

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

**APPLICATION NO. A/NE-TK/746**

<b><u>Applicant</u></b>	Mr. CHEUNG Kai Hong represented by Rainbow Workshop & Gallery Limited
<b><u>Site</u></b>	Lot 715 RP (Part) in D.D. 28, Tai Mei Tuk, Tai Po, New Territories
<b><u>Site Area</u></b>	About 22.8 m <sup>2</sup>
<b><u>Land Status</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>Zonings</u></b>	“Village Type Development” (“V”) (about 85%) and area shown as ‘Road’ (about 15%)
<b><u>Application</u></b>	Temporary Eating Place (Outside Seating Accommodation (OSA) of a Restaurant) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a temporary eating place of a restaurant for a period of 3 years (**Plan A-2**). The Site falls within an area partly zoned “V” (about 85%) and partly shown as ‘Road’ (about 15%) on the OZP. According to the Notes of the OZP, while ‘Eating Place’ on the ground floor of a New Territories Exempted House (NTEH) within the “V” zone is always permitted, such use elsewhere within the “V” zone requires planning permission from the Town Planning Board (the Board). ‘Eating Place’ within an area shown as ‘Road’ also requires planning permission from the Board. The Site is currently occupied by the applied use without valid planning permission.
- 1.2 According to the applicant, the applied use is an extension of an existing restaurant on the ground floor of the adjoining village house at 47F Tai Mei Tuk Village. It will provide no more than 16 seats in an open-air area of about 22.8 m<sup>2</sup>. The existing movable structure at the Site will be removed. The operating hours are from 12:00 noon to 10:00 p.m. daily. The Site abuts Ting Kok Road and no parking space is provided. A 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 and supplementary information (**Appendix I**)  
received on 26.1.2022 and 31.1.2022
- (b) Further Information (FI) received on 2.3.2022 (**Appendix Ia**)  
*(accepted and exempted from publication and  
recounting requirements)*

## **2. Justification from the Applicant**

The justification put forth by the applicant in support of the application is given in Part 7 of the application form at **Appendix I**. He claims that the applied use will provide a leisure dining area for countryside visitors and support the surrounding recreational facilities at Tai Mei Tuk.

## **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. Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Eating Place within “Village Type Development” zone in Rural Areas under section 16 of the Town Planning Ordinance’ (TPB PG-No. 15A) is relevant to the application. The relevant planning criteria are summarized as follows:

- (a) the eating place use should not create environmental nuisance or cause inconvenience to the residents nearby. Such use should preferably be located at the fringe of a village area, e.g. area abutting the main road. For any eating place use that is situated amidst the existing village houses, sympathetic consideration may only be given if there are no objections from local residents;
- (b) the eating place use should not have any adverse traffic impact on its surrounding areas nor should it affect any pedestrian circulation in the area;
- (c) sympathetic consideration may be given if the eating place use would not have adverse impacts on drainage, sewage disposal facilities or fire safety aspects;
- (d) for any application on open ground as an extension to ground floor eating place in a NTEH or as a free-standing development, the eating place use should not adversely affect the land availability for village type development. Application sites with configuration/dimensions which are not suitable to be delineated separately for village type development or which are considered not suitable for village type development (e.g. within 20m of public roads constructed/ maintained by the Highways Department or 15m of other local public roads), sympathetic consideration may be given by the Board on individual merits;

- (e) for a village located adjacent to recreational uses or tourist attraction spots, favourable consideration may be given to eating place use which will provide catering facilities to serve the visitors and tourists. In such circumstances, adequate car-parking spaces should be provided to serve the eating place use as required by the Transport Department. If it is impossible to provide car parking spaces at the application site, the applicant should demonstrate that there are adequate car-parking facilities conveniently located in the vicinity to serve the eating place use; and
- (f) all other statutory or non-statutory requirements of relevant Government departments should be met.

## **5. Previous Application**

There is no previous application at the Site.

## **6. Similar Applications**

- 6.1 There are 30 similar applications (No. A/NE-TK/93, 118, 151, 157-159, 164, 170, 218, 236-237, 315, 412-413, 437-438, 447, 505, 532, 534, 566, 568-569, 574-575, 584, 630, 656, 672 and 695) for temporary OSA of eating place involving 16 sites within the same “V” zone. All applications were approved by the Rural and New Town Planning Committee (the Committee) between 1998 and 2021 mainly for reasons that the proposal(s) complied with the planning criteria of TPB PG-No. 15A and would unlikely cause any nuisance to the local residents nor adverse impacts on the surrounding areas.
- 6.2 Details of the similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

## **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) paved and served as an extension of the adjoining restaurant which is located on the ground floor of a village house at 47F Tai Mei Tuk Village;
  - (b) situated at the southern fringe of Tai Mei Tuk Village;
  - (c) abutting Ting Kok Road; and
  - (d) currently used for the applied use without valid planning permission.
- 7.2 The surrounding areas are predominantly rural in character with village houses, many of which are occupied by restaurant on the ground floor with/without OSA. About 200 m to the southwest on the opposite side of Ting Kok Road are a bus

terminus and Tai Mei Tuk Public Car Park. Further south are various recreational facilities including barbecue areas, water sports centre and nature trails.

