

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/829

<u>Applicant</u>	: Mr. CHEUNG Kai Hong represented by Miss WONG Ching Yi
<u>Site</u>	: Lot 715 RP (Part) in D.D. 28, Tai Mei Tuk, Tai Po, New Territories
<u>Site Area</u>	: About 22.8m 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>	: Proposed Temporary Eating Place (Outside Seating Accommodation of a Restaurant) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seek planning permission for proposed temporary eating place (Outside Seating Accommodation (OSA) of a restaurant) for a period of three years at the application site (the Site) falling within an area zoned “V”¹ on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’ (being not on the ground floor of a New Territories Exempted House (NTEH)) within the “V” zone requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved and vacant.
- 1.2 The Site is directly accessible from Ting Kok Road. According to the applicant, the proposed use will serve as an extension of an existing restaurant on the ground floor of the adjoining village house at 47F Tai Mei Tuk Village (**Plan A-2**). Not more than 16 outdoor seats will be provided on site. The operating hours of the OSA are from 12:00 noon to 10:00 p.m. daily. No parking space is provided. The layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.3 The Site is the subject of a previous application (No. A/NE-TK/746) submitted by the same applicant for the same use (**Plan A-2**), which was approved with conditions by the Rural and New Town Planning Committee (the Committee)

¹ Although a very minor portion of the Site (about 3.5m²) falls within an area shown as ‘Road’, the Site can be considered as falling entirely within the “V” zone due to minor boundary adjustment allowed under the covering Notes of the OZP.

of the Board on 18.3.2022 for a period of three years up to 18.3.2025. However, the planning permission was revoked on 18.9.2023 due to non-compliance with approval conditions. Details of the previous application are set out in paragraph 6 below.

- 1.4 In support of the application, the applicant has submitted an Application Form with attachments and supplementary information (SI) (**Appendix I**) received on 20.11.2024 and 28.11.2024 respectively.

2. Justifications from the Applicant

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

- (a) the proposed use is compatible with the surroundings and will not jeopardise the long-term planning intention of the “V” zone;
- (b) the proposed use will not cause adverse drainage, traffic, visual and landscape, and environmental impacts on the surrounding areas;
- (c) the Site will not obstruct the exit routes of the existing restaurant and the emergency exits of the adjoining village houses. Portable fire-fighting equipment are provided on Site;
- (d) the OSA operator will properly collect and dispose the waste and prevent it from discharging to the sea or adjoining areas; and
- (e) the applicant has obtained the Certificates of Fire Service Installation and Equipment (FS251) covering the Site.

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. 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 summarised at **Appendix II**.

5. Background

The Site is subject to an active enforcement action against unauthorised development (UD) involving use for eating place (No. E/NE-TK/190) (**Plan A-2**). An Enforcement Notice was issued on 15.11.2024 requiring discontinuation of the UD by 15.2.2025. If the notice is not complied with, prosecution action by the Planning Authority may be

followed.

6. Previous Application

- 6.1 The Site is the subject of a previous application (No. A/NE-TK/746) (**Plan A-2**) for the same use for a period of three years submitted by the same applicant as the current application. It was approved with conditions by the Committee on 18.3.2022 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 Compared with the previously approved application, the site area/boundary and major development parameter of the current application remain the same. The planning permission under application No. A/NE-TK/746 was revoked on 18.9.2023 due to non-compliance with the approval conditions in relation to the submission and implementation of drainage proposal.
- 6.3 Details of the previous application is at **Appendix III** and its location is shown on **Plans A-1** and **A-2**.

7. Similar Applications

- 7.1 There are five similar applications (No. A/NE-TK/695, 763, 784, 789 and 795) covering three sites for temporary OSA use within the same “V” zone in the vicinity of the Site in the past five years (**Plan A-1**). All of them were approved with conditions by the Committee between 2021 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) hard-paved, currently vacant, and abutting the village house at 47F Tai Mei Tuk Village (**Plan A-2**);
 - (b) situated at the southern fringe of Tai Mei Tuk Village; and
 - (c) directly accessible from Ting Kok Road.
- 8.2 The surrounding areas are predominantly rural in character mainly comprising village houses, some of which are occupied by restaurants on the ground floor with/without OSA. About 200m-300m to the southwest on the opposite side of Ting Kok Road are Tai Mei Tuk bus terminus and public car park (**Plan A-3**),

further south are various recreational facilities including barbecue areas, water sports centre and nature trails.

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.

10. 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 the Recommended Advisory Clauses are provided at **Appendices V** and **VI** respectively.

11. Public Comment Received During Statutory Publication Period

On 29.11.2024, the application was published for inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed 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 proposed 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. The District Lands Officer/Tai Po of Lands Department has no objection to the application and advises that there is no Small House application received for the Site. As the proposed use is on a temporary basis for three years, approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “V” zone.
- 12.2 The Site is located at the southern fringe of Tai Mei Tuk Village and abutting Ting Kok Road. The proposed 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. With only about 22.8m² and not more than 16 seats, the proposed use is small in scale and is not anticipated to cause significant adverse environmental, traffic, drainage impacts and fire risks on the surrounding areas. According to the Director of Environmental Protection, there has been no environmental complaint related to the Site in the past three years. Other government departments consulted including the Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to follow the revised ‘Code of

Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance caused by the proposed use. In view of the above, the OSA under application is generally in line with TPB PG-No. 15A. Sympathetic consideration could be given to the current application.

- 12.3 The Site is the subject of a previous application for the same use submitted by the same applicant as detailed in paragraph 6 above. Compared with the previously approved application (No. A/NE-TK/746), the major development parameters of the current application remain the same. There is no major change in planning circumstances since the approval of the previous application. The planning permission under the previously approved application was revoked on 18.9.2023 due to non-compliance with approval conditions in relation to the submission and implementation of drainage proposal. Should the Committee approve the application, the applicant will be advised that should there be failure to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further applications.
- 12.4 There are also five similar applications covering three sites within the same "V" zone (**Plan A-1**) in the past five years. All these applications were approved by the Committee between 2021 and 2024 on similar considerations as the previous application at the Site. The planning circumstances of approving these applications are the same as those of the current application. The approval of the current application is in line with the Committee's previous decisions.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above, the 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 10.1.2028. 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 10.7.2025;
- (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 10.10.2025;
- (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 10.7.2025;
- (e) in relation to (d) above, the implementation of the fire service installations 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 10.10.2025;
- (f) 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; and
- (g) 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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

13.3 There is no strong reason to recommend rejection of the application.

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 applicant.

15. Attachments

Appendix I	Application Form with attachments and SI received on 20.11.2024 and 28.11.2024 respectively
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 Application
Appendix IV	Similar Applications
Appendix V	Government Departments’ General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VIa	Drainage Record Plan from the Drainage Services Department

Drawing A-1	Layout Plan submitted by the Applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
JANUARY 2025