

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

**APPLICATION NO. A/NE-TKLN/55**

<b><u>Applicant</u></b>	:	Mr YE Jie represented by Metro Planning & Development Company Limited
<b><u>Site</u></b>	:	Lot 387 S.B RP (Part) in D.D. 78, Tsung Yuen Ha, Ta Kwu Ling North, New Territories
<b><u>Site Area</u></b>	:	About 350m <sup>2</sup>
<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>Zoning</u></b>	:	“Recreation” (“REC”)
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (real estate agency) for a period of three years at the application site (the Site), which falls within an area zoned “REC” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use in the “REC” zone, which requires planning permission from the Town Planning Board (the Board). The Site is partly covered with vegetation and partly hard paved with an abandoned container erected in the southwestern part of the Site.
- 1.2 The proposed development consists of three single-storey structures (not exceeding 4.5m in height) with a total floor area not exceeding 78m<sup>2</sup> for real estate agency and its ancillary site office, toilet and electricity meter room uses. A total of two parking spaces for private cars are proposed within the Site. The operation hours of the proposed development are from 9:00 a.m. to 9:00 p.m. from Mondays to Sundays, including public holidays. The Site is accessible via Lin Ma Hang Road from its north (**Plan A-2**). The layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with attachments received on 4.5.2023 (**Appendix I**)
  - (b) Further Information (FI) received on 11.8.2023\* (**Appendix Ia**)
  - (c) FI received on 5.9.2023\* (**Appendix Ib**)

*\*accepted and exempted from the publication and recounting requirements*

- 1.4 On 23.6.2023, the Committee agreed to the applicant's request to defer making a decision on the application for two months to address departmental comments.

## **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 development could provide property agency services to the nearby villagers/residents;
- (b) the proposed development is compatible with the surrounding environment. Temporary approval would not jeopardize the long-term planning intention of the "REC" zone;
- (c) no storage and workshop activity will be conducted within the Site;
- (d) similar applications for the same proposed use were approved by the Committee; and
- (e) no significant adverse traffic, drainage and environmental impact arising from the proposed development is anticipated.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is not a "current land owner" of the Site 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 the Ta Kwu Ling District Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

## **4. Background**

The Site is not subject to any active enforcement case.

## **5. Pervious Application**

The Site is not the subject of any previous application.

## **6. Similar Applications**

- 6.1 There are three similar applications (No. A/NE-TKLN/23, 39 and 40) for shop and services including convenience store and retail shop within/partly within the "REC" zone and/or the V" zone in the vicinity of the Site in the Ta Kwu Ling North area. All of the applications were approved with conditions by the Committee in 2021 on similar considerations that the development was not incompatible with the surrounding environment; no adverse impact was anticipated; and there was no adverse departmental comments. Details of the similar applications are summarized at **Appendix II** and their locations are on **Plan A-1**.

- 6.2 For Members' information, two applications No. A/NE-TKLN/57 and 58 (i.e. both for proposed temporary public vehicle park (private cars only) and shop and services (convenience store) submitted by a different applicant as the current application) located in the further east of the Site will be considered by the Committee at the same meeting (**Plan A-1**).

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

### **7.1 The Site is:**

- (a) partly hard-paved and partly covered with vegetation;
- (b) fenced off and currently vacant with an abandoned container erected in the southwestern part of the Site; and
- (c) accessible via Lin Ma Hang Road from its north.

- 7.2 The surrounding areas are predominantly rural in character comprising village houses of Tsung Yuen Ha, temporary structures, vehicle parks with planning permission, vacant land and fallow agricultural land. Liantang/Heung Yuen Wai Boundary Control Point is located in the west of the Site.

## **8. Planning Intention**

The planning intention of the "REC" zone 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.

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

- 9.1 Apart from the government departments as set out in paragraph 9.2 below, other government 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 in **Appendices III** and **IV** respectively.
- 9.2 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) The Site comprises Old Schedule Agricultural Lot 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. No right of access via Government land (GL) is granted to the Site; and
  - (b) an unauthorized structure is erected within the application lot (**Plans A-3 and A-4**).
- 9.3 District Officer (North) of Home Affairs Department (DO(N), HAD) has relayed the following local views/comments on the application:
- (a) the Indigenous Inhabitant Representatives (IIRs) of Tsung Yuen Ha and Chuk

Yuen support the application without providing justification;

- (b) the Chairman of Fung Shui Area Committee, the incumbent North District Councilor of N16 Constituency, the IIR and Resident Representatives of Heung Yuen Wai and Tsung Yuen Ha have no comment on the application; and
- (c) the RR of Chuk Yuen does not reply.

