

**APPLICATIONS FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATIONS NO. A/NE-TK/825 & 826**

<b><u>Applicants</u></b>	: Ms. TING Tze Yan Betty Mr. CHENG Tsun Chung	(Application No. A/NE-TK/825) (Application No. A/NE-TK/826)
	All represented by Mr. HUI Kwan Yee	
<b><u>Sites</u></b>	: Lots 1646 RP (Part), 1651 S.B RP (Part) and 1652 RP (Part)	(Application No. A/NE-TK/825)
	: Lots 1651 S.A (Part), 1654 (Part), 1655 (Part) and 1656 (Part)	(Application No. A/NE-TK/826)
	All in D.D. 17, Tai Po, New Territories	
<b><u>Site Area</u></b>	: About 43.68m <sup>2</sup> About 42.4m <sup>2</sup>	(Application No. A/NE-TK/825) (Application No. A/NE-TK/826)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural purpose)	
<b><u>Plan</u></b>	: Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19	
<b><u>Zoning</u></b>	: “Recreation” (“REC”)	
<b><u>Applications</u></b>	: Proposed Temporary Shop and Services (Store) for a Period of Three Years on each of the application sites	

**1. The Proposals**

- 1.1 The applicants seek planning permissions for proposed temporary shop and services (store) for a period of three years on each of the application sites (the Sites), which fall within areas 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 of application No. A/NE-TK/825 is currently occupied by a single-storey structure for real estate agency with valid planning permission until 21.11.2024, while the Site of application No. A/NE-TK/826 is currently occupied by a vacant single-storey structure.
- 1.2 The Sites are accessible via local tracks leading to Ting Kok Road (**Plan A-2**). According to the applicants’ submissions, the proposed use under application No. A/NE-TK/825 comprises a single-storey structure with a height of about

3.35m and a total floor area of 43.68m<sup>2</sup>, while the proposed use under application No. A/NE-TK/826 comprises a single-storey structure with a height of about 3.7m and a total floor area of 42.4m<sup>2</sup>. Both applications are for store use. The proposed operation hours are from 10:00 a.m. to 8:00 p.m. daily for application No. A/NE-TK/825 and from 8:00 a.m. to 8:00 p.m. daily for application No. A/NE-TK/826. The site plans submitted by the applicants are shown in **Drawings A-1** and **A-2** respectively.

- 1.3 The Site of the application No. A/NE-TK/825 is the subject of four previous applications (No. A/NE-TK/403, 564, 655 and 713) for temporary shop and services (real estate agency) each for a period of three years, which were all approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between 2012 and 2021 (**Plans A-1** and **A-2**). Compared with the previous applications, despite the change in proposed use from real estate agency to store, there is no change in the major development parameters under the current application. All approval conditions under the last previous application No. A/NE-TK/713 have been complied with.
- 1.4 The Site of the application No. A/NE-TK/826 is the subject of a previous application No. A/NE-TK/754 for the same store use for a period of three years, which was approved with conditions by the Committee in 2022 but was revoked on 9.3.2024 (**Plans A-1** and **A-2**). Compared with the previous application, there is no change in the major development parameters under the current application. Details of the previous applications of the Sites are set out in paragraph 5 below.
- 1.5 In support of the applications, the applicants have submitted the following documents:
  - (a) Application Forms with attachments received on 3.10.2024 (**Appendices Ia and Ib**)
  - (b) Further Information (FI) received on 28.10.2024\* (**Appendix Ic**)
  - (c) FI received on 6.11.2024\* (**Appendix Id**)
  - (d) FI received on 13.11.2024\* (**Appendix Ie**)

*\*accepted and exempted from publication and recounting requirements*

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed in the Application Forms and FIs at **Appendices Ia** to **Id**, as summarized below:

- (a) the Site of the application No. A/NE-TK/825 is the subject of a couple of previous applications for temporary shop and services (real estate agency) use. Since the market for real estate agency use in the area has been saturated, the applicant intends to change to store for selling beverages, snacks, canned food and daily necessities, without selling cooked food and causing environmental impact. The roof level of the existing structure will not involve any proposed use;
- (b) the Site of No. A/NE-TK/826 is the subject of the previous planning permission

which was revoked since the approval condition in relation to the submission of drainage proposal could not be complied in time. The proposed store, which intends to sell beverages and snacks to visitors, could boost the local tourism and optimise the vacant premises. Customers will visit the store by walking, while no car parking space and driveway will be provided; and

- (c) for both applications, the existing single-storey structures will be utilised for the proposed stores without alteration, while the applications do not cover additional structures. The applicants have also committed to comply with all approval conditions, should the Board approve the applications.

