

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/828

<u>Applicant</u>	: Mr. CHUNG Kwai Fong
<u>Site</u>	: Lots 1605 RP (Part) and 1606 (Part) in D.D. 17, Lo Tsz Tin Village, Tai Po, New Territories
<u>Site Area</u>	: About 561m 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>	: Temporary Eating Place for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary eating place for a period of five years at the application site (the Site) falling within an area zoned “REC” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’ 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 the applied use without valid planning permission (**Plans A-4a** and **A-4b**).
- 1.2 The Site is accessible via a local track leading to Ting Kok Road (**Plan A-2**). According to the applicant, the applied use comprises five single-storey structures converted from containers with a total floor area of about 74.5m² and a building height of not more than 3.5m for indoor seating area, food preparation areas, toilet and electric box uses (**Drawings A-1** and **A-2**). The remaining area is uncovered and mainly used for outdoor seating area. No car parking space is provided. The applied eating place provides not more than 44 seats and operates from 11:00am to 11:00pm daily. The layout plan and floor plan submitted by the applicant are shown in **Drawings A-1** and **A-2** respectively.
- 1.3 The Site is the subject of a previous application No. A/NE-TK/705 submitted by the same applicant for the same use for a period of three years, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in June 2021 (**Plans A-1** and **A-2**). Details of the previous applications are set out in paragraph 5.1 below. Compared with the previous application, the current application involves the same site area with a slightly larger total floor area and a higher building height to reflect the as-built

conditions. All approval conditions under the previous application have been complied with.

1.4 In support of the application, the applicant submitted the following documents:

- (a) Application Form with attachments and (**Appendix I**)
Supplementary Information (SI) received on 5.11.2024
and 8.11.2024
- (b) Further Information (FI) received on 3.12.2024* (**Appendix Ia**)

**accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Application Form and FI at **Appendices I** and **Ia**, as summarised below:

- (a) the eating place is intended to serve the visitors of Tai Po Lung Mei Beach nearby (**Plans A-1** and **A-2**);
- (b) the two car parks adjoining the Site are operated by the applicant with valid planning permissions¹ (**Plan A-2**) to meet the car parking needs of the customers;
- (c) the drainage facilities and fire service installations (FSIs) implemented under the previous application No. A/NE-TK/705 will remain unchanged; and
- (d) an existing structure at the northern portion of the Site (**Appendix IVa**) is not covered by the current application and will be removed shortly.

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

The applicant is not a “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 of the “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was previously covered by planning permission (No. A/NE-TK/705) for the same use which lapsed on 26.6.2024. Recent site inspection revealed that the Site was used for eating place. Warning poster was posted on site and warning letters were issued to the land owners to remind that unauthorized development would be subject to enforcement/prosecution actions.

¹ The two temporary public vehicle parks (private cars only) to the immediate east of the Site are covered by valid planning permissions until 18.2.2025 and 1.9.2026 under applications No. A/NE-TK/741 and 780 respectively (**Plan A-2**), which were submitted by the same applicant as the current application.

5. **Previous Application**

- 5.1 The Site is the subject of the previous application No. A/NE-TK/705 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 25.6.2021 mainly on considerations of not frustrating the long-term planning intention of the “REC” zone; not being incompatible with the landscape character of the surrounding area; not being anticipated to cause significant adverse landscape impact; and no adverse comments from all concerned departments. Compared with the previous application, the current application involves the same site area (about 561m²) with a slightly larger total floor area (from about 66.9m² to 74.5m²) and a higher building height (from about 2.5m to not more than 3.5m) to reflect the as-built conditions. All approval conditions under the previous application in relation to the submission and implementation of drainage and FSIs proposals have been complied with, and the planning permission lapsed on 26.6.2024.
- 5.2 Details of the previous application is at **Appendix II** and its location is shown on **Plans A-1 and A-2**.

6. **Similar Application**

There is no similar application for temporary eating place use within the same “REC” zone in the vicinity of the Site in the past five years.

