

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/76

- Applicant** : Good Joint Limited represented by Metro Planning & Development Company Limited
- Site** : Lot 384 S.B RP in D.D. 78, Tsung Yuen Ha, Ta Kwu Ling North, New Territories
- Site Area** : About 350m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
- Zonings** : “Recreation” (“REC”) (about 338.1m² or 96.6% of the Site)
“Village Type Development” (“V”) (about 11.9m² or 3.4% of the Site)¹
- Application** : 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 approved Ta Kwu Ling North OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “REC” zone requiring planning permission from the Town Planning Board (the Board). The Site is fenced off, vacant and partly covered with vegetation.
- 1.2 The proposed use comprises three single-storey structures (not exceeding 4.5m in height) with a total floor area of about 80m² for real estate agency and its ancillary toilet and electricity meter room uses (**Drawing A-2**). A total of two parking spaces (5m (L) x 2.5m (W) each) for private cars are also proposed within the Site. The proposed operation hours of the development are from 9:00 a.m. to 9:00 p.m. daily. The Site is directly accessible via Lin Ma Hang Road from its north (**Plan A-2**). The location plan, site layout and drainage plans submitted by the applicant are shown in **Drawings A-1 to A-3**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 12.12.2023 (**Appendix I**)
 - (b) Further Information (FI) received on 29.2.2024* (**Appendix Ia**)
*(*accepted and exempted from publication and recounting requirements)*

¹ A very minor portion of the Site (about 11.9m² or 3.4% of the Site) falls within an area zoned “V”, which can be regarded as minor boundary adjustment in accordance with the covering Notes of the OZP, and not included in the planning assessment.

- 1.4 On 26.1.2024, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for a period of two months to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia** as summarized below:

- (a) the proposed use could provide real estate agency services to the nearby villagers/residents. Temporary approval would not jeopardize the long-term planning intention of the "REC" zone;
- (b) the proposed use is not incompatible with the surrounding environment including open storage yards and warehouses. No storage and workshop activity will be conducted within the Site;
- (c) similar applications in the vicinity of the Site for the same use were approved by the Committee;
- (d) only private cars with prior appointment can access to the Site, and no loading/unloading activities would be carried out on site. Other traffic management/control measures are detailed at **Appendix Ia**; and
- (e) no significant adverse traffic, drainage and environmental impacts arising from the proposed use are anticipated.

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

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

4. Background

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

5. Pervious Application

There is no previous application at the Site.

6. Similar Applications

- 6.1 There were six similar applications (No. A/NE-TKLN/23, 39, 40, 55, 57 and 75) for shop and services (including real estate agency, convenience store and retail shop) within/partly within the "REC" zone in the vicinity of the Site in the past five years. All the six applications were approved with conditions by the Committee between 2021 and 2024 mainly on considerations of being not incompatible with the surrounding

environment; not causing adverse environmental impact; and no adverse departmental comments.

- 6.2 Details of the similar applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

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

7.1 The Site is:

- (a) fenced off, vacant and partly covered with vegetation; and
- (b) directly 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, vehicle parks, vacant land and vegetated areas. About 90m to the southwest of the Site across Lin Ma Hang Road is Liantang/Heung Yuen Wai Boundary Control Point (**Plans A-1** and **A-3**).

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

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory comments are provided at **Appendices III** and **IV** respectively.

10. Public Comments Received During Statutory Publication Period

On 19.12.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals. While one indicates no comment on the application (**Appendix Va**), another one objects to the application (**Appendix Vb**) for reasons that there are no commercial and residential developments along Lin Ma Hang Road; and this is a “destroy to build” case.

11. Planning Considerations and Assessment

- 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 recreational developments for the use of the general public. According to the applicant, the proposed use could provide real estate agency services to

the nearby villagers and residents. There is no known development imposed for recreational use at the Site. In view of the above, it is considered that approval of the application on a temporary basis will not jeopardize the long-term planning intention of the “REC” zone.

- 11.2 The Site is currently vacant and partly covered with vegetation. The proposed use is small in scale and is not incompatible with the surrounding land uses which are predominantly village houses of Tsung Yuen Ha, vehicle parks, vacant land and vegetated areas. 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 Having reviewed the applicant’s FI (**Appendix Ia**) in relation to the traffic management/control measures, the Commissioner for Transport has no comment on the application. Other relevant governments concerned, including the Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Service Department and Director of Fire Services have no objection to or no adverse comment on the application. The proposed use would unlikely create significant adverse traffic, environmental, drainage and fire safety impacts on the surrounding areas.
- 11.4 There were six similar applications for shop and services use approved with conditions by the Committee between 2021 and 2024 as detailed in paragraph 6 above. The planning circumstances of these applications are largely applicable to the current application.
- 11.5 Regarding the public comments on the application as detailed in paragraph 10, government departments’ comments and planning assessment 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 in paragraphs 10 above, 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 5.4.2027. 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 5.10.2024;
- (b) in relation to (a) above, the implementation of the drainage proposal 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 5.1.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;

- (d) the submission of a fire service installations (FSIs) proposal and water supplies for firefighting 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 5.10.2024;
- (e) in relation to (d) above, the implementation of the FSIs proposal and water supplies for firefighting 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 5.1.2025;
- (f) 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 be revoked on the same date without further notice; and
- (g) 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.

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 are suggested for Members' reference:

The proposed 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. It encourages the development of active and/or passive recreation and tourism/eco-tourism. There is no strong planning justification in the submission to justify 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) 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 12.12.2023
Appendix Ia	FI received on 29.2.2024
Appendix II	Similar Applications
Appendix III	Government Department's General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments

Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2024**