It is considered that the applied use would not frustrate the long-term planning intention of the “CA” zone.
- 10.2 The Site is located to the east of Ting Kok Barbecue Area and accessible via Tai Mei Tuk Road. The surrounding areas are predominantly rural in character with a fish pond, barbecue area, boat rental stores, public transport terminus and a public car park in the vicinity. Plover Cove Country Park is located to its immediate south, the Plover Cove Reservoir at its further east, and Plover Cove is at its further west (**Plan A-1**). The applied use could support the recreational facilities nearby and is considered not incompatible with the surrounding uses and the landscape character of the surrounding environment. CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view as significant adverse impact on existing landscape resources is not anticipated. Should the application be approved, it is recommended to impose an approval condition requiring the applicants to maintain all existing trees within the Site at all times during the planning approval period.
- 10.3 CE/MN, DSD has no in-principle objection to the application and advises that a 6.6m drainage reserve prohibiting structure erected thereon should be maintained to protect a public stormwater drain within the Site (**Plan A-2**).

The applied use would unlikely generate adverse impacts on the environmental, traffic, drainage, sewage disposal and fire safety aspects. All concerned Government departments including DLO/TP of LandsD, C for T, DEP, CE/C of WSD, DLCS, DO/TP of HAD, DFEH, CBS/NTW of BD, DEMS and D of FS have no objection to or adverse comment on the application.

- 10.4 The Site is the subject of two previous applications No. A/NE-TK/174 and 605, submitted by the same applicants of the current application, for the same temporary use and with the same development parameters. Both applications were approved with conditions by the Committee for a period of three years on 30.4.2004 and 3.3.2017 respectively. The last application No. A/NE-TK/605 was approved mainly on the consideration of being small in scale and causing no adverse environmental, traffic, drainage and fire safety impacts on the surrounding areas. The applicants have complied with all approval conditions including submission and implementation of landscape and tree preservation proposals and FSI proposal. The planning permission has expired on 4.3.2020. There is no change in planning circumstances since the approval of the last application.
- 10.5 No public comment on the application was received.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10, the Planning Department considers that the applied use could be tolerated for a temporary period of 3 years.
- 11.2 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 29.5.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no night time operation between 10:00 pm to 7:00 am, as proposed by the applicants, is permitted within the Site;
- (b) no structure should be erected on the drainage reserve area at all times during the planning approval period;
- (c) maintain all existing trees within the Site at all times during the planning approval period;
- (d) the submission of fire service installations and water supplies for fire fighting 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 29.11.2020;
- (e) in relation to (e) above, provision of fire service installations and water

supplies for fire fighting 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 28.2.2021;

- (f) if any of the above planning conditions (a), (b) or (c) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if any of the above planning conditions (d) or (e) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (h) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' consideration:

- the proposed development is not in line with the planning intention of the "Conservation Area" zone which is intended to protect and retain the existing natural character or ecological features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest or Country Park from the adverse effects of development. There is a general presumption against development in this zone.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

13. Attachments

Appendix I	Application form and attachments received on 31.3.2020
Appendix Ia	Further information received on 17.4.2020
Appendix Ib	Further information received on 12.5.2020

Appendix II	Previous applications
Appendix III	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	Internal layout of the Site submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT
MAY 2020**