

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/744

<u>Applicant</u>	: Miss LI Jasmine Ka Lam represented by Mr. HUI Kwan Yee
<u>Site</u>	: Lot 698 in D.D. 29, Ting Kok, Tai Po, New Territories
<u>Site Area</u>	: About 83.5m 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>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Picnic Area) and Shop and Services (Store) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary place of recreation, sports or culture (picnic area) and 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. The Site is partly vacant and partly occupied by a container.
- 1.2 According to the applicant’s submission, the proposed use will comprise three single-storey structures with a total GFA of about 29.63m² and a height of 2.74m for reception/kiosk, storage and shelter uses. The proposed picnic area is located at the uncovered area at the southern part of the Site. The proposed use will accommodate no more than 12 persons. The operation hours are from 8:00 a.m. to 8:00 p.m. daily (including public holidays). The Site is accessible via a local track leading to Shan Liu Road. 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 and supplementary information (**Appendix I**) received on 17.1.2022 and 20.1.2022
- (b) Further Information (FI) received on 21.3.2022* (**Appendix Ia**)
- (c) FI received on 16.5.2022* (**Appendix Ib**)

*exempted from publication and recounting requirements

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 was received on 21.3.2022 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 a Part 7 of the application form at **Appendix I** and FI submissions at **Appendix Ia-Ib** as summarized below:

- (a) the proposed use could make better use of vacant land to provide a picnic area to serve the visitors in the vicinity and support tourist activities;
- (b) the proposed use will not involve land filling nor hard paving. The Site will be grassed in support of the proposed use; and
- (c) the proposed structures will be kept 3m away from the nearby existing streamcourse. Should the application be approved, the applicant will submit a drainage proposal to the satisfaction of Drainage Services Department. The applicant will also comply with all other approval conditions imposed 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. Background

The Site is part of the subject of a planning enforcement case (No. E/NE-TK/156) against unauthorized development (UD) involving storage of construction equipment and materials (**Plan A-2**). Enforcement Notice (EN) was issued on 24.9.2020 and the UD was discontinued with Compliance Notice (CN) issued on 13.9.2021. Reinstatement Notice (RN) was subsequently issued on 16.9.2021 requiring compliance by 16.12.2021. As the Site has not been reinstated upon expiry of the RN, prosecution may be taken in due course.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application within the same “AGR” zone in the vicinity of the Site.

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

7.1 The Site is :

- (a) partly vacant and partly occupied by a container; and
- (b) accessible by a local track leading to Shan Liu Road.

7.2 The surrounding areas are predominantly rural in character with vacant land, vegetated areas, temporary structures and village houses. To the immediate north of the Site is a dense woodland within the “Green Belt” zone on the same OZP. A small plot of active farmland is found to the immediate west.

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 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 II** and **III** respectively.

9.2 Comments of the DAFC are as follows:

Agriculture

- the Site is zoned “AGR”. 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.

10. **Public Comment Received During Statutory Publication Period (Appendix IV)**

On 25.1.2022, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly for concerns on adverse environmental and hygiene impacts.

11. **Planning Considerations and Assessments**

11.1 This application is for a temporary place of recreation, sports or culture (picnic area) and shop and services (store) 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.

11.2 The Site is partly vacant and partly occupied by a container. The proposed use with a site area of about 83.5m² and three single-storey structures with a total GFA of about 29.63m² and a height of 2.74m is small in scale and not incompatible with the surrounding rural character comprising vacant land, vegetated areas, temporary structures and village houses (**Plans A-2 to A-3**). It will not involve land filling nor hard paving. No adverse environmental, traffic, sewerage, drainage and landscape impacts are anticipated from the proposed use. Relevant government departments consulted have no objection to/adverse comment on the application from technical aspects.

11.3 Regarding the public comment 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 assessments made in paragraph 11, and having taken into account the public comment mentioned in paragraph 10, Planning Department considers that the proposed temporary place of recreation, sports or culture (picnic area) and shop and services (store) could be tolerated for a period of 3 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 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 III**.

12.3 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.

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 applicant.

14. Attachments

Appendix I	Application form with attachments and supplementary information received on 17.1.2022 and 20.1.2022
Appendix Ia	FI received on 21.3.2022
Appendix Ib	FI received on 16.5.2022
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comment
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
MAY 2022**