## **10. Public Comments Received During Statutory Publication Period**

On 12.5.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received, including one from the Chairman of Sheung Shui District Rural Committee indicating no comment on the application and an individual objecting to the application (**Appendix V**). The major grounds of objection are that majority of the operations in the vicinity are unauthorized; no commercial and residential developments along Lin Ma Hang Road; and this is a “destroy first, develop later” case.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services (real estate agency) for a period of three years at the Site zoned “REC” on the OZP. The proposed use is considered not entirely in line with the planning intention of the “REC” zone, which is intended for low-density recreation development for the use of the general public. However, according to the applicant, the proposed use could provide property agency services to the nearby villagers and residents. Given that the proposed temporary development is small in scale, mainly involving one single-storey structure for real estate agency and its ancillary site office use (gross floor area not exceeding 60m<sup>2</sup>), it is considered that approval of the application on a temporary basis will not frustrate the long-term planning intention of the “REC” zone.
- 11.2 The Site is mainly surrounded by village houses/temporary structures, vehicle parks, vacant land, vegetated areas and fallow agricultural land. The proposed use is not entirely incompatible with the surrounding land uses. Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from landscape planning perspective and advises that adverse impact on the landscape character and the existing landscape resources within the Site are not anticipated.
- 11.3 Other relevant governments concerned, including Commissioner for Transport, Chief Engineer/Mainland North of Drainage Service Department, Director of Environmental Protection, Director of Fire Services and Director of Agriculture, Fisheries and Conservation, etc., have no objection to or no adverse comment on the application. The proposed use would unlikely create significant adverse environmental, traffic, fire safety and drainage impacts on the surrounding area. With regards to DLO/N, LandsD’s comments that there is an unauthorized structure erected within the Site, the applicant indicates that a Short Term Waiver application will be submitted for approval at a later stage.
- 11.4 There are three similar applications for shop and services use including convenience store and retail shop approved with conditions by the Committee in 2021 as detailed in paragraph 6.1 above. The planning circumstances of the above three applications are similar with the current application.

- 11.5 Regarding the objecting public comment on the application as detailed in paragraph 10, government departments' comments and planning assessments above are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments and the local views/comments as conveyed by DO(N), HAD in paragraphs 10 and 9.3 respectively, the 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 22.9.2026. The following conditions of approval and advisory clauses are also 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 22.3.2024;
- (b) in relation to (a) 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 22.6.2024;
- (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 (FSIs) 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 22.3.2024;
- (e) in relation to (d) above, the implementation of the FSIs 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 22.6.2024;
- (f) the submission of the design of vehicular run-in/run-out to the Site within **6** months from the date of planning approval to the satisfaction of the Director of Highways and Commissioner for Transport or of the Town Planning Board by 22.3.2024;
- (g) in relation to (f) above, the provision of vehicular run-in/run-out to the Site within 9 months from the date of planning approval to the satisfaction of the Director of Highways and Commissioner for Transport or of the Town Planning Board by 22.6.2024;
- (h) if 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; and
- (i) if any of the above planning condition (a), (b), (d), (e), (f) or (g) 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 use is not in line with the planning intention of the REC" zone in the Ta Kwu Ling North area, which is primarily for low-density recreation development 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. There is no strong planning justification in the submission for a departure from such 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**

<b>Appendix I</b>	Application Form with attachments received on 4.5.2023
<b>Appendix Ia</b>	FI received on 11.8.2023
<b>Appendix Ib</b>	FI received on 5.9.2023
<b>Appendix II</b>	Similar Applications within/partly within the "REC" and/or "V" zone in the vicinity of the Site in Ta Kwu Ling North Area
<b>Appendix III</b>	Government Department's General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comments
<b>Drawing A-1</b>	Layout 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