

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/788

<u>Applicant</u>	: Miss TING Tze Yan Betty represented by Mr. HUI Kwan Yee
<u>Site</u>	: Lot 1652 S.A in D.D. 17, Lo Tsz Tin, Tai Po, New Territories
<u>Site Area</u>	: About 70.2m 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>	: Proposed Temporary Shop and Services (Store) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary shop and services (store) use for a period of three years at the application site (the Site). The Site falls within an area zoned “REC” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “REC” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently occupied by two single-storey structures with construction works in progress, but without any valid planning permission.
- 1.2 According to the applicant’s submission, the proposed development comprises three single-storey structures with a height of about 3.35m, providing a total floor area of about 39.52m² for reception/refreshment kiosk, storeroom and shelter 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. The layout plan of the proposed use submitted by the applicant is shown in **Drawing A-1**.
- 1.3 The Site is the subject of a previously approved application No. A/NE-TK/742 submitted by the same applicant as the current one for the same use¹. Details of the previous application are set out in paragraph 4 below. As compared to the previous application, there is no change in the major development parameters and site layout under the current one.

¹ The proposed use under previous planning permission has not been realized.

- 1.4 In support of the application, the applicant has submitted an Application Form with attachments and supplementary information (SI) (**Appendix I**) received on 8.11.2023 and 15.11.2023 respectively.

2. Justifications from the Applicant

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

- (a) the applicant would like to provide retail service of snacks and beverages to visitors in the vicinity and support tourism activities; and
- (b) the Site was granted planning permission for the same use for a period of three years on 4.3.2022. The applicant had made efforts to comply with the approval conditions imposed under the last planning permission (Application No. A/NE-TK/742). Nevertheless, the planning permission was revoked due to non-compliance with approval conditions in relation to the implementation of fire services installations (FSIs) and water supplies for fire-fighting proposal as well as the submission and implementation of drainage proposal. In this regard, the applicant explains that implementation of FSIs and revised drainage proposal are under preparation. Should the application be approved, the applicant is committed to fulfil all outstanding approval conditions within the time limits specified for compliance respectively.

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. Previous Application

- 4.1 The Site is the subject of a previous application (No. A/NE-TK/742) (**Plan A-2**) submitted by the same applicant for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 4.3.2022 mainly on considerations that it would not frustrate the long-term planning intention of the “REC” zone; small in scale; not incompatible with the surrounding land uses; and not causing significant adverse impacts on the surrounding areas. The planning permission granted under the previous application was revoked on 4.9.2023 due to non-compliance with approval conditions relating to the implementation of FSIs and water supplies for fire-fighting proposal, and the submission and implementation of drainage proposal.
- 4.2 Compared with the previous application, there is no change in the major development parameters and site layout of the proposed use under the current one.

- 4.3 Details of the previous application are at **Appendix II** and its location is shown on **Plans A-1** and **A-2**.

5. Similar Applications

- 5.1 There are eight similar applications (No. A/NE-TK/666, 675, 683, 713, 732, 754, 760 and 774) covering six sites for temporary shop and services use in the vicinity of the Site within the same “REC” zone over the past five years (**Plan A-1**). All of them were approved between 2019 and 2023 on similar considerations as stated in paragraph 4.1 above.
- 5.2 Details of the applications are shown in **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 occupied by two single-storey structures with construction works in progress;
 - (b) situated near the southeastern fringe of Lo Tsz Tin Village; and
 - (c) accessible via a local track leading to Ting Kok Road (**Plan A-2**).
- 6.2 The surrounding areas are predominantly rural in character with barbecue areas, eating places, parking of vehicles, temporary structures, village houses and vacant land. To the immediate south of the Site is a temporary real estate agency covered by a valid planning approval (Application No. A/NE-TK/713). About 30m to the northwest of the Site is the village proper of Lo Tsz Tin. Further south on the opposite side of Ting Kok Road is Tai Po Lung Mei Beach.

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

- 8.1 Apart from the government department as set out in paragraph 8.2 below, other departments consulted have no objection to or no comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices IV** and **V** respectively.

- 8.2 The following government department has objection to/adverse comment on the application.

Land Administration

- 8.2.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) the Site falls on Lot 1652 S.A in D.D. 17 held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (b) LandsD has reservation on the application since there are unauthorized building works which are already subject to lease enforcement actions according to case priority. The lot owner should rectify/regularize the lease breaches as demanded by LandsD; and
- (c) there is no guarantee to the grant of right of way to the Site or approval of the emergency vehicular access thereto.

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

On 17.11.2023, 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 reason of non-compliance with approval conditions imposed under the previous planning permission (No. A/NE-TK/742).

10. Planning Considerations and Assessment

- 10.1 The application is for a proposed temporary shop and services use (store) for a period of three years at the Site zoned “REC” on the OZP. The proposed use is not entirely in line with the planning intention of the “REC” zone which is primarily for recreational developments for the use of the general public. Nevertheless, the proposed use could provide retail services to visitors in the vicinity. As the proposed use is on a temporary basis for three years, approval of the application would not jeopardize the long-term planning intention of the “REC” zone.
- 10.2 The Site is situated near the southeastern fringe of Lo Tsz Tin Village. The proposed use is considered not incompatible with its surrounding areas predominated by barbecue areas, eating places, parking of vehicles, temporary structures, village houses and vacant land (**Plans A-2 and A-3**). Chief Town Planner/Urban Design and Landscape of Planning Department considers that no significant adverse landscape impact arising from the proposed use is anticipated and has no objection to the application from landscape planning perspective.

- 10.3 The proposed use comprising three single-storey structures with a height of about 3.35m and a total floor area of about 39.52m² is small in scale. It is not anticipated to cause significant adverse environmental, traffic and drainage impacts or pose fire risks on the surrounding areas. According to Director of Environmental Protection, no environmental complaint related to the Site has been received in the past three years. Other relevant government departments consulted including Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Fire Services (D of FS) have no objection to/no adverse comment on the application.
- 10.4 The Site is the subject of a previously approved application (No. A/NE-TK/742) (**Plan A-2**) submitted by the same applicant for the same use. The previous planning permission was revoked due to non-compliance with approval conditions relating to the implementation of FSIs and water supplies for fire-fighting proposal, and the submission and implementation of drainage proposal. For the current application, the applicant advises that implementation of FSIs and revised drainage proposal are under preparation. Should the application be approved, the applicant is also committed to fulfil all outstanding approval conditions within the time limits specified for compliance respectively. D of FS and CE/MN of DSD have no objection to/no adverse comment on the application subject to incorporation of relevant approval conditions in the planning permission. 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 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.
- 10.5 There have been eight similar applications covering six sites for temporary shop and services use in the vicinity of the Site within the same “REC” zone over the past five years (**Plan A-1**). All of them were approved by the Committee between 2019 and 2023 on similar considerations as stated in paragraph 4.1 above. The planning circumstances of approving these applications are applicable to the current one.
- 10.6 Regarding the public comment on the application as detailed in paragraph 9, the planning assessment in paragraph 10.4 above is relevant.

11. Planning Department's Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comment mentioned in paragraph 9 above, 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 22.12.2026. 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 22.6.2024;
- (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 Town Planning Board by 22.9.2024;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a proposal for 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 22.6.2024;
- (e) in relation to (d) above, the implementation of the 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 22.9.2024; and
- (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 proposed use 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 and SI received on 8.11.2023 and 15.11.2023
Appendix II	Previous application
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
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
DECEMBER 2023**