

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/795

| | |
|---------------------------|---|
| <u>Applicants</u> | : Miss LEE Tung Yee and Mr. MAN Kin Pong represented by Tang K.F. Associates Limited |
| <u>Site</u> | : Lots 214 S.A ss.1 (Part), 214 S.B ss.1 (Part) and 214 S.A RP (Part) in D.D. 28, Lung Mei, Tai Po, New Territories |
| <u>Site Area</u> | : About 60.11m 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> | : “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 applicants seek planning permission for temporary eating place (OSA of a restaurant) for a period of three years at the application site (the Site), which falls within an area zoned “V” on the OZP (**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 any valid planning permission.
- 1.2 The Site is an extension of an existing restaurant located on the ground floor of the adjoining village house on Lots 214 S.A ss.1 (Part) and 214 S.B ss.1 (Part) in D.D. 28 (i.e. 59A Lung Mei) (**Plan A-2**). According to the applicants, the OSA mainly includes a temporary single-storey (not exceeding 2.4m) structure¹ with a total floor area of about 27.6m² (**Drawing A-2**). A total of 39 seats will be provided on site. The operating hours of the OSA are from 10:30 a.m. to 10:30 p.m. daily (including public holidays). The Site is accessible through Ting Kok Road via Tai Po Lung Mei Road (**Plan A-2**). Site plan and layout plan submitted by the applicants are shown in **Drawings A-1** and **A-2**.

¹ According to the applicants, the temporary structure is removable and used as a sun and rain shelter.

- 1.3 The Site is the subject of three previously approved applications (No. A/NE-TK/534, 630 and 695) submitted by the same applicants for the same use (**Plan A-2**). Details of the previous applications are set out in paragraph 6 below.
- 1.4 In support of the application, the applicants submitted an Application Form with attachments and supplementary information (SI) (**Appendix I**) received on 9.2.2024 and 15.2.2024 respectively.

2. Justifications from the Applicants

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

- (a) the applied use serves the needs of the villagers and is in line with the planning intention of the “V” zone;
- (b) the applied use will not cause adverse drainage, traffic, visual and landscape, and environmental impacts on the surrounding areas;
- (c) the applied use will operate at reasonable hours (i.e. 10:30 a.m. to 10:30 p.m. daily) and no environmental complaint has been received over the past three years; and
- (d) the Site is the subject of three previous planning approvals for the same use. The last planning permission (Application No. A/NE-TK/695) was granted on 22.1.2021 for a period of three years, but the planning permission lapsed on 23.1.2024. All approval conditions imposed under the last planning permission were complied with.

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

The applicants are the sole “current land owners”. 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 “V” 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 at **Appendix II**.

5. Background

The Site is currently not subject to any active enforcement action, but under close monitoring by the Planning Authority.

6. Previous Applications

- 6.1 The Site is the subject of three previous applications (No. A/NE-TK/534, 630 and 695) (**Plan A-2**) for temporary OSA use submitted by the same applicants as the current application. All of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2015 and 2021, mainly on considerations of not frustrating the long-term planning intention of the “V” zone; not 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.
- 6.2 The last previous application (No. A/NE-TK/695) was approved by the Committee on 22.1.2021 for a period of three years until 22.1.2024, and all approval conditions in relation to submission and implementation of drainage proposal, fire service installations (FSIs) and water supplies for fire-fighting were complied with. As compared to the previous one, the current application remains the same in terms of site area, layout, development parameters and operating hours.
- 6.3 Details of the previous applications are at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

7. Similar Applications

- 7.1 There were six similar applications (No. A/NE-TK/656, 672, 746, 763, 784 and 789) covering four sites for temporary OSA use within the same “V” zone in the past five years (**Plan A-1**). All of them were approved with conditions by the Committee between 2018 and 2024 on similar considerations as stated in paragraph 6.1 above.
- 7.2 Details of the similar applications are at **Appendix IV** and their locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) located outside the ground floor of the adjoining village house at 59A Lung Mei;
 - (b) situated at the southern fringe of Lung Mei Village;
 - (c) accessible through Ting Kok Road via Tai Po Lung Mei Road; and
 - (d) currently occupied by the applied use without any valid planning permission.
- 8.2 The surrounding areas are predominantly rural in character with village houses, some of which are occupied by restaurants on the ground floor with/without

OSA. About 30m to the south is a cycle track along Ting Kok Road connecting Tai Po and Tai Mei Tuk (**Plans A-2 and A-3**). About 210m to the southwest on the opposite side of Ting Kok Road is Tai Po Lung Mei Beach (**Plan A-3**).

