

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

**APPLICATION NO. A/NE-TK/732**

<b><u>Applicant</u></b>	Mr. CHENG Tsun Chung represented by Mr. HUI Kwan Yee
<b><u>Site</u></b>	Lot 1690 S.B (Part) in D.D.17, Lung Mei, Tai Po, New Territories
<b><u>Site Area</u></b>	About 80 m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural purpose)
<b><u>Plan</u></b>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<b><u>Zoning</u></b>	“Recreation” (“REC”)
<b><u>Application</u></b>	Renewal of Planning Approval for Temporary Shop and Services (Store) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval for temporary shop and services (store) 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 19.10.2021.
- 1.2 According to the applicant’s submission, the applied use is accommodated in a single-storey structure of about 30m<sup>2</sup> in gross floor area (GFA) and 3.96m in height.
- 1.3 The Site is the subject of a previous application (No. A/NE-TK/652) for the same use submitted by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years on 19.10.2018. All approval conditions have been complied with. The proposal under current application is the same as the previously approved case in terms of site boundary and development parameters.

1.4 In support of the application, the applicant submitted the following documents:

- (a) an application form with attachments received on **(Appendix I)** 27.8.2021
- (b) Further Information (FI) received on 6.10.2021 **(Appendix Ia)**  
*(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**. They can be summarized as follows:

- (a) planning permission for the same use was previously granted for a period of 3 years in 2018. Renewal application is necessary as the planning permission will soon expire; and
- (b) the applied use could serve the visitors in the vicinity and support tourist activities.

## **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 from the current owner. 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 Application**

5.1 The Site is the subject of a previous application (No. A/NE-TK/652) for the same use submitted by the same applicant, which was approved by the Committee with conditions for a period of 3 years on 19.10.2018. The previous application was 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. All approval conditions have been complied with, and the planning permission is valid until 19.10.2021. The proposal

under current application is the same as that of the previous application in terms of site boundary and development parameters.

- 5.2 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plans A-1** and **A-2**.

## **6. Similar Applications**

- 6.1 There are 14 similar applications for temporary shop and services use within the same “REC” zone in the vicinity of the Site. Of them, 13 applications (No. A/NE-TK/403, 442, 457, 549, 564, 592, 614, 639, 655, 666, 675, 683 and 713) were approved with conditions for a period of 3 years by the Committee between 2012 and 2021, on similar considerations for the approval of Application No. A/NE-TK/652 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 Plans 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 19.10.2021; and
  - (b) accessible by village footpath leading to Ting Kok Road.
- 7.2 The surrounding areas are predominantly rural in character with village houses of Lung Mei at the east, barbecue areas at the west and north, a temporary structure at the south. Further 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 Lot 1690 S.B in D.D. 17 which is held under the Block Government Lease demised for agricultural purpose. No structure shall be erected on the lot without prior approval from LandsD. In connection with the previous application No. A/NE-TK/652, no Short Term Waiver (STW) application for erection of structure has been received and a warning letter was issued on 2.5.2019;
- (c) a recent inspection revealed that unauthorised structures were still found on the Site without LandsD’s prior approval. The lot owner is required to clear any unauthorised structures on the Site immediately unless they are covered by valid approval. Otherwise, appropriate enforcement action would be taken in due course;
- (d) should the Board approve the application, the lot owner is required to submit an application for 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; and
- (e) 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” 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 clusters of trees. 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 his 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 to accommodate the additional runoff arisen from the proposed development of the Site. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure or ineffectiveness of the modified drainage systems caused by their works;

- (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 Matter

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 VI** 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; and
- (b) the existing FSIs on the Site should be maintained in efficient working order at all times during the approval period.

### Environmental Hygiene

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

- the advisory comments at paragraph (f) of **Appendix VI** should be observed.

#### 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); and
- (e) District Officer(Tai Po), Home Affairs Department (DO(TP), HAD).

### **10. Public Comments Received During Statutory Publication Period (Appendix V)**

On 3.9.2021, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals. One of them objects to the application on the grounds of causing environmental pollution and potential fire hazard which will affect villagers' safety and living quality. The other one raises concern on whether all approval conditions of the previous application have been complied with.

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

11.1 This application is for renewal of planning permission granted under a previous application (No. A/NE-TK/652) for temporary shop and services use (store) 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 80m<sup>2</sup> and a single-storey structure with a GFA of 30m<sup>2</sup> and building height of 3.96m is small in scale and not incompatible with the surrounding rural character comprising village houses, temporary structures and clusters of trees (**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/adverse comment on the application.

- 11.3 The Site is the subject of a previous planning application (No. A/NE-TK/652) submitted by the same applicant for the same use as the current application, which was approved in 2018 mainly on considerations of not jeopardising the long-term planning intention of the “REC” zone; and being not incompatible with the surrounding environment; and unlikely causing significant adverse impacts on the surrounding areas. All approval conditions of the previous application have been complied with. The proposal under current application is the same as that of the previous application 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 previous approval was granted; there are no major adverse departmental comments against the renewal application; all the approval conditions for the previous application have been complied with; and the approval period sought which is the same as the previous permission and is considered reasonable.
- 11.5 There are 14 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 application No. A/NE-TK/652 as mentioned on 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 Regarding the public comments as summarized in paragraph 10 above, Government department’s comments and the 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, 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 20.10.2021 until 19.10.2024. 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 existing fire service installations implemented on the Site shall be maintained at all times during the planning approval period; and
- (c) if any of the approval conditions (a) or (b) is not complied with at any time during the planning approval, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

#### Advisory Clauses

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

12.3 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**

<b>Appendix I</b>	Application form and attachments dated 27.8.2021
<b>Appendix Ia</b>	FI submitted by the applicant received on 6.10.2021
<b>Appendix II</b>	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'
<b>Appendix III</b>	Previous application
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Public comments
<b>Appendix VI</b>	Recommended advisory clauses

<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

**PLANNING DEPARTMENT  
OCTOBER 2021**