

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/713

<u>Applicant</u>	Ms. Betty TING Tze Yan represented by Mr. HUI Kwan Yee
<u>Site</u>	Lots 1646 RP (Part), 1651 S.B RP (Part) and 1652 RP (Part) in D.D. 17, Lo Tsz Tin, Tai Po, New Territories
<u>Site Area</u>	About 43.68 m 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>	“Recreation” (“REC”)
<u>Application</u>	Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary shop and services (real estate agency) for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘shop and services’ use within “REC” 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 with valid planning permission until 20.11.2021.
- 1.2 The Site is the subject of three previous applications (No. A/NE-TK/403, 564 and 655) for the same use. The latest previous application No. A/NE-TK/655 was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years and all approval conditions have been complied with. The proposal under current application is the same as that under application No. A/NE-TK/655 in terms of site boundary and development parameters.
- 1.3 In support of the application, the applicant has submitted an application form with attachments received on 28.7.2021 (**Appendix I**).

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**. They can be summarized as follow:

- (a) planning permission for the same use was previously granted for a period of 3 years. Renewal application is submitted as the valid planning permission will soon expire; and
- (b) the applicant provides real estate agency services for potential house buyers in the area along Ting Kok Road. The Site is a piece of vacant agricultural land and the applied use would better utilize the undeveloped land in the New Territories.

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. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 34D (TPB-PG No. 34D) on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ are relevant to this application. The relevant assessment criteria are summarized in **Appendix II**.

5. Previous Applications

- 5.1 The Site is the subject of three previous applications (No. A/NE-TK/403, 564 and 655) for the same use, which were approved by the Committee with conditions for a period of 3 years on 5.10.2012, 20.11.2015 and 16.11.2018 respectively. The previous applications were approved mainly on considerations of not jeopardising the long-term planning intention of the “REC” zone; being not incompatible with the surrounding environment; and unlikely causing significant adverse impacts on the surrounding areas. For the latest previous application No. A/NE-TK/655, all approval conditions have been complied with, and the planning permission is valid until 20.11.2021. The proposal under current application is the same as that of application No. A/NE-TK/655 in terms of site boundary and development parameters.
- 5.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

6. Similar Applications

- 6.1 There are 11 similar applications for temporary shop and services use within the same “REC” zone in the vicinity of the Site. Of them, 10 applications (No. A/NE-TK/442, 457, 549, 592, 614, 639, 652, 666, 675 and 683) were approved with conditions for a period of 3 years by the Committee between 2013 and 2020, on similar considerations for the approval of applications No. A/NE-TK/403, 564 and 655 as mentioned in paragraph 5.1 above. The remaining application (No. A/NE-TK/523) involving a proposal of temporary restaurant and convenience store was rejected by the Committee in 2014 mainly for the reason of failing to demonstrate that the proposed development would not have adverse environmental and landscape impacts on the surrounding areas.
- 6.2 Details of the applications are shown in **Appendix IV** and their locations are shown on **Plans A-1 and A-2**.

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

- 7.1 The Site is :
- (a) currently occupied by a single-storey structure for the applied use with valid planning permission until 20.11.2021; and
 - (b) located at the roadside of Ting Kok Road.
- 7.2 The surrounding areas are predominantly rural in character with village houses, barbecue areas and vehicle parks. To the east and northwest of the Site are the village proper of Lung Mei and Lo Tsz Tin. To the south on the opposite side of Ting Kok Road is Lung Mei Bathing Beach.

8. Planning Intention

The planning intention of the “REC” zone is primarily for 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 recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) no objection to the application;
- (b) the Site consists of three private lots in D.D. 17 which are held under the Block Government Lease demised for agricultural purpose. No structure shall be erected on the lots without prior approval from LandsD;
- (c) in connection with the previous application No. A/NE-TK/655, no Short Term Waiver (STW) application has been received. A recent inspection revealed that a temporary structure and a vending machine were found on the Site without prior approval from LandsD. The lots owner is required to clear any unauthorised structures on 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 lots owner is required to submit an application for STW to LandsD if she 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) the ingress/egress of the Site may fall on unallocated Government land. As such, no trees thereon shall be interfered with unless with prior approval from LandsD. The maintenance and management responsibility of the said Government land leading to the Site should be sorted out with the relevant Government departments, prior to making use of them for ingress/egress purpose. Furthermore, neither occupation nor works of any kind thereon is allowed without prior approval from LandsD. Ingress/egress may also fall on the adjoining Lots Nos. 1646 S.A and 1651 S.B ss.1 in D.D.17. The applicant should sort out the relevant issues with the lots owners concerned; and
- (f) there is no guarantee to the grant of right of way to the Site or approval of the emergency vehicular access (EVA) thereto.