9. 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. 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. 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.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 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 V and VI** respectively.

10.2 The following government department has reservation on the application:

Land Administration

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

- (a) the Site comprises three private lots (i.e. Lot Nos. 214 S.A ss.1 (Part), 214 S.B ss.1 (Part) and 214 S.A RP (Part) in D.D. 28) which are Old Schedule Agricultural Lots held under the Block Government Lease with the restriction that no structures are allowed to be erected without the prior approval of the Government. Under the Building Licence No. 352/99 dated 18.7.2000 governing the use and structure of Lot Nos. 214 S.A ss.1 and 214 S.B ss.1 in D.D. 28, erection of a three-storey NTEH for non-industrial purposes is permitted. However, the non-building portion shall continue to be used for agricultural or garden purpose in accordance with the Lease;
- (b) warning letter against unauthorized structures and uses erected on the non-building portion of Lot Nos. 214 S.A ss.1 and 214 S.B ss.1 in D.D. 28 within the Site was issued on 16.8.2022 and has been registered. LandsD has reservation on the application since there are unauthorized structures and uses on the private lots. The lot owners should rectify/regularize the lease breaches as demanded by LandsD; and

- (c) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access (EVA) thereto.

11. Public Comments Received During Statutory Publication Period

On 20.2.2024, the application was published for inspection. During the statutory public inspection period, four objecting comments (**Appendix VII**) were received from individuals raising objection to the application mainly for involving unlawful occupation of Government Land and unauthorized building works; and causing adverse environmental impacts, noise and hygiene concerns.

12. Planning Considerations and Assessment

- 12.1 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 Tai Po Lung Mei Beach and recreational facilities in the vicinity (**Plan A-3**). 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.
- 12.2 The Site is located at the southern fringe of Lung Mei Village adjacent to Tai Po Lung Mei Road. The applied use is considered not incompatible with its surrounding areas predominated by village houses, some of which are occupied by restaurants on the ground floor with/without OSA. The applied use only occupies about 60m² with 39 seats. It is not anticipated to cause significant adverse environmental, traffic and drainage impacts on the surrounding areas. Other government departments consulted including Director of Environmental Protection, 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 TPB PG-No. 15A. While DLO/TP of LandsD has reservation on the application as unauthorized structures and uses are found on the lots concerned, the land matters should be dealt with separately under the land regime. The applicants will be advised to follow up with DLO/TP of LandsD about their concerns.
- 12.3 The Site is the subject of three previous applications for the same use submitted by the same applicants as the current application (**Plans A-1** and **A-2**), which were approved by the Committee between 2015 and 2021 mainly on considerations 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. Also, there were also six similar applications covering four sites within the same “V” zone (**Plan A-1**) in the past five years. All these applications were approved by the Committee between 2018 and 2024 on similar considerations as the previous

applications. The planning circumstances of approving these applications are applicable to the current one.

- 12.4 Regarding the public comments mentioned in paragraph 11 above, the government departments' comments and planning assessment above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, Planning Department has no objection to the application.
- 13.2 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 three years until 5.4.2027. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (b) the submission of records 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 5.7.2024;
- (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 5.10.2024;
- (d) in relation to (c) ~~(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 5.1.2025;
- (e) if the above planning condition (a) 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 condition (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 VI**.

13.3 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 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 justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

| | |
|---------------------|--|
| Appendix I | Application Form and SI received on 9.2.2024 and 15.2.2024 |
| 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 comments |
| Drawing A-1 | Site plan submitted by the applicants |
| Drawing A-2 | Layout plan submitted by the applicants |
| Plan A-1 | Location plan |
| Plan A-2 | Site plan |
| Plan A-3 | Aerial photo |
| Plan A-4 | Site photos |