

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

**APPLICATION NO. A/NE-TKLN/40**

<b><u>Applicant</u></b>	:	Allied Treasure Development Limited represented by Top Bright Consultants Limited
<b><u>Site</u></b>	:	Lot 61 S.B RP in D.D. 80, Lin Ma Hang Road, Ta Kwu Ling North, New Territories
<b><u>Site Area</u></b>	:	923 m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
<b><u>Zonings</u></b>	:	(i) "Recreation" ("REC") (about 76.7% of the Site) (ii) "Village Type Development" ("V") (about 23.3% of the Site)
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services (Convenience Store) with Ancillary Office for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary shop and services (convenience store) with ancillary office for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls partly within an area zoned "REC" (about 76.7%) and partly within "V" (about 23.3%) on the approved Ta Kwu Ling North OZP No. S/NE-TKLN/2 (**Plan A-1**). According to the Notes of the OZP, 'shop and services' is a Column 2 use under "REC" and "V" zones requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Site is accessible from Lin Ma Hang Road (**Plan A-2**). According to the applicant, the proposed development will involve one 2-storey structure of not exceeding 6 m in height with a total floor area of about 204 m<sup>2</sup> including a convenience store (about 117 m<sup>2</sup>) on the ground floor and an ancillary office with storage space for goods (about 87 m<sup>2</sup>) on the first floor at the Site. Peripheral fencing of 2.5 m high is proposed at the Site. Two staff private car parking spaces (5 m x 2.5 m each) and one loading/unloading space for light goods vehicle (7 m x 3.5 m) will be provided. The operation hours of the proposed development are from 9:00 a.m. to 8 p.m. daily including public holidays. A proposed layout plan and a proposed landscape plan are at **Drawings A-1 and A-2**. The Site is currently vacant.

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

- (a) Application Form with attachments received on 26.4.2021 (**Appendix I**)
- (b) Supplementary Planning Statement received on 26.4.2021 (**Appendix Ia**)
- (c) Further Information (FI) received on 11.6.2021^ (**Appendix Ib**)  
*^accepted and exempted from publication*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement in **Appendix Ia**. They can be summarized as follows:

- (a) the proposed development is in line with the planning intentions of “REC” and “V” zones in that the proposed convenience store is the facility serving the need of the local community in support of the “REC” and “V” developments in the area;
- (b) the proposed development along located at Lin Ma Hang Road (LMHR) is one of the routes leading to the hiking trails of the future Robin’s Nest Country Park. With the opening of the Heung Yuen Wai Highway, there is demand for supporting facilities like the proposed shop and services. The proposed development is targeted to serve walk-in customers from the nearby local villages/ residents and visitors/hikers to the surrounding recreational facilities/ countryside;
- (c) the proposed development is compatible with the surrounding village environment and the Heung Yuen Wai Boundary Control Point (HYW BCP). It allows better utilization of scarce land resources;
- (d) it is expected that the daily maximum vehicular trips generated would be one trip for delivery of goods and two round trips for staff. No adverse traffic, drainage, environmental and visual impacts are anticipated from the proposed development;
- (e) there is no Small House application within the “V” zone area of the Site. The applicant undertakes to vacant/ setback from the Site to facilitate Small House developments, if any, during the planning approval period;
- (f) taking into account the future implementation programme of LMHR widening project, a setback of 6 m from the existing road kerb is proposed to facilitate the project (**Drawing A-1**); and
- (g) the uncovered area of the Site would be used for setback, landscaping, staff parking, loading and unloading bay, manoeuvring spaces and pedestrian walkway within the Site. An access to the private lots located to the south of the Site is also reserved (**Appendix Ib**).

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Previous Application**

There is no previous application for the Site.

## 5. Similar Applications

- 5.1 There are four similar applications involving three sites for shop and services falling within/partly within “REC” and/or “V” zones in the vicinity of the Site (**Plan A-1**). They were all approved.
- 5.2 Applications No. A/NE-TKLN/6 and A/NE-TKLN/39 for temporary retail shop, canteen/eating place and ancillary office for a period of three years involving the same site mainly in the “REC” zone were approved by the Board on review and by the Committee on 13.4.2018 and 28.5.2021 respectively mainly on the considerations that the development could provide catering services to meet the needs of the construction workers within walking distance to the HYW BCP and the nearby villagers and visitors; the development was not incompatible with the surrounding environment; the development was not expected to generate significant adverse traffic, landscape and environmental impacts on the surrounding areas; and there was no adverse departmental comments.
- 5.3 Application No. A/NE-TKLN/23 for proposed temporary place of recreation, sports or culture (parent-child play area), eating place and shop and services for a period of five years in the “REC” zone was approved by the Committee on 5.2.2021 mainly on the considerations that the proposed development is to support the recreational development on the site; it is not incompatible with surrounding environment; and there was no adverse departmental comments in terms of traffic, environmental and other impacts on the area.
- 5.4 Application No. A/NE-TKLN/35 for temporary eating place, shop and services with ancillary office/store room for a period of three years in the “V” zone was approved by the Committee on 8.1.2021 mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of “V” zone; the proposed development is to serve the local villagers and visitors in the vicinity; and there was no adverse departmental comments.
- 5.5 Details of the similar applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

