

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/101

- Applicant** : Mr. WONG Hon Sun represented by Lanbase Surveyors Limited
- Site** : Lots 410 S.B ss.2 and 410 S.B RP in D.D. 78, Tsung Yuen Ha, Ta Kwu Ling North, New Territories
- Site Area** : About 465m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Temporary Shop and Services and Associated Filling of Land for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services and associated filling of land for a period of three years at the application site (the Site) falling within an area zoned “GB” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years and filling of land within the “GB” zone require planning permission from the Town Planning Board (the Board). The Site is currently occupied by some temporary structures and hard-paved.
- 1.2 The Site is accessible via Lin Ma Hang Road (**Plan A-2**). According to the applicant, the proposed use comprises two two-storey converted container structures (building height of 6m) for a florist shop which will be connected by a covered walkway with staircase on the first floor, and a single-storey shelter (building height of 2.5m) for God’s throne, with a total floor area of about 234.6m². A plant nursery of about 68m² will be provided for nursery and landscape planting, including flowers. One parking space cum loading/unloading space for private car will be provided. One car waiting space for vehicle manoeuvring will also be provided within the Site to avoid queuing on public road. Sensor alarm and indication light will be provided at the entrance of the Site to ensure pedestrian safety. The applicant also applies for regularisation of filling of land with concrete (about 0.2m in depth) for the entire site for site formation. The operation hours are between 8:00 a.m. and 8:00 p.m. daily, including public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 The Site is the subject of two previous applications (No. A/NE-TKLN/4 and 22) for temporary canteen and ancillary office for a period of three years, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2016 and 2019 respectively. Details of the previous applications are set out in paragraph 6 below.
- 1.4 In support of the application, the applicant has submitted the following documents.
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|---|---------------|
| (a) Application Form with attachment received on 9.6.2025 | (Appendix I) |
| (b) Further Information (FI) received on 7.7.2025* | (Appendix Ia) |
| (c) FI received on 14.7.2025* | (Appendix Ib) |
| (d) FI received on 16.7.2025* | (Appendix Ic) |
- * accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendix I to Ic**, as summarised below:

- (a) the proposed use for a florist shop will provide outlet of the plant nursery on site to serve the local community. It will make efficient use of the vacant land to support local needs;
- (b) approval of the proposed use on a temporary basis will not prejudice the future long-term planning of the area and does not contravene the long-term planning intention of the “GB” zone. It is noted that Food and Environmental Hygiene Department (FEHD)’s proposed Heung Yuen Wai Food Control Facilities (HYW FCF) covers the Site. The land reversion and site clearance are expected to commence around late 2026. There is still more than one year before the land resumption. The applicant will clear and vacate the Site when it is necessary to be resumed and the applicant will coordinate with the relevant government departments for the concerned issue when necessary. The applicant is also willing to accept a shorter planning approval period for the application if appropriate;
- (c) there is a similar planning application No. A/NE-TKLN/87 approved on 20.9.2024 for proposed temporary retail shop, canteen and ancillary office falling within “Recreation” (“REC”) and “GB” zones next to the Site;
- (d) the proposed use is compatible with the surrounding land uses which include temporary retail shops, site office and public vehicle parks;
- (e) no heavy traffic flow would be generated and the main customers can reach the Site by walking. In view of the small-scale of the Site, adverse traffic and environmental impacts caused by the proposed use are not anticipated. The applicant will also provide proper drainage facilities at the Site; and
- (f) the Site has been filled and no further land filling will be carried out on site. The existing trees will not be affected. The existing structures at the Site are vacant and they would be demolished upon obtaining planning permission. The lot owners will make a Short Term Waiver (STW) application for the proposed structures on the Site upon obtaining planning permission.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the 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. 31B) by sending notice to Ta Kwu Ling District Rural Committee by registered mail and publishing newspaper notice. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) is relevant to the application. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

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

6. Previous Applications

6.1 The Site is the subject of two previous applications (No. A/NE-TKLN/4 and 22) for temporary canteen and ancillary office submitted by a different applicant, which were approved with conditions by the Committee on 14.9.2016 and 6.9.2019 respectively for a period of three years. Since these applications were of different uses, their planning considerations are not relevant to the current application.

