

**REVIEW OF APPLICATION NO. A/NE-TKLN/6**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Temporary Retail Shop, Canteen and Ancillary Office for a Period of 3 Years  
in “Recreation” and “Green Belt” Zones  
Lot 387 S.B RP (Part) in D.D. 78, Tsung Yuen Ha,  
Ta Kwu Ling, New Territories**

**1. Background**

- 1.1 On 27.2.2017, the applicant, Mr. WONG Cheung Hon, sought planning permission for temporary retail shop, canteen and ancillary office for a period of 3 years at the application site (the Site) under s.16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area zoned “Recreation” (“REC”) (231.8m<sup>2</sup> and 85.7% of the Site) and “Green Belt” (“GB”) (38.7m<sup>2</sup> and 14.3% of the Site) on the approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2 (**Plan R-1**).
- 1.2 On 28.7.2017, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
- “(a) the development is not in line with the planning intention of the “Recreation” zone which is primarily for low-density recreational developments for the use of the general public and encourages the development of active and/or passive recreation and tourism/eco-tourism. It is also not in line with the planning intention of “Green Belt” zone which is primarily for defining the limits of urban and sub-urban development areas as well as to provide passive recreational outlets and there is a general presumption against development within this zone. There is no strong planning justification provided in the submission to justify a departure from the planning intentions, even on a temporary basis; and
- (b) the applicant fails to demonstrate in the submission that the development would have no adverse traffic impact on the surrounding areas.”
- 1.3 For Members’ reference, the following documents are attached:
- |   |                  |
|---|------------------|
| (a) RNTPC Paper No. A/NE-TKLN/6                               | <b>(Annex A)</b> |
| (b) Extract of minutes of the RNTPC meeting held on 28.7.2017 | <b>(Annex B)</b> |
| (c) Secretary of Town Planning Board’s letter dated 11.8.2017 | <b>(Annex C)</b> |

**2. Application for Review**

- 2.1 On 30.8.2017, the applicant applied, under section 17(1) of the Ordinance, for a review of the RNTPC’s decision to reject the application. In support of the review, the applicant submitted the following documents:

- (a) Written representation received on 30.8.2017 (Annex D)
- (b) Further information (FI) received on 15.1.2018 providing a traffic impact assessment (Annex E)

2.2 The review application was originally scheduled for consideration by the Board on 17.11.2017. At the request of the applicant, the Board on 17.11.2017 agreed to defer a decision on the review application. Upon receipt of the FI by the applicant on 15.1.2018, the review application is rescheduled for consideration by the Board at this meeting on 13.4.2018.

### **3. Justifications from the Applicant**

The justifications put forth by the applicant in support of the review application are detailed in the applicant's written representation and FI at **Annexes D** and **E**. They are summarized as follows:

#### Compatibility of Land Uses within "GB" zone

- (a) There is only a minor portion (i.e. less than 10%) of the Site falling within "GB" zone of the OZP. Since the commencement of the construction of the Liantang/ Heung Yuen Wai Boundary Control Point (LT/HYW BCP) to the west of the Site, there have been significant changes to the surrounding area. The Site is now surrounded by Sham Chun River in the north, widened Lin Ma Hang Road in the south and fallow agricultural land in the east which is zoned "REC" on the OZP. In view of this, this minor portion of land in "GB" zone is not incompatible with the existing land uses in the area, notwithstanding that the land maybe rezoned in future after the commissioning of the LT/HYW BCP. As such, the applicant considered that his application should not be rejected on the ground that the proposed development is not in line with the planning intention of the "GB" zone;
- (b) As mentioned in Part 9 of the application form of the planning application, a large piece of land adjacent to LT/HYW BCP has potential for other long-term development use as mentioned in the "Land Use Planning for the Closed Area – Stage 2 Community Engagement Report" issued by the Government in July 2010. The issue was not brought up at the RNTPC meeting for Members' attention and discussion. If planning permission is granted by the Board, change of land use for the area is feasible;

#### Unreasonable Requirement for Traffic Impact Assessment

- (c) The request from Transport Department (TD) for a Traffic Impact Assessment (TIA) upon Sha Tau Kok Road and road network of Sheung Shui/ Fanling district to support the application is unreasonable. It had been reiterated in the previous submission that the development is mainly to serve the staff and workers from the nearby LT/HYW BCP construction site which is within walking distance. The development would unlikely to have any traffic impact on the surrounding area;
- (d) Despite of the above, a TIA was prepared and submitted for the review application. The findings of the TIA indicate that the road network in the vicinity of the Site would be able to cope with the traffic generated by the development and would not cause any adverse impact from traffic perspective; and

#### Similar Application in the Vicinity

- (e) There is one similar application for temporary canteen and ancillary office to the west of the Site. Submission of TIA was not required at that time and it was approved by the RNTPC in 2016. It is unfair to impose a requirement on submission of a TIA under current application.