Environment

9.1.2 Comments of the Director of Environmental Protection (DEP):

- (a) no environmental complaint has been received in relation to the Site in the past 3 years; and
- (b) the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Use and Open Storage Sites” issued by the DEP to minimize any potential environmental nuisance.

Landscape

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

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural coastal plains landscape character surrounded by village houses, temporary structures and vehicle parks. The Site is paved with no significant sensitive landscape resource observed. Significant adverse landscape impact arising from the continual use of the Site for the applied use is not anticipated;
- (c) similar planning applications for temporary shop and services use within the same “REC” zone in the proximity of the Site were previously approved by the Board. The proposed continual use of the Site is considered not entirely incompatible with its surrounding environment; and
- (d) in view of the limited space within the Site for meaningful landscaping, should the Board approve the application, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) while there are DSD’s public stormwater drains in this area, the applicant should have her own stormwater collection and

discharge system to cater for the runoff generated within the Site and overland flow from the surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applied use should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (c) there are existing public sewers in the vicinity of the Site;
- (d) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought; and
- (e) if the application is approved, an approval condition on maintenance of existing drainage facilities at all times during the approval period is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas.

Building Matters

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

- the advisory comments at paragraph (d) of **Appendix V** should be observed.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to the fire service installations (FSIs) being provided to his satisfaction;
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of the proposed FSIs to be installed should be clearly marked; and
- (c) 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.

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

- (a) Commissioner for Transport (C for T);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (e) Commissioner of Police (C of P); and
- (f) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

10. Public Comment Received During Statutory Publication Period

On 6.8.2021, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 This application is for renewal of planning permission granted under a previous application (No. A/NE-TK/655) for temporary shop and services use (real estate agency) for a further period of 3 years in an area zoned “REC” on the OZP. The applied use is not in line with the planning intention of “REC” zone which is primarily for recreational developments for the use of the general public. Nevertheless, as the applied use is on a temporary basis for 3 years, approval of the application would not jeopardize the long-term planning intention of the “REC” zone.
- 11.2 The applied use with a site area of about 43.68m² and a single-storey temporary structure of 3.35m in height is small in scale and not incompatible with the surrounding rural character mainly comprising village houses, barbecue areas and vehicle parks (**Plans A-2 and A-3**). The applied use is not anticipated to cause significant adverse traffic, sewerage, drainage and landscape impacts on the surrounding areas. Relevant Government departments consulted as mentioned in paragraph 9 have no objection to/no adverse comment on the application.
- 11.3 The Site is the subject of three previous planning applications (No. A/NE-TK/403, 564 and 655) for the same use as the current application, which were approved in 2012, 2015 and 2018 mainly on considerations of not jeopardising the long-term planning intention of the “REC” zone; being not incompatible with the surrounding environment; and unlikely causing significant adverse impacts on the surrounding areas. The latest previous application No. A/NE-TK/655 was approved on 16.11.2018 and all approval conditions have been complied with. The proposal under current application is the same as that of

application No. A/NE-TK/655 in terms of site boundary and development parameters.

- 11.4 The application generally complies with the TPB-PG No. 34D on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' in that there has been no material change in planning circumstances since the last approval was granted; there are no major adverse departmental comments against the renewal application; all the approval conditions for the last application have been complied with; and the approval period sought which is the same as the last permission and is considered reasonable.
- 11.5 There are 11 similar applications for temporary shop and services use within the same "REC" zone in the vicinity of the Site. All applications, except application No. A/NE-TK/523, were approved on similar considerations for approval of applications No. A/NE-TK/403, 564 and 655 as mentioned in paragraph 11.3 above. The only rejected application (No. A/NE-TK/523) for a temporary restaurant and convenience store was rejected by the Committee in 2014 mainly for the reason of failing to demonstrate that the proposed development would not have adverse environmental and landscape impacts on the surrounding areas. The circumstances of the subject application are similar to the approved applications.
- 11.6 No public comment was received during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11, 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 3 years, and be renewed from 21.11.2021 until 20.11.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (b) the submission of a proposal for fire service installations and water supplies for fire-fighting 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 21.5.2022;
- (c) in relation to (b) above, the implementation of fire service installations and water supplies for fire-fighting 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 21.8.2022; and

- (d) 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
- (e) if any of the above planning conditions (b) or (c) 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 V**.

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 "REC" zone which is primarily for recreational developments for the use of the general public and encourages the development of active and/or passive recreation and tourism/eco-tourism. There is no strong 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 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 and attachments dated 28.7.2021
Appendix II	Relevant extract of the Town Planning Board Guidelines No. 34D on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development'
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Recommended advisory clauses

Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**