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

The applicant of application No. A/NE-TK/825 is the sole “current land owner”. The applicant of application No. A/NE-TK/826 is not the “current land owner” but has complied with the 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. 31B) by obtaining consent from the “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The Sites are currently not subject to any active planning enforcement action.

### **5. Previous Applications**

- 5.1 The Site of application No. A/NE-TK/825 is the subject of four previous applications (No. A/NE-TK/403, 564<sup>1</sup>, 655<sup>2</sup> and 713<sup>3</sup>) for temporary shop and services (real estate agency) each for a period of three years (**Plans A-1 and A-2**), which were approved with conditions by the Committee between 2012 and 2021 mainly on considerations of not jeopardizing the long-term planning intention of the “REC” zone; not incompatible with the surroundings; and not anticipated to cause significant adverse impacts on the surrounding areas. All approval conditions under the last previous application No. A/NE-TK/713 in relation to submission and implementation of fire service installations (FSIs) proposal have been complied with, and the planning permission lapsed on 21.11.2024. Compared with the previous applications, despite the change in proposed use from real estate agency to store, there is no change in the major development parameters under the current application.

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<sup>1</sup> The applications (No. A/NE-TK/403 and 564) were submitted by the same applicant, but not the same applicant as the current application No. A/NE-TK/825.

<sup>2</sup> The application No. A/NE-TK/655 was not submitted by the same applicant as the current application No. A/NE-TK/825.

<sup>3</sup> The application No. A/NE-TK/713 was submitted by the same applicant as the current application No. A/NE-TK/825.

- 5.2 The Site of application No. A/NE-TK/826 is the subject of the previous application No. A/NE-TK/754 submitted by the same applicant for the same use for a period of three years (**Plans A-1 and A-2**), which was approved with conditions by the Committee on 9.9.2022 mainly on similar considerations as stated in paragraph 5.1 above. The planning permission granted under the previous application was revoked on 9.3.2024 due to non-compliance with approval conditions in relation to the submission and implementation of drainage proposal and the implementation of FSIs proposal. Compared with the previous application, there is no change in the major development parameters under the current application. The applicant has submitted the drainage proposal in support of the current application (**Appendix Ie**).
- 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 seven similar applications (No. A/NE-TK/675, 683, 732, 742, 760, 774 and 788) covering five sites for temporary shop and services use in the vicinity of the Site within the same “REC” zone over the past five years (**Plans A-1 and A-2**). All of them were approved between 2020 and 2023 on similar considerations as stated in paragraph 5.1 above.
- 6.2 Details of the similar applications are shown in **Appendix III** and their locations are shown on **Plans A-1 and A-2**.

## 7. **The Sites and Their Surrounding Areas** (**Plans A-1 to A-4**)

- 7.1 The Sites are :
- (a) occupied by one single-storey structure each, with one for real estate agency (Application No. A/NE-TK/825) and another being vacant (Application No. A/NE-TK/826) (**Plan A-4**);
  - (b) situated near the southeastern fringe of Lo Tsz Tin Village and the southwestern fringe of Lung Mei Village (**Plan A-1**); and
  - (c) accessible via local tracks leading to Ting Kok Road.
- 7.2 The surrounding areas are predominantly rural in character with village houses, barbecue sites, shops and vehicle parks (**Plans A-2 and A-3**). About 60m to the northwest of the Sites is the village proper of Lo Tsz Tin and about 80m to the northeast of the Sites is the village proper of Lung Mei (**Plan A-1**). To the south on the opposite side of Ting Kok Road is Tai Po Lung Mei Beach (**Plans A-2 and A-3**).