#### **4. The Section 16 Application**

The Sites and its Surrounding Area (**Plans R-1, R-2**, aerial photo on **Plan R-3** and site photos on **Plan R-4**))

- 4.1 The situations of the Site and its surrounding areas at the time of the consideration of the s.16 application by the RNTPC were described in paragraphs 8.1 and 8.2 of **Annex A**. There has not been any major change in planning circumstances of the area since then (**Plan R-2**).

- 4.2 The Site is:

- (a) formed, occupied by a structure and being used as canteen and retail shop; and
- (b) accessible from Lin Ma Hang Road to its south.

- 4.3 The surrounding area has the following characteristics:

- (a) the Site is mainly surrounded by the works areas / construction sites of a number of major government projects (**Plan R-2**);
- (b) to the west of the Site is a temporary structure used as canteen and office purpose, and the works area for the LT/HYW BCP which is scheduled for completion in end 2018;
- (c) to the immediate north is the works site for the LT/HYW BCP; and
- (d) to the east are an open area used for parking of vehicles and fallow agricultural land whereas to the south is the Lin Ma Hang Road across which are some vacant land, car parks and site office, an open storage of construction materials and the Tsung Yuen Ha Village.

#### **4.4 Planning Intentions**

- 4.4.1 The planning intention of the “REC” zone in the Ta Kwu Ling North area is primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission.

- 4.4.2 The planning intention of the “GB” zone in the Ta Kwu Ling North area is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive

recreational outlets. There is a general presumption against development within this zone.

#### Town Planning Board Guidelines

- 4.5 The Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for 'Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance' is relevant to this application. The relevant assessment criteria are summarized at paragraph 5 of **Annex A**.

#### Background

- 4.6 According to the Chief Town Planner/ Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is subject to planning enforcement action against unauthorized use for eating place and use for service provision (Case No. E/NE-TKLN/5). Enforcement Notice (EN) was issued on 22.9.2017 and expired on 22.12.2017. The case is being monitored according to established procedures.

#### Previous Application

- 4.7 The Site is not involved in any previous planning application.

#### Similar Application

- 4.8 There was only one similar application for temporary canteen and ancillary office at the time of the consideration of the s.16 application. Details of the application are summarized at Appendix II of **Annex A** and its location is shown on **Plans R-1** and **R-2**. There is no additional similar application since then.
- 4.9 The similar application (No. A/NE-TKLN/4) for temporary canteen and ancillary office for a period of three years within same "GB" zone in the vicinity of the Site (**Plans R-1** and **R-2**) was approved with condition by the RNTPC on 4.9.2016 on the grounds that the development could provide catering services to meet the needs of the construction workers; the development was not incompatible with the surrounding environment; the development was not expected to generate significant adverse water quality, traffic and landscape impacts on the surrounding areas; and there was no adverse departmental comments.

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

- 5.1 Comments on the s.16 applications made by relevant Government departments are stated in paragraph 10 of **Annex A**.
- 5.2 For the review application, the relevant Government departments have been further consulted and their views on the review application are summarized as follows:

#### **Traffic**

- 5.2.1 Comments of the Commissioner for Transport (C for T):

- (a) based on the further information provided by the applicant that there will be only two goods vehicle trips per week for goods delivery and in view of the current traffic condition at Ping Che Road and Sha Tau Kok Road, he considers the application can be tolerated from the traffic engineering point of view;
- (b) the applicant should be advised that on-street loading/ unloading activities are allowed between 10:00 to 16:00 only and the duration should be less than 10 minutes; and goods vehicles trips per week for goods delivery should not exceed two.

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

##### **5.2.2 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):**

he has further consulted the locals. The incumbent North District Council (NDC) member of the subject constituency, the Indigenous Inhabitant Representatives (IIR) of Tsung Yuen Ha and the Resident Representative (RR) of Heung Yuen Wai supported the application as there was no retail shop nearby and the development under application could solve the catering needs of the villagers and workers of the LT/HYW BCP.