6.2 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. Similar Applications

7.1 There were two similar applications (No. A/NE-TKLN/39 and 87) involving one site for proposed temporary retail shop, canteen and ancillary office straddling the same “GB” and the adjoining “REC” zones in the vicinity of the Site in the past five years. Both applications were approved with conditions by the Committee on 28.5.2021 and 20.9.2024 respectively mainly on the considerations that the proposed uses were not incompatible with the surrounding areas and no adverse departmental comments were received.

7.2 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) fenced-off, currently occupied by some temporary structures and hard-paved; and

(b) accessible via Lin Ma Hang Road.

- 8.2 The surrounding areas are of rural character mainly comprising public vehicle parks, shop and services, site office and vacant land. HYW BCP is located to the west of the Site, and the village cluster of Tsung Yuen Ha is located to the further southeast of the Site.

9. Planning Intention

- 9.1 The planning intention of the “GB” zone 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.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land within the “GB” zone may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices V** and **VI** respectively.
- 10.2 The following government departments object to the application:

Project Interface

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

- (a) he objects to the application beyond the land reversion and site clearance date for the development of HYW FCF;
- (b) according to the Development Proposals of the New Territories North (NTN) New Town as announced in December 2024, and the proposed location of HYW FCF as announced in February 2025, the Site for the proposed use is within the Priority Development Area (PDA) of NTN New Town and would overlap with FCF location. If this planning application is approved, the Site would have to be vacated for the site formation/construction works relating to the PDA of NTN New Town and FCF. His department does not agree with the proposed use under this application beyond the land reversion and site clearance date for the above site formation/construction works;
- (c) the applicant should take into account the potential impact of NTN New Town development, including the relocation of FCF to HYW. It should also be noted that FCF falls within the PDA of NTN New Town. The proposed FCF relocation exercise will involve diversion of a section of Lin Ma Hang Road, site formation and construction of FCF. Subject to the finalisation of the project boundary, the aforesaid works cover an

area of about 5ha, of which about 3ha of private land will be acquired. North District Council (NDC) was consulted for the relocation project at the meeting on 18.2.2025. To take forward the FCF relocation exercise, his department targets to submit a section 16 planning application under the Town Planning Ordinance (TPO) (Cap. 131) in the second half of 2025. The statutory procedures for land resumption are planned to commence after obtaining the Board's permission. Subject to such procedures, land reversion and site clearance are expected to commence around late 2026. In general, ex-gratia land compensation may be offered to the owners of private land in the New Territories being affected by land resumption. For business undertakings affected by land resumption/clearance exercises, ex-gratia allowances may be offered to eligible business undertakings operating for at least two years immediately preceding the Pre-clearance Survey (PCS) and not in breach of the lease or conditions of relevant land instruments; and

- (d) his advisory comments are at **Appendix VI**.

Land Administration

10.2.2 Comments of the District Land Officer/North, LandsD (DLO/N, LandsD):

- (a) he objects to the application;
- (b) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. The proposed ingress/egress of the Site is required to pass through Government Land (GL) but no right of access via GL is granted to the Site;
- (c) the following irregularity covered by the subject planning application has been detected by his office:

unauthorised structures within the said private lots covered by the planning application

LandsD has reservation on the planning application since there are unauthorised structures on the private lots which are already subject to lease enforcement actions according to case priority. The lot owners should rectify/regularise the lease breaches as demanded by LandsD;

- (d) if the planning application is approved, the lot owners shall apply to his office for Short Term Waiver (STW) to permit the structures erected/to be erected within the said private lots. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be on whole lot basis and subject to such terms and conditions including the payment of back-dated waiver fee from the first date the unauthorised structures and administrative fee as considered appropriate by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owners for any breach of the lease

conditions, including the breaches already in existence or to be detected at any point of time in future. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered;

- (e) unless and until the unauthorised structures are duly rectified by the lot owners, his office objects to the application which must be brought to the attention of the Board when they consider the application; and
- (f) his advisory comments are at **Appendix VI**.