## 8. **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.

## 9. **Comments from Relevant Government Departments**

9.1 Apart from the government department as set out in paragraph 9.2 below, other government departments consulted have no objection to or no adverse comment on the applications. Their general comments on the applications and advisory comments in the Recommended Advisory Clauses are provided at **Appendices IV and V** respectively.

9.2 The following government department has objection to/adverse comments on the applications:

### **Land Administration**

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

(a) he objects to/has adverse comments on the applications;

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(b) the Site comprises three Old Schedule Agricultural Lots 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;

(c) LandsD has reservation on the application as there are unauthorized structures on the Site without LandsD’s approval. Lease enforcement action with warning letters dated 20.9.2022 were issued to the lot owners against the unauthorized structure on Lot Nos. 1646 RP, 1651 S.B RP and 1652 RP all in D.D. 17. The lot owners should immediately rectify/regularize the lease breaches and his office reserves the rights to take further lease enforcement action against the breaches without further notice;

(d) a recent inspection revealed that one temporary structure with staircase and two vending machines were found on the Site. As the staircase and vending machines do not form part of the application, the applicant should immediately remove them. LandsD would not proceed Short Term Wavier (STW) application which extent is not covered by the Board’s decision/approval;

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

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- (f) the Site comprises four Old Schedule Agricultural Lots 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;
- (g) LandsD has reservation on the application as there are unauthorized structures on the Site and on the remaining part of private lots concerned. Lease enforcement action was taken against the unauthorized structures erected with warning letters registered in the Land Registry against the unauthorized structures on Lot Nos. 1651 S.A, 1655 and 1656 all in D.D. 17. The lot owners should immediately rectify/regularize the lease breaches and his office reserves the rights to take appropriate lease enforcement action against the breaches without further notice;
- (h) while the lot owners submitted a STW application for barbecue site and carpark on the private lots in May 2020, as the lot owners did not respond to departmental comments, the STW application could not be further processed and was rejected;
- (i) the covered floor area of unauthorized structures on the private lots which exceeds 200m<sup>2</sup> is much extensive than those proposed i.e. 42.4m<sup>2</sup> in the application. The applicant should immediately remove the existing structures which are not covered by the application. LandsD would not proceed STW application which extent is not covered by the Board's decision/approval; and
- (j) his advisory comments are set out at **Appendix IV**.

**10. Public Comment Received During Statutory Publication Period**

On 15.10.2024, the applications were published for public inspection. During the statutory public inspection period, one public comment from an individual was received (**Appendix VI**), raising objection to the application No. A/NE-TK/826 mainly for the reason that the previous application No. A/NE-TK/754 was revoked due to non-compliance of approval conditions in relation to drainage and FSIs proposals; however, it is not difficult to implement drainage and FSIs proposals for such a small enterprise in New Territories.

**11. Planning Considerations and Assessment**

- 11.1 The applications are for proposed temporary shop and services (store) for a period of three years on each of the Sites 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 applications would not jeopardize the long-term planning intention of the “REC” zone.

