

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/768

- Applicants** : Mr. WONG Wong Po Stanley and Mr. WONG Pak Sing represented by Ms. YU Tsz Shan
- Site** : Government Land in D.D. 28, Tai Mei Tuk, Tai Po, New Territories
- Site Area** : About 340m²
- Land Status** : Government Land
- Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
- Zoning** : "Conservation Area" ("CA")
- Application** : Temporary Shop and Services (Selling of Refreshment, Hiring of Fishing-related Accessories and Storage) for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission for temporary shop and services (selling of refreshment, hiring of fishing-related accessories and storage) for a period of three years at the application site (the Site) which falls within "CA" zone on the approved Ting Kok OZP No. S/NE-TK/19 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plan A-4**).
- 1.2 According to the applicants, the applied use comprises two single-storey structures with a height of 2.44m converted from containers, providing a total floor area of about 45m² for selling of refreshment, hiring of fishing-related accessories and storage uses. The operation hours are from 7:00 a.m. to 10:00 p.m. daily (including public holidays). The Site is accessible via Tai Mei Tuk Road. Site plan, layout plan and fire service installations (FSIs) proposal submitted by the applicants are shown in **Drawings A-1 to A-3** respectively.
- 1.3 The Site is the subject of three previous planning applications (No. A/NE-TK/174, 605 and 681) submitted by the same applicants for the same use. Details of the previous applications are set out in paragraph 4 below. When compared with the last previous application (No. A/NE-TK/681), there is no change in the site area, total floor area and layout of the applied use under

current application.

- 1.4 In support of the application, the applicants submitted an Application Form with attachments received on 5.1.2023 (**Appendix I**).

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in Part 7 of the Application Form (**Appendix I**), as summarized below:

- (i) the Site was granted planning permissions for a period of three years for the same use on 3.3.2017 and 29.5.2020 respectively;
- (ii) short-term tenancy has been granted by District Lands Office/Tai Po of Lands Department (DLO/TP, LandsD) for the selling of refreshment, hiring of fishing-related accessories and storage subject to restrictions on structures with a built-over area of not exceeding 44.652m² and a height of not more than 2.44m;
- (iii) the applicants had made efforts to comply with the approval conditions imposed under the last planning permission (Application No. A/NE-TK/681). Nevertheless, the planning permission was revoked due to non-compliance with approval condition in relation to the implementation of FSIs and water supplies for fire fighting proposal. In this regard, the applicants explain that they are awaiting approval from the Water Supplies Department for connection of water supplies, processing time of which has been delayed due to the COVID-19 pandemic. The applicants have submitted the relevant proposal under the current application and are committed to fulfil the outstanding approval condition. It is anticipated that the water supplies for fire-fighting could be provided within three months for inspection by the relevant department.

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

As the Site involves government land only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) are not applicable to this application.

4. Previous Applications

- 4.1 The Site is the subject of three previous applications (No. A/NE-TK/174, 605 and 681) submitted by the same applicants as the current application for the same use (**Plan A-2**). All of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2004 and 2020, mainly on consideration of being small in scale; and causing no significant adverse impacts on the surrounding areas. The planning permission given under the last previous application No. A/NE-TK/681 was revoked on 28.10.2022 due to non-compliance with approval condition relating to the implementation of FSIs and water supplies for fire fighting proposal. The FSI proposal is submitted

in the current application for consideration by the relevant department.

- 4.2 Compared with the last previous application No. A/NE-TK/681, there is no change in the site area, total floor area and layout of the applied use under current application.
- 4.3 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

5. Similar Application

There is no similar application within the same “CA” zone.

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

- 6.1 The Site is:
 - (a) largely hard paved with a 6.6m-wide drainage reserve in its northern portion; and
 - (b) located to the east of Tai Mei Tuk Barbecue Area and accessible via Tai Mei Tuk Road.
- 6.2 The surrounding areas are predominantly rural in character with a fish pond, barbecue area and boat rental stores in the vicinity. Plover Cove Country Park is located to the immediate south of the Site. About 90m to its northwest on the opposite side of Tai Mei Tuk Road are Tai Mei Tuk Public Car Park and a bus terminus.