11. Public Comments Received During Statutory Publication Period

On 17.6.2025, the application was published for public inspection. During the statutory public inspection period, three comments were received (**Appendix VII**). One comment from an individual objects to the application mainly on the grounds that there is no justification for development in “GB” zone and the Site should be restored; and enforcement action should be taken as there is no current approval. One comment from an individual raises concerns that the Site is located within the boundary of the proposed FCF and may have land resumption implication; there are many vehicle parks along Lin Ma Hang Road, some of which are unauthorized developments or covered by planning approvals without full compliance with relevant requirements, affecting the business of other legal vehicle parks and causing adverse traffic impact; and no posting of site notice for the subject application. The remaining comment from a member of NDC indicates no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services and associated filling of land for a period of three years at the Site zoned “GB” on the OZP. The proposed use is not in line with the planning intention of the “GB” zone which 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 the “GB” zone. Nevertheless, according to the applicant, the proposed use will provide outlet of plant nursery on site to serve the local community. Given the small scale of the proposed use and taking into account the planning assessments below, there is no objection to the proposed use and associated filling of land on a temporary basis of three years.
- 12.2 The application involves regularisation of filling of land with concrete of about 0.2m in depth at the entire Site for site formation. Filling of land within the “GB” zone requires planning permission from the Board as it may cause adverse drainage on the adjacent areas and adverse impacts on the natural environment. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to/no comment on the application from public drainage and environmental perspectives respectively. Considering that the Site is paved, the Director of Agriculture, Fisheries and Conservation has no comment on the application from nature conservation perspective. As the Site is zoned “GB”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “GB” zone and restore greenery of the area is recommended should the Committee decide to approve the application.

- 12.3 The Site is located in an area of rural character mainly comprising public vehicle parks, shop and services, site office and vacant land. HYW BCP is located to the west of the Site and the village cluster of Tsung Yuen Ha is located to the further southeast of the Site. The proposed use is considered not entirely incompatible with the surrounding areas. The Chief Town Planner/Urban Design and Landscape of Planning Department has no adverse comment on the application from landscape planning perspective.
- 12.4 Noting that the Site falls within the PDA of NTN New Town and would overlap with the proposed FCF, DFEH objects to the application beyond the land reversion and site clearance date (i.e. expected to commence around late 2026) for the proposed FCF. Notwithstanding the above, as there is an established land resumption mechanism to facilitate Government projects, it is considered that the proposed use on a temporary basis of three years only will not affect the long-term development of the Site. Also, the applicant undertakes to vacate the Site when it is resumed by the Government. To address DFEH's concerns on the potential project interface issue, it is suggested incorporating an advisory clause to remind the applicant that the Site will be resumed by the Government and the proposed use may be terminated at any time during the planning approval period for implementation of Government projects, should the application be approved by the Committee.
- 12.5 Other government departments consulted, including the Commissioner for Transport, Chief Engineer/Construction of Water Supplies Department and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of the concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to follow the 'Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites' to minimise the possible environmental impacts caused by the proposed use on the surrounding area. Regarding DLO/N, LandsD's concern on the unauthorised structures erected within the Site, the applicant will be advised to liaise with LandsD on this land administration matters should the Committee approve the application.
- 12.6 The application is considered not in conflict with TPB PG-No.10 in that the scale and intensity of the proposed use is compatible with the character of the surrounding areas, and concerned departments have no objection to or no adverse comment from traffic, drainage, environmental, water supply and landscape planning perspectives.
- 12.7 There were two similar applications partly falling within the same "GB" zone in the past five years. Both of them were approved with conditions by the Committee in 2021 and 2024 respectively mainly on the considerations as detailed in paragraph 7.1 above. The planning circumstances of the current application are similar to those of the approved applications. As such, approval of the current application is in line with the Committee's previous decisions.
- 12.8 Regarding the public comments as detailed in paragraph 11 above, the proposed use is not for car parking facilities and the government departments' comments and planning assessments above are relevant. In respect to the concern on no posting of site notice for the subject application, it should be noted that the publication of the application for public inspection is in compliance with the requirements under the TPO¹.

¹ As an administrative measure, a site notice for the subject application was posted at the Site on the first day of the public inspection period on 17.6.2025. The public was allowed to make comment on the application during the first three weeks of the public inspection period.

13. **Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 1.8.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.2.2026;
- (b) in relation to (a), 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 1.5.2026;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the submission of a fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.2.2026;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.5.2026;
- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (h) upon expiry of the planning permission, the reinstatement of the Site, including the removal of fill materials and hard-paving, and grassing of the Site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The Recommended Advisory Clauses are at **Appendix VI**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use with associated filling of land is not in line with the planning intention of the "GB" zone, which 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. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with Attachment received on 9.6.2025
Appendix Ia	FI received on 7.7.2025
Appendix Ib	FI received on 14.7.2025
Appendix Ic	FI received on 16.7.2025
Appendix II	Relevant Extracts of TPB PG-No. 10
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2025**