## 6. The Site and Its Surrounding Areas (Plans A-1 to A-2, aerial photo on **Plan A-3** and site photos on **Plan A-4**)

- 6.1 The Site is:
- (a) flat, partially grassed and vacant; and
  - (b) accessible from Lin Ma Hang Road (**Plan A-2**).
- 6.2 The surrounding areas have the following characteristics:
- (a) to its immediate west is the application No. A/NE-TKLN/33 for temporary car park and to its further west is the HYW BCP (**Plan A-2**);
  - (b) to its south and surrounding areas are some vacant land and fallow agricultural land. To its further south across the nullah is the village cluster of Tsung Yuen Ha within the “V” zone of the OZP (**Plan A-1**); and

- (c) to its north is Lin Ma Hang Road and to its further north are some fallow agricultural land and vacant land.

## **7. Planning Intentions**

- 7.1 The planning intention of the “REC” zone is intended 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.
- 7.2 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. 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. Other commercial, community and recreational uses may be permitted on application to the Board.

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

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

### **Land Administration**

- 8.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) the Site comprise a private lot which is an Old Schedule Lot held under Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make his own arrangement for acquiring access, and there is no guarantee that any adjoining Government land will be allowed for vehicular access to the Site for the proposed use;
  - (b) no Small House application regarding the Site has been received; and
  - (c) should the application be approved, the owner of the lot concerned shall apply to his office for a Short Term Waiver (STW) covering the whole lot and all the structures concerned. 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 application is approved, the commencement date would 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.

## **Traffic**

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

- he has no objection to the application from traffic engineering point of view.

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

- (a) should the application be approved, the applicant is required to construct a proper ingress/egress for the Site according to HyD Standard Drawings and upon termination of the proposed temporary use, the applicant is required to reinstate the ingress/egress to its original state; and
- (b) adequate drainage measures should be provided to prevent surface water running from the Site onto the adjacent public road.

## **Project Interface**

### 8.1.4 Comments of the Chief Engineer/Major Works Office (1), Highways Department (CE/MW(1), HyD):

- (a) the Site is likely to be in conflict with the scheme of the road widening works under PWP Item No. 854th “Widening of Eastern Section of Lin Ma Hang Road between Tsung Yuen Ha and Lin Ma Hang”. It is noted that the proposed development is proposed to setback 6 m from the existing road kerb of Lin Ma Hang Road; and
- (b) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby areas, public roads and drains.

## **Environment**

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

- (a) he has no in-principle objection on the application from environmental point of view;
- (b) as the application is temporary in nature, the applicant is advised to follow EPD’s latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites (CoP)”;
- (c) should the application be approved, the applicant should also be reminded of his obligation to strictly comply with all environmental protection/ pollution control ordinances, in particular Water Pollution Control Ordinance and Waste Disposal Ordinance, and to follow relevant measures given in the EPD’s latest CoP, during construction and operation stages of the proposal;
- (d) the applicant should also be reminded that necessary precautionary/ pollution control measures should be put in place to prevent any pollution of nearby environment during construction and operation stages of the proposed use; and

- (e) there was no record of environmental complaint against the Site for the past three years.

### **Landscape**

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

- (a) she has no objection to the application from the landscape planning perspective;
- (b) based on the aerial photo (**Plan A-3**), the Site is mainly a bare ground with patches of self-seeded groundcover. No tree is observed within the Site. It is situated at the northwestern fringe of an area of rural landscape character predominated by vacant lands, open car parks, temporary structures, tree groups and village houses while built-up area of institutional landscape character with HYW BCP is at the further west of the Site (**Plan A-1**). Considered that the proposed development is small in scale, it is not entirely incompatible with the surrounding environment. According to the submission, the proposed development has no direct conflict with significant landscape impact resources. Significant adverse impact on existing landscape resources arising from the proposed development is not anticipated; and
- (c) in view of the above, should the application be approved, it is considered not necessary to impose a landscape condition. Her advisory comments are at **Appendix IV**.

### **Drainage**

8.1.7 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 the proposed development 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**

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

- (a) he has no objection to the application; and
- (b) for any new proposed buildings/ structures, his advisory comments are at **Appendix IV**.

### **Fire Safety**

#### 8.1.9 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 (FSIs) being provided to the satisfaction of his department;
- (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. In addition, the applicant should be also advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSI 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.

### **Food and Environmental Hygiene**

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

- (a) he has no objection to the application;
- (b) proper licence/ permit issued by 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 and the operation of any business should not cause any obstruction; and
- (c) if the proposed development involves any commercial/ trading activities, no environmental nuisance should be generated to the surroundings. For any waste generated from the commercial/ trading such activities, the applicant should handle on their own at their expenses.

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

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

- he has consulted the locals regarding the application. The 1<sup>st</sup> Vice-Chairman of Ta Kwu Ling District Rural Committee (TKLDRC), the North District Council (NDC) member of the subject constituency, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Tsung Yuen Ha and Heung Yuen Wai have no comment on the application.

#### 8.2 The following Government departments have no objection to/ no adverse comment/ no strong view on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);

- (c) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD); and
- (d) Commissioner of Police (C of P).

## **9. Public Comment Received During Statutory Publication Period (Appendix III)**

On 4.5.2021, the application was published for public inspection. During the statutory public inspection period, two public comments were received. A NDC member indicates no comment on the application. An individual objects to the application mainly on the grounds that the Site is too remote for a convenience store and it is suspected that the Site is intended for parking purpose instead.

## **10. Planning Considerations and Assessments**

- 10.1 The application is for a proposed temporary shop and services (convenience store) with ancillary office for a period of three years in an area partly zoned “REC” (about 76.7%) and partly zoned “V” (about 23.3%) on the OZP (**Plan A-1**). The proposed development is not entirely in line with the planning intentions of the “REC” and “V” zones which are primarily for low-density recreation development for the use of the general public and for development of Small House by indigenous villagers respectively. However, uses in support of the village and recreational developments in “REC” zone and selected commercial and community uses serving the needs of the villagers in “V” zone may be permitted subject to planning permission. DLO/N of LandsD advises that no Small House application has been received for the Site. As such, it is considered that the approval of the application on a temporary basis for a period of three years at the Site would not frustrate the long-term planning intentions of the “REC” and “V” zones.
- 10.2 The Site is situated in an area of rural landscape character comprising vacant lands, open car parks, temporary structures, tree groups and village houses while the HYW BCP is at the further west of the Site (**Plan A-1**). The proposed development is considered not entirely incompatible with the surrounding area. As significant adverse impact on existing landscape resources arising from the proposed development is not anticipated, CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective.
- 10.3 C for T has no objection to the application from traffic engineering point of view. CE/MW(1) of HyD has no further comment on the application taking into account the applicant’s proposed setback of 6 m from the existing road kerb of Lin Ma Hang Road (**Drawing A-1**) to avoid project interface issue with the PWP Item No. 6854TH “Widening of Eastern Section of Lin Ma Hang Road (LMHR) between Tsung Yuen Ha and Lin Ma Hang”.
- 10.4 DEP has no in-principle objection to the application and advises that the applicant should follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites (CoP)” and adopt necessary precautionary/ pollution to prevent polluting nearby environment during construction and operation of the proposed development. Other relevant Government departments consulted, including CE/MN of DSD, D of FS, CE/C of WSD, DFEH and C of P have no objection to/ no adverse comment/ no strong view on the application.



- 10.5 There are four similar applications involving three sites in the vicinity of the Site. All these approved applications were considered not incompatible with the surrounding areas and there was no adverse departmental comments. The planning circumstances of the current application are considered similar to those approved applications as the proposed retail shops were mainly to serve the need of the local villagers and visitors in the area.
- 10.6 Regarding the adverse public comments as detailed in paragraph 9 above, the Government department's comments and the planning assessments above are relevant.

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

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 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 25.6.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m. daily, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the provision of peripheral boundary fencing on the Site, as proposed by the applicant, within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 25.12.2021;
- (c) the submission of the design of vehicular run-in/run-out to the Site along Lin Ma Hang Road within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 25.12.2021;
- (d) in relation to (c) above, the provision of vehicular run-in/run-out to the Site along Lin Ma Hang Road within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 25.3.2022;
- (e) 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 25.12.2021;
- (f) in relation to (e) 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 25.3.2022;
- (g) the submission of proposals for water supplies for fire-fighting and fire service installations 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 25.12.2021;
- (h) in relation to (g) above, the implementation of proposals for water supplies for fire-fighting and fire service installations 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 25.3.2022;

- (i) if the above planning condition (a) 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
- (j) if any of the above planning conditions (b), (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 be revoked immediately without further notice.

#### Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

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

- the proposed development 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. It is also not in line with the planning intention of the "V" zone which is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from the planning intentions, even on a temporary basis.

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 12.2 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.
- 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 applicant.

## **13. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 26.4.2021
<b>Appendix Ia</b>	Supplementary Planning Statement received on 26.4.2021
<b>Appendix Ib</b>	Further Information received on 11.6.2021
<b>Appendix II</b>	Similar S.16 Applications for Shop and Services within/partly within "Recreation" or "Village Type Development" zones in the vicinity of the Application Site in the Ta Kwu Ling North Area
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Landscape Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan

<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2021**