

**APPLICATION FOR EXTENSION OF TIME
FOR COMPLIANCE WITH PLANNING CONDITIONS
UNDER SECTION 16(A)2 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/NE-TK/743-4

- Applicant** : Mr. LI Ho Lim Cyrus represented by Mr. HUI Kwan Yee
- Site** : Lot 137 in D.D. 17, Ting Kok, Tai Po, New Territories
- Site Area** : About 139.5m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Class B Amendment – Category 19
Extension of time for compliance with conditions (a), (b), (c) and (d) for the approved temporary shop and services (store) for a period of three years under Application No. A/NE-TK/743

1. Background

1.1 On 17.1.2022, the applicant sought planning permission under s.16 of the pre-amended Town Planning Ordinance¹ for proposed temporary shop and services (store) for a period of three years at the application site (the Site) (**Plan AA-1**). On 20.5.2022, the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board/TPB) approved the application on a temporary basis for a period of three years until 20.5.2025 subject to the following conditions (approval letter dated 10.6.2022 at **Appendix I**):

- (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 TPB by 20.11.2022;
- (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 TPB by 20.2.2023;
- (c) the submission of a proposal for fire service installations (FSIs) and water supplies for fire-fighting within 6 months from the date of planning approval

¹ The “pre-amended Ordinance” refers to the Town Planning Ordinance as in force immediately before 1.9.2023.

to the satisfaction of the Director of Fire Services or of the TPB by 20.11.2022;

(d) in relation to (c) above, the implementation of the proposal for FSIs 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 TPB by 20.2.2023; and

(e) if any of the above planning condition (a), (b), (c) or (d) 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.

1.2 Since the approval of the application, a total of three s.16A applications for extension of time (EOT) (relevant approval letters at **Appendices Ia to Ic**) for compliance with approval conditions (a) to (d) were granted. The time limits for conditions (b) & (d) and (a) & (c) were extended to a total of 18 months until 20.11.2023 under the second EOT (Application No. A/NE-TK/743-2) and third EOT (Application No. A/NE-TK/743-3) applications approved on 25.4.2023 and 7.8.2023 respectively.

1.3 During the above extension periods, the applicant had made submission once for compliance with condition (a) on 24.3.2023 (i.e. about 10 months from date of planning approval). However, the submission was considered unacceptable by the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD). The applicant was informed about CE/MN, DSD's view on 15.5.2023. No submission has been made so far for compliance with conditions (b), (c) and (d).

1.4 The time limit for compliance with approval conditions (a), (b), (c) and (d) will expire on 20.11.2023. In accordance with approval condition (e), if any of those conditions is not complied with by the specified date, the approval will cease to have effect and shall on the same date be revoked without further notice.

2. The Proposal

On 20.10.2023, the applicant submitted a s.16A application for Class B amendment (Category 19) for the fourth EOT (**Appendix II**) as follows:

- (a) conditions (a) and (c) from 6 months to 21 months until 20.2.2024 (i.e. an addition of 15 months from the original approval or an addition of 3 months from last approval); and
- (b) conditions (b) and (d) from 9 months to 21 months until 20.2.2024 (i.e. an addition of 12 months from the original approval or an addition of 3 months from last approval).

3. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as detailed in Section 5 of the Application Form at **Appendix II** are summarized below:

- (a) the applicant is preparing the revised drainage proposal in response to the comments provided by DSD, and will make submission immediately upon completion; and
- (b) the applicant has appointed contractors to prepare the proposal for FSIs and water supplies for fire-fighting.

4. Town Planning Board Guidelines

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

5. Comments from Relevant Government Departments

As approval conditions (a) & (b) and (c) & (d) are related to drainage and fire safety aspects respectively, CE/MN of DSD and D of FS have been consulted. They have no comment on or no objection to this EOT application.

6. Planning Considerations and Assessment

- 6.1 This is the fourth EOT application for compliance with approval conditions (a) to (d). In approving the third EOT application (No. A/NE-TK/743-3) on 7.8.2023 (approval letter at **Appendix Ic**), the applicant was advised to expedite the action for compliance with the conditions, and was informed that further extension would normally not be granted if the total compliance period exceeds half of the duration of the temporary permission (i.e. 18 months for temporary use of three years).
- 6.2 In considering the EOT application, the assessment criteria listed in TPB PG-No. 34D are relevant (**Appendix III**). One of the key considerations is whether the applicant has given full justifications on why the planning conditions could not be complied with within the prescribed time limit. In this regard, the applicant's only justification was that he and his contractors are preparing the submissions for compliance with the relevant conditions. There is no strong justification to demonstrate why the conditions could not be complied with within the past 18 months.
- 6.3 Another assessment criteria set out in TPB PG-No. 34D is whether the applicant has demonstrated that reasonable action(s) have been taken to comply with all or the outstanding planning conditions. Since the approval of the s.16 application on 20.5.2022, no action has been undertaken by the applicant to

comply with the planning conditions during most of the approval periods. Only one submission was made for condition (a) as stated paragraph 1.3 above and no submission has been made for condition (c) so far. There was also major time lag between the date of planning approval and the first compliance submission (i.e. about 10 months from date of planning approval). The applicant has not demonstrated that reasonable actions and genuine effort have been taken to comply with the approval conditions.

- 6.4 Considering that sufficient time (i.e. a total of 18 months, equal to half of the three-year temporary approval) has been allowed but the applicant has not taken reasonable actions and genuine effort to comply with approval conditions (a) to (d), and has not given full justifications on non-compliance with the conditions within the prescribed time limit, the application is not in line with the assessment criteria of the TPB PG-No. 34D. In view of the above, the extension sought is not supported.

7. Planning Department's Views

Based on the assessment made in paragraph 6 above, Planning Department does not support the application for EOT for compliance with approval conditions (a), (b), (c) and (d) for the following reasons:

- (a) the applicant fails to provide strong justifications for further extension of the time limit for compliance with approval conditions (a), (b), (c) and (d) ; and
- (b) the applicant has not demonstrated that reasonable actions have been taken to comply with all the approval conditions within the prescribed time limit.

8. Decision Sought

The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.

9. Attachments

Appendix I	Approval Letter under Application No. A/NE-TK/743 dated 10.6.2022
Appendix Ia	Approval Letter under Application No. A/NE-TK/743-1 dated 28.10.2022
Appendix Ib	Approval Letter under Application No. A/NE-TK/743-2 dated 25.4.2023
Appendix Ic	Approval Letter under Application No. A/NE-TK/743-3 dated 7.8.2023
Appendix II	Application Form received on 20.10.2023
Appendix III	Relevant Extract of Town Planning Board Guidelines No. 34D (TPB-PG No. 34D) for Renewal of Planning Approval

and Extension of Time for Compliance with Planning
Conditions for Temporary Use or Development

Plan AA-1

Location Plan

**PLANNING DEPARTMENT
NOVEMBER 2023**