

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/760

<u>Applicant</u>	: Ms. YE Na represented by Mr. HUI Kwan Yee
<u>Site</u>	: Lot 1340 (Part) and 1366 in D.D. 17, Lo Tsz Tin, Tai Po, New Territories
<u>Site Area</u>	: About 175.9m 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>	: Temporary Shop and Services (Store) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services (store) use for a period of three years at the application site (the Site) which falls within “REC” zone on the approved Ting Kok OZP No. S/NE-TK/19 (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ use is a Column 2 use under the “REC” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without any valid planning permission.
- 1.2 According to the applicant, the applied use comprises three single-storey structures with a height of not more than 3.96m, providing a total floor area of about 55.29m² for reception/kiosk, office and storage uses. The operation hours are from 8:00 a.m. to 8:00 p.m. daily (including public holidays). The Site is accessible via a local track leading to Ting Kok Road. Layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.3 Part of the Site is the subject of three previous applications (No. A/NE-TK/442, 523 and 666) for the same use. The last previous application (No. A/NE-TK/666) submitted by the same applicant as the current application was approved by the Rural and New Town Planning Committee (the Committee) in 2019. Details of the previous applications are set out in paragraph 4 below. When compared with this previous application, the current one involves a larger site (increased from 112.9m² to 175.9m²), smaller total floor area (reduced from 56.55m² to 55.29m²) and layout changes.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on (Appendix I) 30.8.2022
 - (b) Further Information (FI) received on 14.10.2022 (Appendix Ia)
 - (c) FI received on 9.2.2023 (Appendix Ib)
[accepted and exempted from publication and recounting requirements]
- 1.5 On 9.12.2022, the Committee agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

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 and FI at **Appendices I to Ib**, as summarized below:

- (a) the applied use could make better use of vacant land in the rural area to serve the villagers and visitors in the vicinity and support tourist activities;
- (b) the last planning permission under Application No. A/NE-TK/666 for the same use was granted for part of the Site (i.e. Lot 1366 in D.D. 17 only) in 2019. Part of the structures were later found to have erected on the adjoining lot (i.e. Lot 1340 (part) in D.D. 17) by mistake. The current application seeks to rectify the discrepancy in site area and site boundary and continue running the store business at the Site; and
- (c) all approval conditions under the previous planning permission (No. A/NE-TK/666) have been complied with. Should the application be approved by the Board, the applicant is committed to complying with approval conditions to be imposed, including the undertaking of a geotechnical assessment to ensure no significant adverse geotechnical impact.

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

The applicant is one of the “current land owners”. In respect of the other “current land owner(s), the applicant 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 posting notice on the Site and sending notice to Tai Po Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Previous Applications**

- 4.1 Part of the Site is the subject of three previous applications (No. A/NE-TK/442, 523 and 666) for temporary shop and services use (**Plan A-2**). The last previous

application (No. A/NE-TK/666) was submitted by the same applicant as the current application.

- 4.2 Applications No. A/NE-TK/442 and 666 covering Lot 1366 in D.D. 17 only were approved with conditions by the Committee in 2013 and 2019 respectively, mainly on consideration of being small in scale; not incompatible with the surrounding land uses; and no significant adverse impacts on the surrounding areas. All approval conditions of the last previous application (No. A/NE-TK/666) have been complied with. Compared with this previous application, the current one involves a larger site (increased from 112.9m² to 175.9m²), smaller total floor area (reduced from 56.55m² to 55.29m²) and layout changes. The last planning permission expired on 3.8.2022.
- 4.3 The remaining application (No. A/NE-TK/523) involving a larger site for temporary restaurant and convenience store use (**Plan A-2**) was rejected by the Committee in 2014 mainly for reasons of being not in line with the planning intention of the “REC” zone; and failing to demonstrate no adverse environmental and landscape impacts on the surrounding areas.
- 4.4 Details of the previous applications are at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

5. **Similar Applications**

- 5.1 There are nine similar applications (No. A/NE-TK/639, 652, 655, 675, 683, 713, 732, 742 and 754) covering six sites for temporary shop and services use within the same “REC” zone over the past five years (**Plan A-1**). All of them were approved with conditions by the Committee between 2018 and 2022 on similar considerations as stated in paragraph 4.2 above.
- 5.2 Details of the similar applications are shown at **Appendix III** and their locations are shown on **Plan A-1**.