- 11.2 The Sites are situated near the southeastern fringe of Lo Tsz Tin Village and the southwestern fringe of Lung Mei Village. The proposed use under the application No. A/NE-TK/825 comprises a single-storey structure with a height of about 3.35m and a total floor area of 43.68m<sup>2</sup>, and the proposed use under the application No. A/NE-TK/826 comprises a single-storey structure with a height of about 3.7m and a total floor area of 42.4m<sup>2</sup>, which are small in scale. The proposed use under both applications is considered not incompatible with their surrounding areas predominated by village houses, barbecue sites, shops and vehicle parks (**Plans A-2** and **A-3**). The Chief Town Planner/Urban Design and Landscape of Planning Department considers that significant adverse impact on the existing landscape resources arising from the continue use is not anticipated and has no objection to the applications from landscape planning perspective.
- 11.3 Regarding DLO/TP, LandsD’s concern on the unauthorised structures erected within and/or outside the Sites, the applicants will be advised to liaise with LandsD on these land administration matters should the Committee approve the applications. Both applications are not anticipated to cause significant adverse environmental, traffic and drainage impacts or pose fire risks on the surrounding areas. According to the Director of Environmental Protection, no environmental complaint related to the Sites has been received in the past three years. Other relevant government departments consulted including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Fire Services (D of FS) have no objection to/no adverse comment on the applications.
- 11.4 The Site of the application No. A/NE-TK/825 is the subject of four previous applications (No. A/NE-TK/403, 564, 655 and 713) for temporary shop and services (real estate agency) for a period of three years (**Plans A-1** and **A-2**), which were approved with conditions by the Committee of the Board between 2012 and 2021 mainly on the considerations as set out in paragraph 5.1 above. All the approval conditions under the last previous application No. A/NE-TK/713 have been complied with, and the planning permission lapsed on 21.11.2024. Compared with the previous applications, despite the change in proposed use from real estate agency to store, there is no change in the major development parameters under the current application. Since the current application is considered as a fresh application, approval conditions advised by D of FS and CE/MN, DSD requiring the submission and implementation of FSIs and drainage proposals respectively under the current application are recommended in paragraph 12.2 below.
- 11.5 The Site of the application No. A/NE-TK/826 is the subject of the previous application No. A/NE-TK/754 submitted by the same applicant for the same store use for a period of three years (**Plans A-1** and **A-2**), which was approved with conditions by the Committee in 2022 mainly on similar considerations as

stated in paragraph 5.1 above. Compared with the previous application, there is no change in the major development parameters under the current application. The planning permission granted under the previous application was revoked on 9.3.2024 due to non-compliance with approval conditions in relation to the submission and implementation of drainage proposal and the implementation of FSI's proposal. The applicant has committed to comply with all approval conditions, should the Board approve the application. D of FS and CE/MN, DSD have no objection to/no adverse comment on the application subject to incorporation of relevant approval conditions in the planning permission. Having regarded 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.

- 11.6 There are seven similar applications (No. A/NE-TK/675, 683, 732, 742, 760, 774 and 788) covering five 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 2020 and 2023 on similar considerations as stated in paragraph 5.1 above. The planning circumstances of approving these applications are applicable to the current applications. Approving the current applications (No. A/NE-TK/825 and 826) is in line with the previous decisions of the Committee.
- 11.7 Regarding the public comment objecting to the application No. A/NE-TK/826 as detailed in paragraph 10 above, government departments' comments and the planning assessments above are relevant. The applicant has submitted the drainage proposal in support of the application (**Appendix Ie**), and has committed to comply with all approval conditions, should the Board approve the application.

## 12. **Planning Department's Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid on a temporary basis for a period of three years until 22.11.2027. The following approval conditions and advisory clauses for each application 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 22.5.2025;



- (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 22.8.2025;
- (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 fire service installations proposal 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 22.5.2025;
- (e) in relation to (d) above, the implementation of the fire service installations 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 22.8.2025;
- (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 applications, 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 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 applications and decide whether to grant or refuse to grant permissions.
- 13.2 Should the Committee decide to approve the application(s), Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission(s), and the period of which the permission(s) should be valid on a temporary basis.

- 13.3 Alternatively, should the Committee decide to reject the application(s), Members are invited to advise what reason(s) for rejection should be given to the applicant(s).

**14. Attachments**

<b>Appendices Ia and Ib</b>	Application Forms with Attachments received on 3.10.2024
<b>Appendix Ic</b>	FI received on 28.10.2024
<b>Appendix Id</b>	FI received on 6.11.2024
<b>Appendix Ie</b>	FI received on 13.11.2024
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix Va</b>	Drainage Record Plan from the Drainage Services Department for Application No. A/NE-TK/825
<b>Appendix Vb</b>	Drainage Record Plan from the Drainage Services Department for Application No. A/NE-TK/826
<b>Appendix VI</b>	Public Comment
<b>Drawing A-1</b>	Site Plan of Application No. A/NE-TK/825
<b>Drawing A-2</b>	Site Plan of Application No. A/NE-TK/826
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2024**