

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

**APPLICATION NO. A/NE-TK/743**

<b><u>Applicant</u></b>	: Mr. LI Ho Lim Cyrus represented by Mr. HUI Kwan Yee
<b><u>Site</u></b>	: Lot 137 in D.D. 17, Ting Kok, Tai Po, New Territories
<b><u>Site Area</u></b>	: About 139.5m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural purpose)
<b><u>Plan</u></b>	: Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Shop and Services (Store) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary shop and services (store) for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.2 According to the applicant’s submission, the proposed use will be accommodated in three single-storey structures with a total GFA of about 37.2m<sup>2</sup> and a height of 2.74m for reception/kiosk, storage and shelter uses. The operation hours are from 8:00 a.m. to 8:00 p.m. daily (including public holidays). The Site is currently vacant with some trees of common species. A layout plan of the proposed use is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
  - (a) Application form received on 17.1.2022 (**Appendix I**)
  - (b) Further Information (FI) received on 25.3.2022 (**Appendix Ia**)  
(not exempted from publication and recounting requirements)
  - (c) FI received on 28.4.2022 (**Appendix Ib**)

- 1.4 On 4.3.2022, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for 2 months to allow more time for the applicant to prepare FI to rectify and elaborate the proposal. The FI submissions were received on 25.3.2022 and 28.4.2022 and the application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the application form at **Appendix I** as summarized below:

- (a) the proposed use could make better use of vacant land to serve the visitors in the vicinity and support tourist activities; and
- (b) the applicant will comply with all approval conditions imposed if the application is approved by the Committee.

## **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. Previous Application**

- 4.1 The Site is part of the subject of a previous application (No. A/NE-TK/304) for two proposed houses (New Territories Exempted Houses (NTEHs)) submitted by another applicant. The previous application was rejected by the Committee on 11.6.2010, mainly on the consideration that approving the application would set an undesirable precedent for other similar applications within the “AGR” zone, which would cause cumulative adverse impact on the rural landscape of the area and disintegrate the buffer intended to be retained between the "Village Type Development" zone to its west and the "Other Specified Uses" annotated "Spa Resort Hotel" zone to its east.
- 4.2 Details of the previous application are summarized at **Appendix II** and its location is shown on **Plan A-2**.

## **5. Similar Applications**

- 5.1 There are two similar applications (No. A/NE-TK/640 and 706) within the same “AGR” zone in the vicinity of the Site in the past 5 years, which cover the same site. Both applications involved a temporary retail shop co-existed with a hobby farm which were approved with conditions by the Committee on 15.6.2018 and 25.6.2021 respectively for a period of 3 years, mainly on the

grounds of not frustrating the long-term planning intention of the “AGR” zone; not incompatible with the surrounding areas; and not causing adverse impacts.

- 5.2 Details of the similar applications are shown at **Appendix III** and their locations are shown on **Plan A-1**.

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

- 6.1 The Site is :

- (a) currently vacant with some trees of common species;
- (b) situated near the southeastern fringe of Ting Kok Village; and
- (c) accessible via a footpath leading to Shan Liu Road.

- 6.2 The surrounding areas are predominantly rural in character with vacant land, village houses, temporary structures and scattered tree groups. A watercourse is found about 1m to the west of the Site. About 30m further west is the village proper of Ting Kok Village. About 85m southeast across Shan Liu Road is a temporary hobby farm and retail shop with valid planning permission (Application No. A/NE-TK/706 as mentioned in paragraph 5.1).

## **7. 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.

## **8. Comments from Relevant Government Departments**

- 8.1 Apart from the Director of Agriculture, Fisheries and Conservation (DAFC), all other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV** and **V** respectively.

- 8.2 Comments of the DAFC are as follows:

### Agriculture

- the Site is zoned “AGR” and is currently a piece of vacant land with some trees. There are active agricultural activities in the vicinity, and agricultural infrastructure such as road access and water source is available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries etc. As the Site possesses

potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

**9. Public Comment Received During Statutory Publication Period (Appendix VI)**

On 25.1.2022 and 1.4.2022, the application and FI submitted by the applicant were published for public inspection respectively. During the statutory public inspection periods, one public comment was received from an individual objecting to the application on the ground that approving the use will encourage further development within the “AGR” zone.

**10. Planning Considerations and Assessments**

- 10.1 This application is for a temporary shop and services (store) use for a period of 3 years in an area zoned “AGR” on the OZP. The proposed use is not in line with the planning intention of “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, as the proposed use is on a temporary basis for 3 years, approval of the application would not jeopardize the long-term planning intention of the “AGR” zone.
- 10.2 The Site is currently vacant with some trees of common species. The proposed use with a site area of about 139.5m<sup>2</sup> and three single-storey structures with a total GFA of about 37.2m<sup>2</sup> and a height of 2.74m is small in scale and not incompatible with the surrounding rural character. The proposed use is not anticipated to cause significant adverse impacts on the surrounding areas. Relevant government departments consulted have no objection to/adverse comment on the application from technical aspects.
- 10.3 The Site is part of the subject of a previously rejected application for two proposed houses (NTEHs) as mentioned in paragraph 4.1 above. Its nature differs from the subject application.
- 10.4 There are two approved similar applications within the same “AGR” zone in the vicinity of the Site for reasons as mentioned in paragraph 5.1 above. The consideration for approving these similar applications are applicable to the subject application.
- 10.5 Regarding the public comment as detailed in paragraph 9 above, government departments’ comments and the planning assessments above are relevant.

## 11. **Planning Department's Views**

- 11.1 Based on the assessments made in paragraph 10, and having taken into account the public comment mentioned in paragraph 9, Planning Department considers that the proposed temporary shop and services (store) could be tolerated for a period of 3 years.
- 11.2 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 3 years until 20.5.2025. 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 20.11.2022;
- (b) in relation to (a) above, the implementation of 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 20.2.2023;
- (c) the submission of a proposal for fire service installations (FSIs) and water supplies for fire-fighting 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 20.11.2022;
- (d) in relation to (c) above, the implementation of FSIs and water supplies for fire-fighting 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 20.2.2023; and
- (e) if any of the above planning conditions (a), (b), (c) or (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 V**.

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:
- the proposed use 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 planning justification in the

current submission for a departure from the planning intention, even on a temporary basis.

**12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

**13. Attachments**

<b>Appendix I</b>	Application form and attachments dated 17.1.2022
<b>Appendix Ia</b>	FI received on 25.3.2022
<b>Appendix Ib</b>	FI received on 28.4.2022
<b>Appendix II</b>	Previous application
<b>Appendix III</b>	Similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comment
<b>Drawing A-1</b>	Layout plan submitted by applicant
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
MAY 2022**