6. **The Site and Its Surrounding Areas** (**Plans A-1 to A-4**)

- 6.1 The Site is :
 - (a) currently used for the applied use without valid planning permission;
 - (b) situated near the southern fringe of Lo Tsz Tin Village; and
 - (c) accessible via a local track leading to Ting Kok Road.
- 6.2 The surrounding areas are predominantly rural in character comprising a barbecue area, village houses, car parks, an eating place, temporary structures, scattered tree groups and vacant lands. A streamcourse flowing from north to south is located to the immediate north and east of the Site. To the further north and south on the opposite side of Ting Kok Road are the village proper of Lo Tsz Tin and Lung Mei Beach respectively.

7. 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.

8. Comments from Relevant Government Departments

All departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices IV** and **V** respectively.

9. Public Comments Received During Statutory Publication Period (Appendix VI)

During the statutory public inspection periods, three public comments were received from individuals objecting to the application mainly for concerns on fire risks, adverse traffic and environmental impacts; and non-compliance with approval conditions imposed under the last previous application (No. A/NE-TK/666); and increase in site area as compared to the last previous application.

10. Planning Considerations and Assessments

- 10.1 This application is for temporary shop and services use (store) for a period of three years at the Site zoned “REC” on the OZP. The applied use is not entirely in line with the planning intention of “REC” zone which is primarily for recreational developments for the use of the general public. Nevertheless, it could help provide retail services to the local residents and visitors. As the applied use is on a temporary basis for three years and there is no known development proposal for the subject site within the “REC” zone, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “REC” zone.
- 10.2 The Site is situated near the southern fringe of Lo Tsz Tin Village. The applied use is considered not incompatible with its surrounding uses predominated by a barbecue area, village houses, car parks, an eating place, temporary structures, scattered tree groups and vacant lands (**Plans A-2** and **A-3**). Chief Town Planner/Urban Design and Landscape of Planning Department considers that no significant adverse landscape impact is anticipated and has no objection to the application from landscape planning perspective.
- 10.3 The applied use comprising three single-storey structures with a total floor area of about 55.29m² and a height of not more than 3.96m is small in scale. It is not anticipated to cause significant adverse environmental, traffic and drainage impacts as well as fire risks on the surrounding areas. According to Director of Environmental Protection, no environmental complaint related to the Site was received in the past three years. Head of Geotechnical Engineering Office of Civil Engineering and Development Department advises to impose approval

conditions requiring submission of a geotechnical investigation report and implementation of necessary geotechnical works identified therein to ensure that the Site will not be affected by adjacent suspected unauthorized fill slopes. Other government departments consulted including Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application.

- 10.4 The Committee has approved two previous applications at the Site and nine similar applications for temporary shop and services use within the same “REC” zone since 2018 mainly on considerations set out in paragraph 4.2 above. Approval of the current application is in line with the previous decisions of the Committee.
- 10.5 Regarding the public comments as detailed in paragraph 9 above, government departments’ comments and the planning assessments above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments as detailed in paragraph 9 above, the 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 31.3.2026. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission of a geotechnical investigation report within **6** months from the date of planning approval to the satisfaction of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board by 30.9.2023;
- (b) in relation to (a) above, the implementation of necessary geotechnical works identified therein within **9** months from the date of planning approval to the satisfaction of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board by 31.12.2023;
- (c) the existing drainage facilities on the Site should be maintained at all times during the planning approval period;
- (d) 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 30.9.2023;
- (e) in relation to (d) 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 31.12.2023;

- (f) if any of the above planning condition (a), (b), (d) or (e) 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; and
- (g) if the above planning condition (c) 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.

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 planning justification in the current 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 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.
- 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 with attachments received on 30.8.2022
Appendix Ia	FI received on 14.10.2022
Appendix Ib	FI received on 9.2.2023
Appendix II	Previous applications
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments

Drawing A-1	Layout plan submitted by applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

PLANNING DEPARTMENT
MARCH 2023