- 5.3 The following Government departments have no further comments on the review application and maintain their previous views on the s.16 application as stated in paragraph 10.1 of **Annex A** which are recapitulated below:

#### **Land Administration**

##### **5.3.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):**

- (a) the Site comprises a private lot which is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access;
- (b) the actual occupation area is larger than the Site. Portion of the adjoining Government land is being illegally occupied by the applicant. Moreover, there are unauthorised structures erected on Lot No. 387 S.B RP in D.D. 78 and the adjoining Government land without prior approval from his office. It is also noted that the total built-over area of the aforesaid structure is larger than that mentioned in the planning application. The structures are not acceptable under the Lease concerned. His office reserves the right to take necessary lease enforcement and land control actions against the irregularities and the illegal occupation of Government land; and
- (c) if the planning application is approved, the owner(s) of the lot concerned shall apply to his office for a Short Term Waiver (STW) for the Site. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be

approved. If the STW is approved, the commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

### **Highway**

#### 5.3.2 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

the Site would be affected by the preliminary design scheme of PWP Item No. 854TH “Widening of Eastern Section of Lin Ma Hang Road between Tsung Yuen Ha and Lin Ma Hang”. However, the commencement date can only be determined upon completion of the environmental impact assessment and relevant statutory procedure. Since the development under application is on a temporary basis for a period of three years up, he considers that the impact on the programme for the road widening project is not significant. In this connection, he has no adverse comment on the application from project perspective.

### **Environment**

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

- (a) the application is for the development of a temporary retail shop and canteen with ancillary office. Wastewater generated from the kitchen, toilet or other processes within the premises might be discharged into the nearby waterbodies and cause serious water quality impact if it is not properly treated and disposed of;
- (b) the applicant stated in the further information (**Appendix Ib of Annex A**) that the septic tank and soakaway system were built in accordance with the standards for village type houses. However, he considers that the capacity of the system might not suit the purpose of the subject uses;
- (c) the further information (**Appendix Ib of Annex A**) submitted has not fully addressed his concern on the potential water quality impact caused by the temporary canteen, including the nature and amount of wastewater to be generated from the proposed development, detailed design of the septic tank and soakaway system, and detailed information on the method of treatment and disposal of the wastewater generated from the kitchen of the temporary canteen are not included;
- (d) that said, he would not object to the application on a temporary basis provided that an approval condition requiring the submission and implementation of the design of septic tank and soakaway system and/or other wastewater treatment facilities for the temporary canteen is included; and
- (e) there was no record of environmental complaint for the Site for the past three years.

### **Landscape Aspect**

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

- (a) she has no objection to the application from the landscape planning point of view;
- (b) according to the latest aerial photo of 2015, the Site was situated in an area of disturbed rural landscape character which was dominated by the works area for LT/HYW BCP and widening of Lin Ma Hang Road while the remaining areas are mostly natural and fallow farmland. Only few scattered village clusters are in this area. These massive works areas have currently transformed the area from rural landscape character to a disturbed/on-going development landscape which will be subsequently converted into a built-up area of institutional landscape character. Thus the proposed development is not entirely incompatible with the current surrounding environment;
- (c) her recent site visit revealed that the Site is currently hard paved and is occupied by temporary structures and being in use as temporary retail shop and canteen. A permitted temporary use as canteen is located at its west. Significant adverse impact on landscape resource arising from the proposed development is not anticipated; and
- (d) should the Board decide to approve the application, the approval condition on landscape works is not practicable and therefore not recommended in the permission.

### **Drainage**

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

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

### **Building Matters**

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

- (a) there is no record of approval by the Building Authority for the buildings/structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application;

- (b) if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
- (c) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent from 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 BO;
- (d) 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;
- (e) if the proposed use under application is subject to the issue of a license, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
- (f) in connection with (c) above, the Site should be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 5 and 41D of the Building (Planning) Regulations (B(P)Rs); and
- (g) if the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under B(P)Rs 19(3) at the building plan submission stage.

### **Nature Conservation**

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

as the Site is disturbed and paved, she has no comment on the application from the nature conservation point of view.

### **Fire Safety**

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

- (a) he has no in-principle objection to the application subject to fire service installations and water supplies for fire-fighting being provided to the satisfaction of his department;



- (b) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by the BD; and
- (c) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

### **Project Interface**

5.3.9 Comments of the Project Manager (New Territories East), Civil Engineering and Development Department (PM(NTE), CEDD):

- (a) he has no comment on the application from project interface point of view; and
- (b) the LT/HYW BCP project including the widening of part of the Lin Ma Hang Road, is scheduled for completion by end 2018.

