

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/726

<u>Applicant</u>	: Ink Brand Consulting and Design Limited represented by Office for Fine Architecture Ltd.
<u>Site</u>	: Lots 600 S.A, 600 S.B, 600 S.C, 600 S.D, 600 RP, 601 S.A, 601 S.B, 601 S.C, 601 S.G, 601 S.H and 601 RP in D.D. 82, Lei Uk, Ta Kwu Ling, New Territories
<u>Site Area</u>	: About 1,516.6m ²
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zoning</u>	: (i) "Agriculture" ("AGR") (about 96.5% of the Site) (ii) "Green Belt" ("GB") (about 3.5% of the Site) ¹
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) and Holiday Camp (Private Tent Camping Ground) for a Period of Three Years

1. The Proposal

1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary place of recreation, sports or culture (hobby farm) and holiday camp (private tent camping ground) for a period of three years (**Plan A-1**). The Site falls within an area zoned "AGR" on the OZP. According to the Notes of the OZP for the "AGR" zone, 'Place of Recreation, Sports or Culture (Hobby Farm)' is a Column 2 use requiring planning permission from the Town Planning Board (the Board). 'Holiday Camp' is neither a Column 1 nor Column 2 use for the "AGR" zone. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Board. The Site is largely hard-paved and two container-converted structures for toilet and convenience store uses are found in the eastern part of the Site without any valid planning permission (**Plans A-4a to A-4c**).

1.2 The proposal comprises three single-storey temporary structures with a total gross floor area of 96.2m² for a service centre and other ancillary facilities (e.g. a toilet and a shower room) (**Drawing A-1**). The uncovered area will be mainly used for hobby farm (i.e. about 926m² or 61% of the Site) and outdoor tent camping area (i.e. about 371.22m² or

¹ About 53m² (i.e. 3.5%) of the Site falls within the "GB" zone, which is considered as minor boundary adjustment and not included in the planning assessment.

25% of the Site). According to the applicant, a maximum of four tents for 12 visitors per day will be set up within the Site. The total number of visitors to be accommodated within the Site is about 32. The Site is accessible via a local track leading to Ping Che Road. One loading/unloading bay for light goods vehicles (LGVs) is proposed within the Site. As visitors will be encouraged to access to the Site via public transport (**Drawing A-2**), no parking spaces will be provided within the Site. Approximately 10 to 12 trees will be planted along the south-western and southern boundaries of the Site. For sewerage treatment, a septic tank is proposed and regular septic pumper truck service will be arranged on a weekly basis. The operation hours of the proposed development are from 9:00 a.m. to 10:00 p.m. daily, except for the outdoor camping area and related facilities (e.g. the toilet and shower room). Public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system are prohibited in the Site. The applicant will remove all the existing paved concrete in the Site after obtaining planning permission. The layout plan and access plan submitted by the applicant are shown in **Drawings A-1** and **A-2**.

1.3 In support of the application, the applicant has submitted the following documents:

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|-----|---|----------------------|
| (a) | Application form with attachments received on 24.4.2023 | (Appendix I) |
| (b) | Further Information (FI) received on 22.8.2023 [^] | (Appendix Ia) |
| (c) | FI received on 3.10.2023 [^] | (Appendix Ib) |
| (d) | FI received on 24.10.2023 [^] | (Appendix Ic) |
| (e) | FI received on 20.11.2023 [^] | (Appendix Id) |
| (f) | FI received on 23.11.2023 [^] | (Appendix Ie) |
| (g) | FI received on 30.11.2023 [^] | (Appendix If) |

[^] *accepted and exempted from the publication and the recounting requirements*

1.4 On 23.6.2023 and 13.10.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's requests to defer making a decision on the application for two months each to allow more time for the applicant to address departmental comments.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to If**, and summarized as below:

- (a) the proposed use meets the increasing demand for natural activity space and facilitates the promotion of local agriculture;
- (b) the Site is easily accessible by public transport;
- (c) fruits and vegetables will be cultivated on the Site primarily for supporting local restaurants; and
- (d) the proposed use will better utilize the land resources and not incompatible with the surrounding areas mainly comprising abandoned farmland.

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

The applicant 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. 31A) by obtaining consents of the two current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was subject to active planning enforcement action against unauthorized development (UD) for recreational use (including use for holiday camp). Enforcement Notice was issued on 6.4.2023 requiring discontinuation of the UD by 6.6.2023. Subsequent site inspections revealed that the UD had been discontinued, hence Compliance Notice was issued on 15.9.2023.

5. Previous Application

There is no previous application for the Site.

6. Similar Application

There is no similar application for the same use in the vicinity of the Site within the same “AGR” zone over the past five years in the Ping Che and Ta Kwu Ling area.

