

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

**APPLICATION NO. A/NE-TK/765**

<b><u>Applicants</u></b>	: Mr. CHAN Keung and Ms. LAM Yuk Fong Rita
<b><u>Site</u></b>	: Lots 1738 S.B ss.3 (Part) and 1830 (Part) in D.D. 17 and adjoining government land, Lung Mei, Tai Po
<b><u>Site Area</u></b>	: About 104m <sup>2</sup> (including about 29m <sup>2</sup> of government land)
<b><u>Lease</u></b>	: (i) New Grant Lot demised for non-industrial purpose; and (ii) 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>Zonings</u></b>	: “Village Type Development” (“V”) (about 71% of the Site) “Agriculture” (“AGR”) (about 29% of the Site)
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Private Garden Ancillary to New Territories Exempted House (NTEH) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek renewal of planning permission under Application No. A/NE-TK/676 to continue using the application site (the Site) for temporary private garden ancillary to NTEH for a further period of three years until 23.12.2025 (**Plan A-1**). The Site falls within an area partly zoned “V” and partly zoned “AGR” on the approved Ting Kok OZP No. S/NE-TK/19. According to the 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 Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission until 23.12.2022.
- 1.2 The Site is the subject of four previously approved applications submitted by the same applicants for the same use. Details of the previous applications are set out in paragraph 5.1 below. All approval conditions under the last previous application No. A/NE-TK/676 have been complied with. The proposal under current application is the same as that under the last previous application.
- 1.3 In support of the application, the applicants have submitted an application form with attachments (**Appendix I**) received on 12.10.2022.

## 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**, as summarized below:

- (a) the applied use on the Site has been approved for years with site condition remained unchanged. Trees and landscape plantings on the Site are maintained in accordance with the approval condition. The applied use is welcome by the neighbours;
- (b) the Site is not located on any vehicular/pedestrian access; and
- (c) the applied use would add greenery to the surrounding environment.

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

For the portion of private land, the applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection. As for the government land, the “owner’s consent/notification” requirements are not applicable.

## 4. **Town Planning Board Guidelines**

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

## 5. **Previous Applications**

- 5.1 The Site is the subject of four previous applications (No. A/NE-TK/335, 480, 596 and 676) for temporary private garden ancillary to NTEH submitted by the same applicants as the current application (**Plan A-1**). All of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2010 and 2019, mainly on consideration of not frustrating the long-term planning intention of the “AGR” zone; and not incompatible with the surrounding land uses. The last one (No. A/NE-TK/676) was approved by the Committee on 15.11.2019 for a period of three years, with the planning permission valid until 23.12.2022, and all approval conditions have been complied with. The proposal under current application is the same as that under the previous application.
- 5.2 Details of the previous applications are at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

**6. Similar Application**

There is no similar application within the same “V” and “AGR” zones 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) paved, fenced off and currently used as a private garden of the adjoining house with trees and landscape plantings;
- (b) partly within the village ‘environs’ (‘VE’) of Lung Mei and Tai Mei Tuk;
- (c) situated at the western fringe of Ng Uk Tsuen; and
- (d) accessible via a local track.

7.2 The surrounding areas are predominantly rural in character comprising clusters of village houses and scattered tree groups. Dragon View Villa and the village proper of Ng Uk Tsuen are located to the immediate northeast and east of the Site respectively. To its immediate west is a local track. About 65m to its further west are dense woodland within the “Green Belt” (“GB”) zone on the same OZP.

**8. Planning Intentions**

8.1 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

8.2 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**

All departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices IV** and **V** respectively.

**10. Public Comments Received During Statutory Publication Period (Appendix VI)**

During the statutory public inspection period, five public comments were received from villagers and residents of Dragon View Villa objecting to the application and raising concerns on the size of the site area; need to reserve land for provision of emergency vehicular access (EVA); reducing space for villagers' enjoyment; and setting of undesirable precedent.

**11. Planning Considerations and Assessments**

- 11.1 This application is for renewal of planning permission for temporary private garden ancillary to NTEH for a period of three years at the Site partly zoned "V" (about 71%) and partly zoned "AGR" (about 29%) on the OZP. The applied 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. Nevertheless, the Site is within the village proper and has been paved. The Director of Agriculture, Fisheries and Conservation has no comment on the renewal application. As advised by the District Lands Officer/Tai Po of Lands Department, there is at present no Small House application received in respect of the Site. Approval of the application on a temporary basis for three years would not jeopardize the long-term planning intention of the "AGR" zone.
- 11.2 The Site is paved, fenced off and currently used as a private garden with trees and landscape plantings. The applied use is not incompatible with the surrounding areas which is predominantly rural in character, comprising clusters of village houses and scattered tree groups. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective and advises that further adverse landscape impact arising from the applied use is not anticipated. Other relevant government departments consulted including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to/no adverse comment on the application on technical aspects.
- 11.3 The Site is the subject of four previously approved applications for the same use submitted by the same applicants, which were all approved by the Committee between 2010 and 2019 on considerations set out in paragraph 5.1 above. The proposal under the current application is the same as that under the last previous application (No. A/NE-TK/676). All approval conditions under this previous application have been complied with.
- 11.4 The application generally complies with TPB PG-No. 34D in that there has been no material change in planning circumstances since the previous approval granted under Application No. A/NE-TK/676; there are no major adverse departmental comments on the renewal application; all approval conditions under the previous approval have been complied with; and the 3-year approval period sought is the same as the previous approval and is considered reasonable.

- 11.5 Regarding the public comments on the application as detailed in paragraph 10, government departments' comments and the planning assessments in paragraphs 11.1 and 11.2 are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as mentioned in paragraph 10, Planning Department considers that the temporary use under application could be tolerated for a further 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 3 years, and be renewed from 24.12.2022 until 23.12.2025. The following approval condition and advisory clauses are also suggested for Members' reference:

### Approval Condition

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.

*[the above condition is the same as that under previous application No. A/NE-TK/676; while the approval condition on maintenance of existing trees and landscape plantings on the Site is deleted based on the comments from CTP/UD&L, PlanD]*

### 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 applied 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 applicants.

**14. Attachments**

<b>Appendix I</b>	Application form with attachments received on 12.10.2022
<b>Appendix II</b>	Relevant extracts of TPB-PG No. 34D
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comments
<b>Drawing A-1</b>	Site plan submitted by applicants
<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  
DECEMBER 2022**