

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/707

<u>Applicant</u>	Friends Mini Market represented by Mr. LAU Chee Sing
<u>Site</u>	Lot 392 S.E RP (Part) in D.D. 23, San Tau Kok, Tai Po, New Territories
<u>Site Area</u>	About 27.3m ²
<u>Lease</u>	Block Government Lease (demised for agricultural purpose)
<u>Plan</u>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	“Village Type Development” (“V”)
<u>Application</u>	Temporary Shop and Services (Convenience Store) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary shop and services (convenience store) use at the application site (the Site) (**Plan A-1**) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ use within “V” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the applicant, the applied use is covered by a retractable canopy extending from the existing convenience store on the ground floor of the adjoining New Territories Exempted House (NTEH), mainly to accommodate two storage cabinets with a height of 2.45m. The operation hours of the convenience store are from 11:00 a.m. to 11:00 p.m. daily (including public holidays). The Site abuts the footpath and cycle track along Ting Kok Road with no proper vehicular access. The layout plan of the applied use is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) application form with attachments received on (**Appendix I**) 10.5.2021

- (b) further information (FI) received on 28.5.2021 (**Appendix Ia**) clarifying the type of ancillary storage facilities of the applied use (*accepted and exempted from the publication and recounting requirements*)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the application form at **Appendix I** and FI at **Appendix Ia**. They can be summarized as follow:

- (a) the applicant seeks to use the Site to accommodate two storage cabinets for the existing convenience store on the ground floor of the adjoining NTEH. There is insufficient space within the convenience store to accommodate the said cabinets; and
- (b) the convenience store will serve the needs of local residents and visitors.

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

The applicant is not the “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 obtaining consent of the land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Previous Application**

There is no previous application at the Site.

5. **Similar Applications**

- 5.1 There are three similar applications (No. A/NE-TK/409, 603 and 662) for temporary shop and services, which were all approved with conditions by the Committee for a period of 3 years on 19.10.2012, 17.2.2017 and 17.5.2019 respectively. They were approved mainly on considerations that the proposed temporary developments would not frustrate the long-term planning intention of the “V” zone; was not incompatible with the surrounding environment; and would unlikely cause significant adverse impacts on the surrounding areas.
- 5.2 Details of the applications are shown in **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

6. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plan A-3 and A-4)

6.1 The Site is :

- (a) currently used as part of a convenience store on the ground floor of the adjoining village house, and is covered by a retractable canopy; and
- (b) located at the east of San Tau Kok Village and abuts the footpath and cycle track of Ting Kok Road.

6.2 The surrounding areas are predominantly rural in character. To the north and west are the village proper of San Tau Kok. To the east is Ting Kok Road.

7. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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.

8. Comments from Relevant Government Departments

8.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

8.1.1 Comments of District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the Site consists of Lot No. 392 S.E RP (Part) in D.D. 23. The private lot is held under Block Government Lease demised for agricultural purpose. No structure shall be erected thereon without prior approval from LandsD;
- (c) a recent inspection revealed that the Site had been occupied. A temporary structure (with two storages underneath), a canopy and an electrical meter box were found on the Site without prior approval from LandsD. A portion of the said temporary structure (with a storage underneath) straddles onto the adjoining Lot No. 970 S.A in D.D. 26 and Government Land (outside the Site), and a portion of the said electrical meter box and canopy straddle onto Lot No. 970 S.A (outside the Site). The applicant is required to clear any existing structures on the Site and outside the Site immediately unless they are covered by

valid approval. Otherwise, appropriate enforcement action will be taken in due course;

- (d) should the Board approve the application, the lot owner is required to submit an application for Short Term Waiver (STW) to LandsD if he wishes to erect structures on the lot. However, there is no guarantee at this stage that the STW application would be approved. If the STW application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of waiver fee and administrative fee as considered appropriate;
- (e) there is no guarantee to the grant of right of way to the Site or approval of the emergency vehicular access (EVA) thereto; and
- (f) no Small House application has been received in respect of the Site.

Drainage

8.1.2 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas.

Building Matters

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

- for any new proposed buildings, the advisory comments at paragraph (d) of **Appendix III** should be observed.

Landscape

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

- (a) as the Site falls within “V” zone, which is a non-landscape sensitive zoning, no significant landscape impact arising from the applied use is anticipated; and
- (b) in view of the above, should the Board approve the application, it is considered not necessary to impose a landscape condition.

Hygiene

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

- proper licence/permit issued by his Department is required for any food business/catering service/activities regulated under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. The operation of any business should not cause any obstruction. Detailed advice in relation to the issue of licence are provided in paragraph (e) of **Appendix III**.

8.2 The following government departments have no objection to or no comment on the application:

- (a) Commissioner for Transport (C for T);
- (b) Director of Environmental Protection (DEP);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Fire Services (D of FS);
- (e) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (f) Director of Agriculture, Fisheries and Conservation (DAFC);
- (g) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (h) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (i) Director of Electrical and Mechanical Services (DEMS); and
- (j) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

9. Public Comments Received During Statutory Publication Period

On 18.5.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comments were received.

10. Planning Considerations and Assessments

- 10.1 This application is for temporary shop and services use (convenience store) for a period of 3 years at the Site which falls within “V” zone on the OZP. The applied use is not in line with the planning intention of the “V” zone which is primarily for development of Small Houses by indigenous villagers. Nevertheless, DLO/TP of LandsD advises that there is at present no Small House application at the Site. According to the applicant, the applied use forms part of the existing convenience store on the ground floor of the adjoining NTEH, which is always permitted under the OZP. The applied use will serve the local community and visitors. Approval of the application on a temporary

basis for 3 years would not frustrate the long-term planning intention of the subject “V” zone.

- 10.2 The applied use, which involves an area of about 27.3 m² mainly to accommodate two storage cabinets of a height of 2.45m, is small in scale. The applied use is considered not incompatible with the surrounding environment which is rural in character predominantly occupied by village houses. According to the applicant, the opening hours of the applied use are from 11:00 a.m. to 11:00 p.m. daily. It is anticipated that the proposed development would not cause significant adverse traffic, environmental, drainage, visual and landscape impacts on the surrounding areas. Concerned government departments, including C for T, DEP, CTP/UD&L of PlanD, CE/MN of DSD, CE/C of WSD, DFEH, D of FS, CHE/NTE of HyD, DAFC, CBS/NTW of BD, H(GEO) and PM/N of CEDD, DEMS and DO/TP of HAD have no objection to/adverse comment on the application.
- 10.3 There are three similar applications (No. A/NE-TK/409, 603 and 662) for temporary shop and services in vicinity of the Site within the “V” zone, which were all approved with conditions by the Committee for a period of 3 years on 19.10.2012, 17.2.2017 and 17.5.2019 respectively for reasons as set out in paragraph 5.1 above. The circumstances for the approvals of these three applications are applicable to the current one.
- 10.4 No public comment was received during the statutory publication period.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10, 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 9.7.2024. 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 9.1.2022;
- (b) in relation to (a) above, the implementation 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 9.4.2022; and
- (c) if any of the above planning conditions (a) or (b) 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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

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

- the development is not in line with the planning intention of the "V" zone which is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong justification in the submission for a departure from the planning intention, 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 permission.

12.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses 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

Appendix I Application form and attachments dated 10.5.2021

Appendix Ia Further information received on 28.5.2021

Appendix II Similar applications

Appendix III Recommended advisory clauses

Drawing A-1 Layout plan submitted by the applicant

Plan A-1 Location plan

Plan A-2 Site plan

Plan A-3 Aerial photo

Plan A-4 Site photos

**PLANNING DEPARTMENT
JULY 2021**