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

7.1 The Site is:

- (a) largely hard-paved and two container-converted structures and toilet found in the eastern part of the Site without any valid planning permission; and
- (b) accessible via a local track leading to Ping Che Road.

7.2 The Site is located in an area of rural inland plains landscape character comprising active/fallow agricultural lands, vegetated areas, temporary structures, tree clusters, woodlands, open storage yards and small houses.

8. Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to/no adverse comment on the application.

Their general comments on the application and advisory comments in the Recommended Advisory Clauses are at **Appendices II** and **III** respectively.

9.2 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Old Schedule Agricultural Lots 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. No right of access via government land (GL) is granted to the Site; and
- (b) there is unauthorized structure erected on the Lots No. 600 S.B, 600 S.C, 601 S.A and 601 S.B in D.D. 82 (**Plan A-2**). This unauthorized structure do not tally with proposal submitted in the planning application, LandsD has reservation on the planning application since the unauthorized building works are already subject to lease enforcement actions according to the case priority. The lot owner(s) should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without separate notice.

10. Public Comments Received During Statutory Publication Period

On 5.5.2023, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix IV**), including the Chairman of Sheung Shui District Rural Committee who indicates no comment on the application. The remaining three were from the Conservancy Association, Kadoorie Farm and Botanic Garden and an individual objecting to the application for being not in line with the planning intention of the “AGR” zone; adverse environmental impact; approval of the application would set an undesirable precedent for similar applications; it is a ‘destroy first, develop later’ case; and no information is provided on the sewerage treatment.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed place of recreation, sports or culture (hobby farm) and holiday camp for a period of three years at the Site zoned “AGR” zone. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good rehabilitation for cultivation and other agricultural purposes. According to the applicant, 61% of the Site will be used for cultivation and farm area and the remaining area will mainly be used for holiday camp and circulation area. The proposed development is considered generally not in conflict with the planning intention of the “AGR” zone. DAFC has no strong view on the application from agricultural and natural conservation perspective. As regards the proposed holiday camp for accommodating a maximum of four tents, it is intended for passive recreational use serving the public. Taking into account this and the assessments below, approval of the application on a temporary basis for a period of three years could be tolerated.
- 11.2 The Site is located in an area of rural inland plains landscape character comprising active/fallow agricultural lands, vegetated areas, temporary structures, tree clusters, woodlands, open storage yards and small houses. The proposed development is not entirely incompatible with the surrounding environment. Chief Town Planner/Urban Design and Landscape, Planning Department has no objection to the application from landscape planning perspective as further significant adverse impact on the landscape

character and the existing landscape resources within the Site arising from the proposed use is not anticipated.

- 11.3 Relevant departments consulted, including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North, Drainage Services Department and Director of Fire Services, etc. have no objection to/no adverse comments on the application. The proposed development is not expected to cause significant traffic, drainage and environmental impacts on the surrounding areas.
- 11.4 While DLO/N of LandsD has reservation on the application in view of the presence of unauthorized structure, which is subject to lease enforcement action, the applicant indicates that he will liaise with LandsD to rectify/regularize the matter and settle the land issues separately after the planning permission is granted.
- 11.5 Regarding the public comments objecting to the application as detailed in paragraph 10 above, government departments' comments and the planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11, and having taken into account the public comments in paragraph 10 above, Planning Department considers that the proposed use could be tolerated for a period of three years.
- 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 until 22.12.2026. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system, as proposed by the applicant, is allowed to be used on the Site, during the planning approval period;
- (b) no passenger vehicle access or parking is allowed on the Site at all times during the planning approval period;
- (c) 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 22.6.2024
- (d) in relation to (c) above, the provision of drainage facilities 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 22.9.2024;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a fire service installations (FSIs) 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 22.6.2024;

- (g) in relation to (f) above, the implementation of the FSIs 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 22.9.2024;
- (h) if any of the above planning condition (a), (b) or (e) 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;
- (i) if any of the above planning condition (c), (d), (f) or (g) 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
- (j) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

- the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. 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 the permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

14. Attachments

Appendix I	Application form with attachments received on 24.4.2023
Appendix Ia	FI received on 22.8.2023
Appendix Ib	FI received on 3.10.2023
Appendix Ic	FI received on 24.10.2023
Appendix Id	FI received on 20.11.2023
Appendix Ie	FI received on 23.11.2023
Appendix If	FI received on 30.11.2023
Appendix II	Government Departments' General Comments
Appendix III	Recommended Advisory Clauses
Appendix IV	Public Comments

Drawing A-1	Layout Plan
Drawing A-2	Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2023**