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

- 7.1 The Site is:
- (a) currently occupied by the applied use without valid planning permission (**Plans A-4a and A-4b**); and
 - (b) accessible via a local track leading to Ting Kok Road (**Plan A-2**).
- 7.2 The surrounding areas are predominantly rural in character with village houses, shops, a barbecue site and car parks (**Plans A-1 to A-3**). To its north is the village proper of Lo Tsz Tin (**Plans A-1 to A-3**). To its east are three temporary public vehicle parks (private cars only) covered by valid planning permissions under applications No. A/NE-TK/741, 775 and 780 (**Plan A-2**). To its south on the opposite side of Ting Kok Road is Tai Po Lung Mei Beach and a public car park (**Plans A-2 and A-3**). To its west across the local track is a stream course (**Plan A-2**).

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

All government departments consulted have no objection to or no comment on the application. Their general comments on the application and advisory comments in Recommended Advisory Clauses are provided at **Appendices III** and **IV** respectively.

10. Public Comment Received During Statutory Publication Period

On 12.11.2024, the application was published for public inspection. During the statutory public inspection period, one public comment received from an individual (**Appendix V**) objects to the application for the reasons that the Site has recently been used for barbecue operation with adjacent car parks leading to overcrowding and traffic congestion; the odour, noise and nuisance caused by the operation has affected the quiet village environment, well-being of local people and local hygiene; and the legality of the operation is doubtful that the Environmental Protection Department should evaluate the suitability of the operation at the Site.

11. Planning Considerations and Assessments

- 11.1 The application is for a temporary eating place for a period of five years within the “REC” zone on the OZP. The applied use for temporary eating place would support the recreational facilities in the vicinity such as Tai Po Lung Mei Beach to the south of the Site across Ting Kok Road, which is considered generally in line with the planning intention of the “REC” zone.
- 11.2 The applied use is considered not incompatible with the surrounding land uses which are predominantly rural in character, comprising village houses, shops, a barbecue site and car parks (**Plans A-1 to A-3**). The Chief Town Planner/Urban Design and Landscape of Planning Department has no adverse comment on the application from landscape planning perspective and advises that significant adverse impact on the existing landscape resources arising from the applied use is not anticipated. Since there is a stream course to the west of the Site (**Plan A-2**), the Director of Agriculture, Fisheries and Conservation advises that the applicant should be advised to follow Buildings Department Practice Note for Authorised Persons and Registered Structural Engineers No. ADV-27 “Protection of natural streams/rivers from adverse impacts arising from construction works” so as to avoid disturbance to the stream and causing water pollution.
- 11.3 According to the applicant, the applied use comprises five single-storey structures with a total floor area of about 74.5m² and a building height of not more than 3.5m (**Drawings A-1 and A-2**). No car parking space is provided. Significant adverse traffic, sewerage, environmental and drainage impacts arising from the applied use on the surrounding areas are not anticipated. Relevant government departments consulted including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Director of Food and Environmental Hygiene have no objection to/no adverse comment on the application. To address the technical requirements of the concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below.

- 11.4 The Site is the subject of a previous application No. A/NE-TK/705 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 in 2021 mainly on the considerations as stated in paragraph 5.1 above. Compared with the previous application, the current application involves the same site area with a slightly larger total floor area and a higher building height to reflect the as-built conditions. Approving the current application is generally in line with the Committee's previous decision.
- 11.5 Regarding the public comment on the application as detailed in paragraph 10, government departments' comments and the planning assessments above are relevant. Should the application be approved, the applicant will be advised that operation of the eating place should not cause any obstruction or environmental nuisance in the vicinity.

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, 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 20.12.2029. The following conditions of approval and advisory clauses are also suggested for Member's reference:
- (a) the existing drainage facilities on the Sites shall be maintained at all times during the planning approval period;
 - (b) the submission of a record of the existing drainage facilities on the Sites 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 20.3.2025;
 - (c) 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 20.6.2025;
 - (d) in relation to (c) 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 20.9.2025;
 - (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) and (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 IV**.

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 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 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 and SI received on 5.11.2024 and 8.11.2024
Appendix Ia	FI received on 3.12.2024
Appendix II	Previous Application
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix IVa	Location of a Temporary Structure on the Site not Included in the Current Application from the Lands Department
Appendix IVb	Drainage Record Plan from the Drainage Services Department
Appendix V	Public Comment
Drawing A-1	Layout Plan submitted by the Applicant
Drawing A-2	Floor Plan submitted by the Applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos