

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

**APPLICATION NO. A/NE-TK/683**

|                           |   |
|---------------------------|---|
| <b><u>Applicants</u></b>  | Mr. LAU Hing Cheung and Ms. CHAN Ah Lin represented by Mr. HUI Kwan Yee   |
| <b><u>Premises</u></b>    | G/F, No. 103A, Lung Mei, Tai Po, New Territories  |
| <b><u>Floor Area</u></b>  | About 65.03 m <sup>2</sup>  |
| <b><u>Lease</u></b>       | Building Licence for non-industrial purposes  |
| <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>Application</u></b> | Renewal of Planning Approval for Temporary Shop and Services (Fresh Provision Supplier) for a Period of Three Years until 14.7.2023 |

**1. The Proposal**

- 1.1 The applicants seek renewal of planning approval for temporary shop and services use (fresh provision supplier) for a further period of three years at the application premises (the Premises) (**Plan A-1**). According to the Notes of the OZP, ‘shop and services’ use within “REC” zone requires planning permission from the Town Planning Board (the Board). The Premises is currently used for the applied use with valid planning permission until 14.7.2020.
- 1.2 The Premises is the subject of two previously approved planning applications (No. A/NE-TK/592 and 614) submitted by the same applicants for the same use as the current application. The last approved planning application (No. A/NE-TK/614) was approved on 14.7.2017 and all approval conditions have been complied with. The current application is the same as Application No. A/NE-TK/614 in terms of the development parameters, internal layout and operation hours (i.e. 8:00 a.m. to 8:00 p.m. daily) of the applied use (**Drawing A-1**).
- 1.3 In support of the application, the applicants have submitted an application form with attachments (**Appendix I**).

**2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in Part 7 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the applied use was approved in 2017. The applicants have complied with all approval conditions; and
- (b) the applicants would continue to provide good quality fresh food to people, under the same arrangement as approved.

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

The applicants are the “joint current owners” of the Premises. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 34C (TPB-PG No. 34C) on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ are relevant to this application. The relevant assessment criteria are summarized in **Appendix II**.

**5. Previous Applications**

5.1 The Premises is the subject of two previously approved planning applications (No. A/NE-TK/592 and 614) submitted by the same applicants for the same use as the current application. Both applications were approved mainly on considerations that the applied use was not incompatible with the surrounding areas and would not cause adverse traffic, sewerage, drainage and landscape impacts. The planning permission for Application No. A/NE-TK/592 was revoked on 30.3.2017 as the approval condition on the submission of fire service installations (FSIs) and water supplies for fire-fighting proposal had not been complied with. For Application No. A/NE-TK/614, all approval conditions have been complied with, and the planning permission is valid until 14.7.2020. The current application is the same as Application No. A/NE-TK/614 in terms of the development parameters, internal layout and operation hours of the applied use.

5.2 Details of the above applications are summarized at **Appendix III** and the location is shown on **Plans A-1** and **A-2**.

**6. Similar Applications**

6.1 There are 11 similar applications for temporary shop and services use within the same “REC” zone in the vicinity of the Premises. Ten of them (Nos.

A/NE-TK/403, 442, 457, 549, 564, 639, 652, 655, 666 and 675) were approved with conditions for a period of three years by the Rural and New Town Planning Committee (the Committee) between 2012 and 2020, mainly on considerations that the proposed developments were of relatively small scale; not incompatible with the surrounding environment; and would unlikely cause significant adverse impacts on the surrounding areas. However, applications Nos. A/NE-TK/442, 457 and 639 were subsequently revoked due to non-compliance with approval conditions. The remaining application (No. A/NE-TK/523) for a temporary restaurant and convenience store was rejected by the Committee in 2014 mainly for the reasons of being not in line with the planning intention of the “REC” zone and adverse environmental and landscape impacts on the surrounding areas.

6.2 Details of the applications are summarised at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2**.

**7. The Premises and Its Surrounding Areas (Plans A-1 and A-2 and photos on Plans A-3 and A-4)**

7.1 The Premises is:

- (a) situated on the ground floor of a village house at the eastern fringe of Lung Mei Village; and
- (b) abutting a village track leading to Ting Kok Road.

7.2 The surrounding areas are predominantly rural in character where village houses, barbecue area, tree groups and vacant land are found. To the east of the Premises is the village cluster of Lung Mei Village. To the south are Ting Kok Road and a cycling track. Vacant land and tree groups are found to the further north and west of the Premises.

**8. Planning Intention**

The “REC” zone is intended 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 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) no objection to the application; and
- (b) the Premises is situated in a New Territories Exempted House (NTEH) granted under a Building Licence No. 335/2000 for non-industrial purpose within Lot No. 1681 S.B in D.D. 17.

### Traffic

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) no in-principle objection to the application from traffic engineering point of view; and
- (b) the existing village access connecting to the Premises is not managed by Transport Department. The land status, management and maintenance responsibilities of the road and footpath should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

### Environment

#### 9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) the Premises was not involved in any environmental complaint in the past three years; and
- (b) the applicants are advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Uses' issued by Environmental Protection Department.

### Building Matters

#### 9.1.4 Comments of Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) no comments on the application under the Buildings Ordinance (BO); and
- (b) detailed advisory comments under BO are at **Appendix V**.

### Food and Environmental Hygiene

#### 9.1.5 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) proper licence / permit issued by Food and Environmental Hygiene Department (FEHD) is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public;
- (b) the operators of related shop or store should take measures to prevent the existence of nuisance such as noise nuisance, pest nuisance and accumulation of refuse at the Premises. The refuse generated by the shop or store are regarded as trade refuse. The management or owner of the Premises 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
- (c) detailed advisory comments are at **Appendix V**.

### Fire Safety

#### 9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to the FSIs and water supplies for fire-fighting being provided to his satisfaction;
- (b) in consideration of the design/nature of the application, FSIs are anticipated to be required. As the applicants have not submitted any FSIs proposal nor the valid FS 251(s) covering all the FSIs implemented on site, they are advised to submit a fresh FSIs proposal with relevant layout plans for his approval. The applicants should also be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Premises is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (c) while there are DSD's public stormwater drains in this area, the applied use should have its own stormwater collection and discharge system to cater for the runoff generated within the Premises and overland flow from the surrounding of the Premises, e.g. surface channel of sufficient size along the perimeter of the Premises; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Premises if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applied use should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicants are required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) there are existing public sewers in the vicinity of the Premises; and
- (e) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought.

9.2 The following Government departments have no objection to/ comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Commissioner of Police;
- (c) Chief Highway Engineer/New Territories East, Highways Department;
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (e) Project Manager/New Territories North, Civil Engineering and Development Department;
- (f) Director of Electrical and Mechanical Services;

- (g) Chief Town Planner/Urban Design and Landscape, Planning Department;  
and
- (h) District Officer/Tai Po, Home Affairs Department.

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

On 29.5.2020, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for the renewal of planning permission granted under a previous application (No. A/NE-TK/614) for temporary shop and services use (fresh provision supplier) for a further period of three years in an area zoned “REC” on the OZP. The applied use is not in line with the planning intention of “REC” zone which is primarily for recreational developments for the use of the general public. Nevertheless, as the applied use is on a temporary basis for three years, approval of the application would not jeopardize the long-term planning intention of the “REC” zone.
- 11.2 Situated on the ground floor of a village house at the eastern fringe of Lung Mei Village, the applied use with a floor area of 65.03m<sup>2</sup> is small in scale and not incompatible with the surrounding rural character of a mix of village houses, barbecue area, tree groups and vacant land (**Plan A-2**). It is also not anticipated to cause significant adverse traffic, sewerage and drainage impacts on the surrounding areas. Concerned Government departments consulted including the DLO/TP of Lands D, C for T, DEP, CE/C of WSD, CE/MN of DSD, D of FS, DFEH, DEMS and DO/TP of HAD have no objection to / adverse comment on the application.
- 11.3 The Premises is the subject of two previously approved planning applications (No. A/NE-TK/592 and 614) submitted by the same applicants for the same use as the current application. The last approved planning application (No. A/NE-TK/614) was approved on 14.7.2017 and all approval conditions have been complied with. The current application is the same as Application No. A/NE-TK/614 in terms of the development parameters, internal layout and operation hours of the applied use.
- 11.4 The application generally complies with the TPB PG No. 34C on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ in that there has been no material change in planning circumstances since the last approval was granted; there are no major adverse departmental comments against the renewal application; all the approval conditions for the last application have been complied with; and the approval period sought which is the same as the last permission and is considered reasonable.
- 11.5 There are 11 similar applications for temporary shop and services use within the same “REC” zone in the vicinity of the Premises. Ten of them (Nos.

A/NE-TK/403, 442, 457, 549, 564, 639, 652, 655, 666 and 675) were approved with conditions for a period of three years by the Committee between 2012 and 2020, mainly on considerations that the proposed developments were of relatively small scale; not incompatible with the surrounding environment; and would unlikely cause significant adverse impacts on the surrounding areas. The remaining application (No. A/NE-TK/523) for a temporary restaurant and convenience store was rejected by the Committee in 2014 mainly for the reasons of being not in line with the planning intention of the “REC” zone and adverse environmental and landscape impacts on the surrounding areas.

11.6 No public comment on the application was received.

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

12.1 Based on the assessments made in paragraph 11, the 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 three years, and be renewed from 15.7.2020 to 14.7.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 8 p.m. and 8 a.m., as proposed by the applicants, is allowed on the Premises during the planning approval period;
- (b) the submission of proposals for FSIs and water supplies for fire-fighting within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 14.1.2021;
- (c) in relation to (b) above, the implementation of proposals for FSIs and water supplies for fire-fighting within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 14.4.2021;
- (d) the submission of a drainage proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.1.2021;
- (e) in relation to (d) above, the implementation of drainage proposal within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.4.2021;
- (f) if the above planning condition (a) is not complied with during the

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 conditions (b), (c), (d) or (e) is not complied with by the specified date, 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 development is not in line with the planning intention of the "Recreation" zone which is intended primarily for recreational developments for the use of the general public. No strong planning justification has been given in the submission to justify 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 applicants.

### **14. Attachments**

|              |  |
|--------------|--|
| Appendix I   | Application form and attachments received on 22.5.2020   |
| Appendix II  | Relevant Extracts of TPB Guidelines No. 34C on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development |
| Appendix III | Previous applications  |
| Appendix IV  | Similar applications   |
| Appendix V   | Advisory clauses   |

|             |   |
|-------------|---|
| Drawing A-1 | Layout plan submitted by the applicants |
| Plan A-1    | Location plan                           |
| Plan A-2    | Site plan                               |
| Plan A-3    | Aerial photo                            |
| Plan A-4    | Site photos                             |

**PLANNING DEPARTMENT  
JULY 2020**