### **Food and Environmental Hygiene**

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

- (a) he has no objection to the application provided that relevant food licence/restricted food permit would be obtained if food business is involved;
- (b) according to his office record, no food licence/permit has been granted to the Site;
- (c) if food business is involved, the operation of any eating place should be under a food licence issued by the Food and Environmental Hygiene Department (FEHD). If the operator intends to operate a restaurant business in the territory, a general restaurant/light refreshment restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132); and
- (d) the operation of the temporary canteen must not cause any environmental nuisance to the surroundings.

5.4 The following Government departments have no further comment on the review application and maintain their previous views of having no comment on the s.16 application as below:

- (a) Commissioner of Police (C of P); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

## **6. Public Comments on the Review Application Received During Statutory Publication Periods**

6.1 The review application and subsequent further information submitted by the applicant were published for public inspection on 8.9.2017 and 26.1.2018 respectively. During

the first three weeks of the statutory public inspection periods, a total of five public comments were received (**Annexes F-1 to F-5**). Two comments submitted by the Chairman of Sheung Shui District Rural Committee indicated no comment on the application (**Annexes F-1 to F-2**). The remaining comments from World Wide Fund for Nature Hong Kong and an individual raise objection to/ concerns on the application with reasons including it is a “develop first, apply later” case as the Site was business as usual prior to the Board’s approval; there is no strong planning justification in the submission to justify a departure from the planning intention even on a temporary basis; and possible adverse impacts to the surrounding areas, etc. (**Annex F-3 to F-5**)

- 6.2 The public comments received at the s.16 application stage are set out in paragraph 11 of **Annex A**.

## **7. Planning Considerations and Assessments**

- 7.1 The applicant sought planning permission for temporary retail shop, canteen and ancillary office for a period of 3 years at the Site. The application was rejected by the RNTPC on 28.7.2017 on the grounds that the development is not in line with the planning intention of both the “REC” and “GB” zones and the applicant fails to demonstrate in the submission that the development would have no adverse traffic impact on the surrounding areas.
- 7.2 To support the review application, the applicant has provided justifications stating that the development is not incompatible with existing land uses in the area, including the LT/HYW BCP to its west. The development is mainly to serve the staff and workers from the nearby LT/HYW BCP construction site which is within walking distance. To address TD’s concerns on the traffic impact arising from the development, the applicant has submitted a TIA and submits that there will be only two goods vehicle trips per week for goods delivery.
- 7.3 About 85.7% of the Site falls within the “REC” zone with the remaining portion encroached onto the adjoining “GB” zone. The applied use is not in line with the planning intention of the “REC” zone which is primarily for low-density recreational developments for the use of the general public and encourages the development of active and/or passive recreation and tourism/eco-tourism. It is also not in line with the planning intention of “GB” zone which is primarily for defining the limits of urban and sub-urban development areas as well as to provide passive recreational outlets and there is a general presumption against development within this zone. Nevertheless, given that the application is mainly to serve the staff and workers from the nearby LT/HYW BCP construction site, it is temporary in nature and small in scale, it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “REC” and “GB” zones.
- 7.4 The Site is located adjacent to Lin Ma Hang Road in the south and surrounded by the works areas of various government projects (**Plans R-2 and R-3**). The development is not incompatible with the surrounding environment and significant adverse impact on the landscape resource arising from the development is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from the landscape

planning perspective. As the Site has already been formed and paved, DAFC also has no adverse comment on the application.