## **8. Planning Intentions**

- 8.1 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.
- 8.2 Area shown as ‘Road’ on the OZP is for road purpose.

## **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 the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):
- (a) no objection to the application;
  - (b) the Site partly falls on Lot 715 RP in D.D. 28 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;
  - (c) a recent inspection revealed that a retractable canopy was found erected on the Site without LandsD’s prior approval. Part of the canopy also straddled on the adjoining unallocated government land and Lot 715 S.B RP outside the Site. The lot owner is required to clear any unauthorised structure on the Site immediately. 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 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 imposed by LandsD where appropriate, including payment of waiver fee and administrative fee;

- (e) a Small House has been erected adjacent to the Site on portion of Lots 715 S.B RP and 715 RP in D.D. 28 under Building Licence. There is no new Small House application received for the Site; and
- (f) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access (EVA) thereto.

#### Traffic

##### 9.1.2 Comments of the Commissioner of Transport (C for T):

- no in-principle objection to the application from traffic engineering viewpoint;

##### 9.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) no comments on the application; and
- (b) there is no road widening programme for the section of Ting Kok Road concerned.

#### Environment

##### 9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the application from environmental planning perspective;
- (b) no environmental complaint has been received in relation to the Site in the past 3 years; and
- (c) the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance; and to carry out pollution abatement measures in relevant Guidelines, including “Control of Oily Fume and Cooking Odour from Restaurants and Food Business”. It is the applicant’s obligation to meet the statutory requirements under relevant pollution control ordinances.

#### Drainage

##### 9.1.5 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) 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; and

- (c) advisory comments in paragraph (d) of **Appendix IV** should be observed.

#### Food and Environmental Hygiene

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

- (a) no adverse comment on the application;
- (b) while the existing restaurant at ground floor of the adjoining village house at 47F Tai Mei Tuk Village is covered by a valid General Restaurant Licence with validity up to 16.3.2022, the Site is not covered by any restaurant licence or approval for OSA; and
- (c) proper licence/permit issued by Food and Environmental Hygiene Department (FEHD) 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. Detailed comments on licensing requirements are set out in paragraph (e) of **Appendix IV**.

#### Fire Safety

##### 9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to 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. Licensing requirements, if any, shall be formulated upon receipt of formal application via Licensing Authority.

#### Building Matters

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

- advisory comments in paragraph (f) of **Appendix IV** should be observed.

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

- (a) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (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 Comment Received During Statutory Publication Period (Appendix III)**

On 8.2.2022, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly for concerns on fire risks and adverse environmental impacts.

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

- 11.1 The application is for a temporary eating place use (OSA) as an extension of the existing restaurant which is located on the ground floor of a village house, for a period of 3 years. The applied use is not entirely in line with the planning intention of the “V” zone which is primarily intended for development of NTEH/Small Houses by indigenous villagers. Nevertheless, as advised by DLO/TP of LandsD, there is at present no Small House application received in respect of the Site. Approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “V” zone, nor adversely affect the land availability for Small House development.
- 11.2 The Site is located at the southern fringe of Tai Mei Tuk Village and abuts Ting Kok Road, and is currently occupied by the applied use without planning permission. The applied use is considered not incompatible with its surrounding uses which mainly comprise village houses, many of which are occupied by restaurant on the ground floor with/without OSA. With only about 22.8 m<sup>2</sup> and not more than 16 seats, the applied use is small in scale and is not anticipated to cause significant adverse environmental, traffic, drainage impacts and fire risks on the surrounding areas. According to DEP, there has been no environmental complaint related to the Site in the past 3 years. Other government departments consulted have no objection to or adverse comment on the application from technical aspects. In view of the above, the OSA under application is generally in line with the TPB PG-No. 15A for eating place within the “V” zone.
- 11.3 There are 30 similar applications for temporary OSA of eating place involving 16 sites within the same “V” zone in the vicinity of the Site. All applications were approved by the Committee between 1998 and 2021 mainly for reasons that the proposal(s) complied with the planning criteria of TPB PG-No. 15A and would unlikely cause any nuisance to the local residents nor adverse impacts on the

surrounding areas. The circumstances of the current application are similar to these approved applications.

- 11.4 Regarding the public comment as detailed in paragraph 10 above, government departments' comments and the planning assessments 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 comment 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 until 18.3.2025. The following approval conditions 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 18.9.2022;
- (b) in relation to (a) above, the implementation of 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 18.12.2022;
- (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 to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.9.2022;
- (d) in relation to (c) above, the implementation of 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 Town Planning Board by 18.12.2022; and
- (e) if any of the above planning conditions (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.

### Advisory clauses

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

- 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 "Village Type Development" 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. 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. There is no strong planning 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 supplementary information received on 26.1.2022 and 31.1.2022
<b>Appendix Ia</b>	FI received on 2.3.2022
<b>Appendix II</b>	Similar applications
<b>Appendix III</b>	Public comment
<b>Appendix IV</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout plan submitted by the applicant
<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  
MARCH 2022**