

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/784

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| <u>Applicant</u> | : Mr. WONG Chi Wah represented by Leadtops Raymond Limited |
| <u>Site</u> | : Government land adjoining Lot 882 in D.D. 28, Tai Mei Tuk, Tai Po, New Territories |
| <u>Site Area</u> | : About 49.91m ² |
| <u>Land Status</u> | : Government land |
| <u>Plan</u> | : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19 |
| <u>Zoning</u> | : “Village Type Development” (“V”) |
| <u>Application</u> | : Temporary Eating Place (Outside Seating Accommodation (OSA) of a Restaurant) for a Period of Three Years |

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary eating place (OSA of a restaurant) for a period of three years at the application site (the Site) (**Plan A-1**). 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). The Site is currently occupied by the applied use without a valid planning permission.
- 1.2 The Site is an extension of an existing restaurant located on the ground floor of the adjoining village house at Lot 882 in D.D. 28 (i.e. 69B Tai Mei Tuk) (**Plan A-2**). According to the applicant, the OSA mainly includes a canopy-covered area with a total floor area of about 36.7m² and a height of about 4.71m (one storey), which provides about 30 seats. The operating hours of the OSA are from 11:00 a.m. to 11:00 p.m. daily (including public holidays). The Site is accessible from Ting Kok Road via Sam Wo Road. The floor plan and section plan of the applied use submitted by the applicant are at **Drawings A-1** and **A-2**.
- 1.3 The Site is the subject of seven previously approved applications submitted by the same applicant for the same use. Details of the previous applications are set out in paragraph 5 below. As compared to the last previous application (No. A/NE-TK/763), there is no change in the area and layout of the OSA under current application.

- 1.4 In support of the application, the applicant has submitted the application form with attachments received on 23.8.2023 (**Appendix I**).

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**, as summarized below:

- (a) the applicant would like to continue running the restaurant business at the Site; and
- (b) the existing drainage facilities and fire service installations (FSIs) previously approved by the relevant departments have remained unchanged over the years.

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

As the Site involves government land only, the “owners’ consent/notification” 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) are not applicable to the application.

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 in **Appendix II**.

5. Previous Applications

- 5.1 The Site is the subject of seven previous applications (No. A/NE-TK/218, 236, 315, 447, 584, 672 and 763) for temporary OSA use submitted by the same applicant as the current application (**Plans A-1** and **A-2**). All of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2006 and 2022, mainly on consideration of not frustrating the long-term planning intention of the “V” zone nor adversely affecting the land availability for village type development; complying with TPB PG-No. 15A; being relatively small in scale; and not causing significant adverse impacts on the surrounding areas. The planning permission given under the last previous application No. A/NE-TK/763 was revoked on 11.5.2023 due to non-compliance with approval conditions relating to the submission and implementation of the proposal for FSIs and water supplies for fire-fighting. The FSIs proposal and the certificate of FSIs and equipment are submitted under the current application for consideration by the relevant department.
- 5.2 Compared with the last previous application (No. A/NE-TK/763), there is no change in the area and layout of the OSA under current application.

- 5.3 Details of the previous applications are at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

6. Similar Applications

- 6.1 There are four similar applications (No. A/NE-TK/630, 656, 695 and 746) covering three sites for temporary OSA within the same “V” 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 5.1 above.
- 6.2 Details of the similar applications are at **Appendix IV** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is :
- (a) located outside the ground floor of the adjoining village house at 69B Tai Mei Tuk;
 - (b) situated at the southern fringe of Wong Chuk Tsuen;
 - (c) accessible from Ting Kok Road via Sam Wo Road; and
 - (d) currently used for the applied use without a 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. A cycle track and a number of bicycle hiring stalls are located to the immediate south of the Site. About 55m to the south 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 Intention

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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. 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 V** and **VI** respectively.

10. Public Comment Received During Statutory Publication Period (Appendix VII)

On 1.9.2023, the application was published for inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly for reason of non-compliance with approval conditions in relation to the proposal for FSIs imposed under the previous planning permission (No. A/NE-TK/763).

11. Planning Considerations and Assessment

- 11.1 The application is for temporary eating place use (OSA of a restaurant) for a period of three years at the Site zoned “V” on the OZP (**Plan A-1**). The applied use is not entirely in line with the planning intention of the “V” zone which is primarily intended for development of Small Houses by indigenous villagers. Nevertheless, the applied use could serve the local residents and visitors to the recreational facilities in the vicinity. District Lands Officer/Tai Po of Lands Department has no objection to the application. As the applied use is on a temporary basis for three years, approval of the application on a temporary basis would not jeopardize 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 Wong Chuk Tsuen adjacent to Sam Wo Road. The applied use is considered not incompatible with its surrounding areas predominated by village houses, many of which are occupied by restaurant on the ground floor with/without OSA. With a site area of about 49.91m² and providing about 30 seats, the applied use is small in scale and is not anticipated to cause significant adverse environmental, traffic and drainage impacts on the surrounding areas. According to the Director of Environmental Protection, there has been no environmental complaint related to the Site in the past three years. Other government departments consulted including Commissioner for Transport and Chief Engineer/Mainland North of Drainage Services Department have no objection to or no adverse comment on the application. In view of the above, the OSA under application is generally in line with the TPB PG-No. 15A.
- 11.3 The Site is the subject of seven previously approved applications for the same use submitted by the same applicant as the current application. The planning permission for the last approved application (No. A/NE-TK/763) was revoked due to non-compliance with approval conditions relating to the submission and implementation of the proposal for FSIs and water supplies for fire-fighting. For the current application, the FSIs proposal and the certificate of FSIs and equipment are submitted, and the Director of Fire Services (D of FS) has no objection to the application. Having regarding 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 applicant 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.

- 11.4 There are also four similar applications covering three sites within the same “V” zone over the past five years. All these applications were approved by the Committee between 2018 and 2022 on similar considerations as stated in paragraph 6.1 above. The planning circumstances of approving these applications are applicable to the current one.
- 11.5 Regarding the public comment mentioned in paragraph 10 above, the government departments’ comments and planning assessment 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 above, 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 13.10.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the setback of the development by 1.6m from the existing village road to its south shall be maintained at all times during the planning approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a revised 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 13.4.2024;
- (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 13.7.2024;
- (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; and
- (f) if any of 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.

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 applied use is not in line with the planning intention of "V" zone which is primarily for development of Small Houses by indigenous villagers. 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

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| Appendix I | Application Form received on 23.8.2023 |
| Appendix II | Relevant extracts of TPB Guidelines for 'Application for Eating Place within "Village Type Development" Zone in Rural Areas under Section 16 of the Town Planning Ordinance' |
| Appendix III | Previous applications |
| Appendix IV | Similar applications |
| Appendix V | Government departments' general comments |
| Appendix VI | Recommended advisory clauses |
| Appendix VII | Public comment |
| Drawing A-1 | Floor plan submitted by the applicant |
| Drawing A-2 | Section plan submitted by the applicant |
| Plan A-1 | Location plan |
| Plan A-2 | Site plan |
| Plan A-3 | Aerial photo |
| Plan A-4 | Site photo |

**PLANNING DEPARTMENT
OCTOBER 2023**