- 7.5 The development is mainly to serve the staff and workers from the nearby LT/HYW BCP construction site which is within walking distance. Based on the further information provided by the applicant, there will be only two goods vehicle trips per week for goods delivery. Upon reviewing the TIA submitted by the applicant and taking into account that the proposed temporary use is only for three years, C for T considers that the application can be tolerated from the traffic engineering point of view. Regarding the progress of the construction, PM(NTE), CEDD confirmed that the LT/HYW BCP project is scheduled for completion by end 2018. He has no comment on the application from project interface point of view. According to CHE/NTE, HyD, the Site would be affected by the “Widening of Eastern Section of Lin Ma Hang Road between Tsung Yuen Ha and Lin Ma Hang”. However, the commencement date of the project is yet to be fixed and the development under application is on a temporary basis up to mid-2021, he considers that the impact on the programme for the road widening project is not significant. As such, he has no adverse comment on the application from project perspective. DEP has no objection to the use under application on a temporary basis provided that approval condition on the submission and implementation of the design of septic tank and soakaway system and/or other wastewater treatment facilities for the temporary canteen is included. Other relevant Government departments consulted, including D of FS, CE/C of WSD and CE/MN of DSD, have no adverse comment on or no objection to the application.
- 7.6 In formulating the land use plan for the Frontier Closed Area, the findings of the Planning Study on LT/HYW BCP and its Associated Connecting Road in Hong Kong completed in 2008 had been taken into account. The current land use zonings adjoining the LT/HYW BCP, including the “REC” and “GB” zonings for the Site, have reflected the prevailing planning intention for the area.
- 7.7 Regarding the different treatment on the requirement of TIA for a similar application to the west of the Site, it should be noted that application (No. A/NE-TKLN/4) for temporary canteen and ancillary office for a period of three years (**Plans R-1 and R-2**) was approved on 4.9.2016 (**Appendix II of Annex A**) on the grounds, amongst others, that the development was not expected to generate significant adverse water quality, traffic and landscape impacts on the surrounding areas; and there was no adverse departmental comments including TD. For the current application, in view of the recent worsening traffic situation in the area, TD requested the applicant to submit a TIA to demonstrate the development would not cause adverse traffic impact on the surrounding area. The planning circumstance of the subject application is different from the similar approved application.
- 7.8 Regarding the adverse public comments received during statutory public consultation periods mainly on the grounds that as there is no material change from the TIA submission to provide justification for departure from the planning intentions of “REC” and “GB” zones and the applicant did not obtain planning approval before his business operation. In this regard, relevant Government departments’ comments and planning assessment above are relevant.

## 8. **Planning Department's Views**

- 8.1 Based on the assessment made in paragraph 7, having taken into account the public comments mentioned in paragraph 6 and given that the written justifications and further information submitted by the applicant in support of the application, the Planning Department considers that the temporary retail shop, canteen and ancillary office could be tolerated for a period of 3 years.
- 8.2 Should the Board decide to approve the application, the permission shall be valid on a temporary basis for a period of 3 years until **13.4.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### **Approval Conditions**

- (a) no operation between 5:00 p.m. and 8:00 a.m. on weekdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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 **13.10.2018**;
- (d) in relation to (c) above, the provision of drainage facilities 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 **13.1.2019**;
- (e) the submission of proposals for fire service installations and water supplies for fire-fighting 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 **13.10.2018**;
- (f) in relation to (e) above, the implementation of proposals for fire service installations and water supplies for fire-fighting and 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 **13.1.2019**;
- (g) the submission of the design of septic tank and soakaway system and/or other wastewater treatment facilities within 6 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by **13.10.2018**;
- (h) in relation to (g) above, the provision of septic tank and soakaway system and/or other wastewater treatment facilities within 9 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by **13.1.2019**;
- (i) if any of the above planning conditions (a) or (b) 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;

- (j) if any of the above planning conditions (c), (d), (e), (f), (g) or (h) 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; and
- (k) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

8.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

the development is not in line with the planning intention of the "REC" which is primarily for low-density recreational developments for the use of the general public and encourages the development of active and/or passive recreation and tourism/eco-tourism. It is also not in line with the planning intention of "GB" zone which is primarily for defining the limits of urban and sub-urban development areas as well as to provide passive recreational outlets and there is a general presumption against development within this zone. There is no strong planning justification provided in the submission to justify a departure from the planning intentions, even on a temporary basis.

#### Advisory Clauses

8.4 The recommended advisory clauses are attached at **Annex G**.

### **9. Decision Sought**

- 9.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to approve the review application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 9.3 Alternatively, should the Board decide to reject the review application, Members are invited to advise what reasons for rejection should be given to the applicant.

### **10. Attachments**

<b>Plan R-1</b>	Location Plan
<b>Plan R-2</b>	Site Plan
<b>Plan R-3</b>	Aerial Photo
<b>Plans R-4a and R-4b</b>	Site Photos
<b>Annex A</b>	RNTPC Paper No. A/NE-TKLN/6
<b>Annex B</b>	Extract of Minutes of the RNTPC Meeting held on 28.7.2017
<b>Annex C</b>	Secretary of the Town Planning Board's Letters dated 11.8.2017
<b>Annex D</b>	Written Representations dated 30.8.2017 from the Applicant applying for a Review of the RNTPC's Decision
<b>Annex E</b>	Further Information received on 15.1.2018

**Annexes F-1 to F-5**  
**Annex G**

Public Comments  
Recommended Advisory Clauses

**PLANNING DEPARTMENT**  
**APRIL 2018**