

**Similar S.16 Application for Temporary Eating Place or Shop and Services
within/partly within the same “Recreation” zone in the vicinity of the Application Site
in the Ta Kwu Ling North Area**

Approved Application

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-TKLN/6	Temporary Retail Shop, Canteen and Ancillary Office for a Period of 3 Years	13.4.2018 (on review)	A1 – A9

Approval Conditions

- A1 No operation between 5:00 p.m. and 8:00 a.m. on weekdays was allowed
- A2 No operation on Saturdays, Sundays and public holidays was allowed
- A3 The submission of drainage proposal
- A4 The provision of drainage facilities
- A5 The submission and the implementation of proposals for fire service installations and water supplies for fire-fighting
- A6 The submission of the design of septic tank and soakaway system and/or other wastewater treatment facilities
- A7 The provision of septic tank and soakaway system and/or other wastewater treatment facilities
- A8 Revocation clause
- A9 Reinstatement clause

Recommended Advisory Clauses

- (a) to note the following comments of CHE/NTE, HyD:
- (i) the southwestern part of the Site is likely to be required for carrying out the road widening works under “PWP Item No. 854TH – Widening of Eastern Section of Lin Ma Hang Road between Tsung Yuen Ha and Lin Ma Hang” (Plan A-2). It is a designated project under the Environmental Impact Assessment Ordinance (EIAO) and the Environmental Impact Assessment (EIA) study is in progress. The final scheme of the road widening works would be subject to the completion of the EIA under EIAO and the statutory procedures. The construction programme can only be determined upon completion of the subsequent detailed design. The applicant is advised that land resumption/clearance at any time before expiry of the planning permission might be required for the portion of land falling within the road widening works;
 - (ii) the proposed access to the Site will pass through a strip of area between Lin Ma Hang Road and the Site, which is an unallocated Government land. The applicant is required to sort out the land issues with relevant land authority;
 - (iii) upon termination of the proposed temporary uses, the applicant is required to reinstate the ingress and egress to their original state to his satisfaction at the applicant’s cost; and
 - (iv) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (b) to note the following comments of DLO/N, LandsD:
- (i) the Site comprises private lots which are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
 - (ii) the Site may be affected by the project namely “PWP Item No. 854TH – Widening of Eastern Section of Lin Ma Hang Road between Tsung Yuen Ha and Lin Ma Hang”;
 - (iii) there is a temporary movable structure being placed inside the Site. This Office reserves any right to take lease enforcement action against any breach of lease accordingly; and
 - (iv) should the planning application be approved, the owner(s) of the lot concerned shall apply to his office for a Short Term Waiver (STW) to cover all the proposed structures on Site. The application for STW will be considered by Government in its landlord’s capacity and there is no guarantee that it will be approved. If the STW is approved, the commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fees as considered appropriate by his office;

- (c) to note the following comments of DEP:
 - (i) the application is for development of a temporary parent-child play area, eating place, shop and services with ancillary car park. Wastewater generated from the kitchen, toilet or other processes within the premises might be discharged into the nearby waterbodies and cause serious water quality impact if it is not properly treated and disposed of;
 - (ii) as the application is temporary in nature, the applicant is advised to follow EPD's latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites (CoP)";
 - (iii) should the application be approved, the applicant should be advised to strictly follow the provisions in the CoP that proper on-site sewage treatment and disposal facilities should be provided. Septic tank and soakaway (STS) system may be acceptable provided that all relevant requirements in ProPECC PN 5/93 are met on the design and construction of STS system, in particular the percolation test and the minimum distance requirements, which should be duly certified by an Authorized Person (AP). An approval condition on the submission and implementation of the design of septic tank and soakaway system and/or other wastewater treatment facilities for the temporary canteen is recommended; and
 - (iv) to strictly comply with all environmental protection/ pollution control ordinances, in particular Water Pollution Control Ordinance and Waste Disposal Ordinance, and to follow relevant measures given in the EPD's latest CoP, during construction and operation stages of the proposal;
- (d) to note the comments of CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (e) to note the comments of CE/C, WSD that for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (f) to note the following comments of D of FS:
 - (i) in consideration of the design/ nature of the proposed use, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to his satisfaction;
 - (ii) the applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
 - (iii) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans;
- (g) to note the comments of DAFC to perform good site practice in order not to disturb the natural habitat nearby;

- (h) to note the following comments of CBS/NTW, BD:
 - (i) before any new building works are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (ii) for UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
 - (iii) any temporary shelters or converted containers for storage/ washroom/ first-aid room/ site office or other uses considered as temporary buildings are subject to control under the Building (Planning) Regulations (B(P)Rs) Pt. VII;
 - (iv) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the B(P)Rs respectively;
 - (v) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage;
 - (vi) if the proposed use under application is subject to the issue of a licence, the applicant should be reminded that any existing structures, if any, on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority; and
 - (vii) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments will be given at building plan submission stage;
- (h) to note the comments of DLCS that any roadside amenity areas under the purview of his department should not be affected; and
- (i) to note the following comments of DFEH:
 - (i) relevant food licence/ restricted food permit should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). If the operator intends to operate a restaurant business in the territory, a general restaurant/ light refreshment restaurant license should be obtained from FEHD. The application for restaurant licence, if acceptable by FEHD, will be referred to relevant Government departments, such as Buildings Department, Fire Services Department, Planning Department, Lands Department (if necessary) for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements. For the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence must be obtained from her department for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. Besides, a

Fresh Provision Shop licence is required for any person who intends to sell fresh, chilled or frozen beef, mutton, pork, reptiles (including live snake), fish (including live fish) and poultry at any premises before commencement of such business. The application for Food Factory Licence/ Fresh Provision Shop Licence, if acceptable by FEHD, will be referred to relevant Government departments, such as PlanD and LandsD (if necessary) for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements. His department will institute legal action against any person who operates a food business without a valid licence;

- (ii) no environmental nuisance should be generated to the surroundings in connection with the operation of any commercial/ trading activities;
- (iii) any waste generated from the commercial/ trading activities is regarded as trade waste, the management or owner of the Site is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity; and
- (iv) any person who desires to keep or use any place of public entertainment for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more, capable of accommodating the public presenting or carrying on public entertainment within Places of Public entertainment (PPE) Ordinance (Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display or an amusement ride and mechanical device which is designed for amusement. A Place of Public Entertainment Licence (or Temporary Place of Public Entertainment Licence) should be obtained from FEHD whatever the general public is admitted with or without payment. No person shall keep or use any place of public entertainment without a licence granted under this Ordinance.