7. Planning Intention

The planning intention of the “CA” zone is to protect and retain the existing natural character or ecological features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest or Country Park from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

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 III** and **IV** respectively.

9. Public Comment Received During Statutory Publication Period (Appendix V)

During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds of revocation of the previous application due to non-compliance with approval condition; involving unauthorized structures; and locating in the proximity of a drainage reserve.

10. Planning Considerations and Assessments

- 10.1 The application is for temporary shop and services (selling of refreshment, hiring of fishing-related accessories and storage) for a period of three years at the Site zoned “CA” on the OZP (**Plan A-1**). The planning intention of the “CA” zone is to protect and retain the existing natural character or ecological features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest or Country Park from the adverse effects of development. There is a general presumption against development in this zone. Notwithstanding that the applied use is not in line with the planning intention of the “CA” zone, it could support the nearby recreational facilities and help meeting the recreational needs of locals and visitors. The Director of Agriculture, Fisheries and Conservation has no strong view on the application from nature conservation point of view as the Site is largely hard paved. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “CA” zone.
- 10.2 The Site is located to the east of Tai Mei Tuk Barbecue Area and accessible via Tai Mei Tuk Road (**Plan A-2**). The applied use is considered not incompatible with its surrounding uses mainly comprising a fish pond, barbecue area and boat rental stores (**Plans A-2 and A-3**). With a total floor area of about 45m² and a height of 2.44m, the applied use is small in scale and is not anticipated to cause significant adverse traffic, environmental, sewerage, drainage impacts and fire risks on the surrounding areas. According to the Chief Engineer/Mainland North of Drainage Services Department, the temporary structures on the Site are placed outside the drainage reserve area. The Director of Environmental Protection advises that there was no environmental complaint related to the Site in the past three years. Other government departments consulted including Commissioner for Transport and Director of Fire Services (D of FS) have no objection to or no adverse comment on the application.
- 10.3 The Site is the subject of three previous applications for the same use submitted by the same applicants, which were approved by the Committee between 2004 and 2020 on considerations set out in paragraph 4.1 above. The planning permission for the last approved application (No. A/NE-TK/681) was revoked due to non-compliance with approval condition relating to the implementation of FSIs and water supplies for fire fighting proposal. For the current application, the FSI proposal approved under the previous application is submitted and accepted by D of FS. Having regard to the above and taking into account that there is no significant change in planning circumstances, sympathetic consideration may be given to the current application. Should the application be approved by the Committee, the applicants will be advised that if there is further non-compliance with any of the approval conditions again resulting in

revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 10.4 Regarding the public comment objecting to the application as detailed in paragraph 9, government departments' comments and the planning assessments above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comment mentioned in paragraph 9 above, Planning Department considers that the applied use could be tolerated for a period of three years.
- 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 3.3.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no structure should be erected on the drainage reserve area at all times during the planning approval period;
- (b) the existing drainage facilities on the Site should be maintained at all times during the planning approval period and rectified if they are found inadequate/ineffective during operation;
- (c) the submission of a record of existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 3.6.2023;
- (d) the implementation of the accepted fire service installations and water supplies for fire-fighting proposal 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 3.12.2023;
- (e) if any of the above planning conditions (a) or (b) 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;
- (f) if the above planning conditions (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; and
- (g) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

- the applied use is not in line with the planning intention of the "CA" zone which is intended to protect and retain the existing natural character or ecological features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest or Country Park from the adverse effects of development. There is a general presumption against development in this zone. There is no strong planning justification in the 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 the permission.

12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, 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 applicants.

13. Attachments

Appendix I	Application Form with attachments received on 5.1.2023
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site plan submitted by the applicants
Drawing A-2	Layout plan submitted by the applicants
Drawing A-3	FSI proposal submitted by the applicants
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos