

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/50

<u>Applicant</u>	:	Mr. YE Jie represented by Metro Planning and Development Company Limited
<u>Site</u>	:	Lot 77 in D.D.82, Lin Ma Hang Road, New Territories
<u>Site Area</u>	:	320m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
<u>Zoning</u>	:	“Recreation” (“REC”)
<u>Application</u>	:	Proposed Temporary Shop and Services (Convenience Store) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (convenience store) for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “REC” zone, which requires planning permission from the Town Planning Board (the Board). The Site is largely formed and is partly covered with grass.
- 1.2 The proposed development comprises one single-storey structure (not exceeding 3m in height) with a total floor area of about 100m² for shop and services (mainly for selling of canned drinks, potato chips and cup noodles) and ancillary toilet uses. Two car parking spaces for private cars and one loading/unloading space for light goods vehicles are proposed in the northeastern part of the Site. According to the applicant, the proposed convenience store serves to cater for the need of the local community of Kaw Liu Tsuen (**Plan A-2**). The operation hours of the development will be from 9:00 a.m. to 9:00 p.m. daily, including public holidays. The Site is accessible via a local track leading to Lin Ma Hang Road (**Plan A-2**). The layout plan submitted by the applicant is at **Drawings A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 16.11.2022 (**Appendix I**)
 - (b) Further Information (FI) received on 24.2.2023* (**Appendix Ia**)
 - (c) FI received on 17.5.2023* (**Appendix Ib**)

[accepted and exempted from publication and recounting requirements]*

- 1.4 On 13.1.2023 and 21.4.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's requests to defer making a decision on the application for two months each.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendix I**, as summarized below:

- (a) the proposed convenience store intends to serve the need of the local community of Kaw Liu Tsuen (**Plan A-2**). No open storage and workshop activities will be carried out within the Site at all times;
- (b) the proposed use is a Column 2 use under "REC" zone and it is not incompatible with the surrounding environment; and
- (c) no significant adverse traffic, drainage and environment (including noise) impacts from the proposed use are anticipated.

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. 31A) by posting site notice and sending notice to Ta Kwu Ling District Rural Committee by registered mail.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

There are two similar applications for proposed temporary eating place and convenience store/ shop and services (retail shop) for a period of three years within the same "REC" zone in the vicinity of the Site (Applications No. A/NE-TKLN/13 and 19). Both of the applications were rejected by the Committee on 16.11.2018 and 12.4.2019 respectively for being not in line with the planning intention of the "REC" zone; the development was incompatible with the surrounding environment; there were adverse departmental comments on the applications; and adverse traffic impact on the surrounding areas was anticipated. Details of the similar applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) largely formed and partly covered with grass; and
- (b) accessible via a local track leading to Lin Ma Hang Road.

7.2 The surrounding areas are predominantly rural in character comprising domestic structures, vacant land, active/fallow agricultural land, vegetated land and tree clusters (**Plans A-2 and A-3**).

8. Planning Intention

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.

9. Comments from Relevant Government Departments

All 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 III and IV** respectively.

10. Public Comment Received During Statutory Publication Period

On 25.11.2022, the application was published for public inspection. During the statutory public inspection period, three public comments were received from a member of North District Council and two individuals (**Appendix V**). The member of North District Council indicates no comment on the application. The two individuals object to the application mainly on grounds that the proposed use should be confined within “Village Type Development” zone and it would generate adverse traffic impact on the surrounding road network.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (convenience store) for a period of three years at the Site zoned “REC” on the OZP. According to the applicant, the proposed convenience store serves to cater for the need of the nearby residents of Kaw Liu Tsuen. The proposed development is considered not entirely in line with the planning intention of “REC” zone which is primarily for low-density recreation development for the use of the general public. Given that the proposed convenience store mainly involves a single-storey temporary structure, approval of the application for a period of three years would not jeopardize the long-term planning intention of the “REC” zone.

11.2 The Site is located in an area of rural inland plain landscape character mainly comprising village houses of Kaw Liu Tsuen, vacant land, active/fallow agricultural land and tree clusters. The proposed use is not incompatible with the surrounding environment. CTP/UD&L of PlanD has no objection to the application from landscape planning

perspective as significant adverse impact on the existing landscape character and landscape resources within the Site is not anticipated. Other relevant government departments consulted, including C for T, CE/MN of DSD, D of FS, DAFC and C of P, have no objection to or no adverse comment on the application.

- 11.3 There are two similar applications for proposed temporary eating place and convenience store/ shop and services (retail shop) within the same “REC” zone in the vicinity of the Site, which were rejected by the Committee in 2018 and 2019 respectively mainly on grounds that there was adverse departmental comments on the application and adverse traffic impact arising from the developments was anticipated. Since relevant government departments including C for T have no objection to the application, the planning circumstances of the current application are different from those of the rejected applications.
- 11.4 Regarding the adverse public comments as detailed in paragraph 10 above, the government departments’ comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, Planning Department has no objection to the application.
- 12.2 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 14.7.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 9:00 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 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 14.1.2024;
- (c) in relation to (b) 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 14.4.2024;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) 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 14.1.2024;
- (f) in relation to (e) 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 14.4.2024;

- (g) if any of the above planning condition (a) and (d) 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
- (h) if any of the above planning condition (b), (c), (e) or (f) 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**.

- 12.3 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. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form with attachments received on 16.11.2022
Appendix Ia	FI received on 24.2.2023
Appendix Ib	FI received on 17.5.2023
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos