

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/798

<u>Applicant</u>	: Chings Enterprises Limited represented by Mansfield Engineering Consultant Company
<u>Site</u>	: Lot 1092 S.B RP (Part) in D.D. 23, San Tau Kok, Ting Kok, Tai Po, New Territories
<u>Site Area</u>	: About 15.13m 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 Shop and Services (Real Estate Agency) for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services (real estate agency) for a period of five years at the application site (the Site), which falls within an area zoned “V” on the OZP. According to the Notes of the OZP, ‘Shop and Services’ use within the “V” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission.
- 1.2 According to the applicant, the applied use mainly comprises a single-storey structure with a height of about 2.9m and a total floor area of about 15.13m² for real estate agency use (**Drawing A-1**). The operation hours are from 10:00 a.m. to 7:00 p.m. daily (including public holidays except Chinese New Year). The Site abuts a local track leading to Po Sam Pai and is accessible via Ting Kok Road. The layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.3 The Site is part of the subject of three previously approved applications (No. A/NE-TK/409, 603 and 662) submitted by the same applicant for temporary real estate agency and/or property management uses (**Plan A-2**). Details of the previous applications are set out in paragraph 5.1 below. Compared with the last application No. A/NE-TK/662, the current application involves a smaller site as detailed in paragraph 5.2 below. All approval conditions under this previous

application have been complied with.

- 1.4 In support of the application, the applicant submitted an Application Form with attachments (**Appendix I**) received on 16.4.2024.

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 applied use has served the needs of the residents/villagers of San Tau Kok and Po Sam Pai since August 2012;
- (b) the applied use is not incompatible with the surrounding village house developments. In view of its scale, nature and locality, the applied use will not cause significant adverse traffic, drainage and environmental impacts on the surrounding areas;
- (c) the applied use does not involve occupation of Government land; and
- (d) the Site is part of the subject of three previous planning permissions for temporary real estate agency and/or property management uses. The last planning permission (Application No. A/NE-TK/662) was granted on 17.5.2019 for a period of three years, but the planning permission lapsed on 18.5.2022. All approval conditions imposed under the last planning permission were complied with.

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. **Background**

The Site is subject to planning enforcement action (No. E/NE-TK/184) (**Plan A-2**) against unauthorized development (UD) involving use for shop and services. Enforcement Notice was issued on 5.2.2024 requiring discontinuation of the UD by 5.4.2024. Recent site inspection after the EN expiry revealed that the UD has been discontinued. The Site is currently under monitoring according to the established procedures.

5. **Previous Applications**

- 5.1 The Site is part of the subject of three previous applications (No. A/NE-TK/409, 603 and 662) submitted by the same applicant as the current application for temporary real estate agency and/or property management uses (**Plan A-2**). All of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2012 and 2019, mainly on considerations

of not jeopardizing the long-term planning intention of the “V” zone; not incompatible with the surrounding areas; and not causing significant adverse impacts on the surrounding areas.

- 5.2 The last application (No. A/NE-TK/662) was approved by the Committee on 17.5.2019 for a period of three years until 17.5.2022, and all approval conditions in relation to maintenance of existing drainage facilities and submission and implementation of fire service installations (FSIs) and water supplies for fire-fighting proposal were complied with. The planning permission subsequently lapsed on 18.5.2022. Compared with this previous application, the current application involves a smaller site (reduced from 21.85m² to 15.13m²).
- 5.3 Details of the previous applications are at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

6. **Similar Applications**

- 6.1 There are two similar applications (No. A/NE-TK/707 and 761) for temporary shop and services 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 2021 and 2022 on similar considerations as stated in paragraph 5.1 above.
- 6.2 Details of the similar applications are at **Appendix III** 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) currently occupied by a single-storey structure for real estate agency use (**Plan A-4**); and
 - (b) abutting a local track leading to Po Sam Pai Village to its south and is accessible via Ting Kok Road (**Plan A-2**).
- 7.2 The surrounding areas are predominantly rural in character with village houses. To its north and west are the village proper of Po Sam Pai and San Tau Kok (**Plan A-2**). To its east on the opposite side of Ting Kok Road is an area zoned “Coastal Protection Area” on the OZP (**Plan A-2**).

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. 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 New

Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 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.

9.2 The following government department has reservation on the application:

Land Administration

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

- (a) the Site comprises one Old Schedule Agricultural Lot in D.D. 23. The lot is 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) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access thereto;
- (c) a recent site inspection revealed that an unauthorized structure was found erected on the Site without LandsD's approval;
- (d) there is an unauthorized structure (caretaker's kiosk) within the said private lot not covered by the subject application. The lot owner should immediately rectify the lease breaches and this office reserves the rights to take necessary lease enforcement action against the breaches without further notice; and
- (e) LandsD has reservation on the planning application since there are unauthorized structures on the private lot 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.

10. Public Comment Received During Statutory Publication Period

On 23.4.2024, the application was published for inspection. During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

11.1 The application is for temporary shop and services (real estate agency) for a period of five years at the Site zoned "V" on the OZP (**Plan A-1**). The planning

intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion, and land within this zone is primarily intended for development of Small Houses by indigenous villagers. Other commercial, community and recreational uses may be permitted on application to the Board. According to the applicant, the applied use intends to serve the needs of the residents/villagers of San Tau Kok and Po Sam Pai. As the applied use is on a temporary basis for five years, approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone.

- 11.2 The applied use involving a single-storey structure with a height of about 2.9m and a total floor area of about 15.13m² is small in scale. It is considered not incompatible with its surrounding areas predominated by village houses. The applied use is also not anticipated to cause significant adverse impacts on the surrounding areas. Relevant government departments consulted including Director of Environmental Protection, 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. While DLO/TP of LandsD has reservation on the application as unauthorized structures are found on the lot concerned, the land matters should be dealt with separately under the land administration regime. The applicant will be advised to follow up with DLO/TP of LandsD about their concerns.
- 11.3 The Site is part of the subject of three previous applications submitted by the same applicant for temporary real estate agency and/or property management uses (**Plan A-2**), which were all approved by the Committee between 2012 and 2019 mainly on considerations stated in paragraph 5.1 above. There are also two approved similar applications within the same “V” zone (**Plan A-1**) in the past five years. Approval of the current application is in line with the previous decisions of the Committee.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, 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 five years until **7.6.2029**. 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 **7.12.2024**;
- (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 **7.3.2025**;

- (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 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 7.12.2024;
- (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 7.3.2025;
- (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**.

- 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 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.

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

Appendix I	Application Form with attachments received on 16.4.2024
Appendix II	Previous applications
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawing A-1	Layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JUNE 2024**