

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/783

<u>Applicant</u>	: Mr. CHAN Yuen Fai represented by Mr. HUI Kwan Yee
<u>Site</u>	: Various Lots in D.D. 17 and D.D. 29 in Ting Kok, Tai Po, New Territories
<u>Site Area</u>	: About 9,889m 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>Zonings</u>	: “Agriculture” (“AGR”)(about 91% or 8,999m ²) and area shown as ‘Road’ (about 9% or 890m ²)
<u>Application</u>	: Temporary Barbecue Site with Ancillary Car Park for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary barbecue site with ancillary car park for a period of three years at the application site (the Site). The Site falls within an area largely zoned “AGR” (about 91% or 8,999m²) and partly shown as ‘Road’ (about 9% or 890m²) on the OZP (**Plan A-1**). 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 partly paved, partly covered with grass, and currently occupied by the applied use without any valid planning permission.
- 1.2 According to the applicant, the development will comprise 14 single-storey structures with heights ranging from 2.14m to 2.9m, providing a total floor area of about 235.8m² for reception, office, storeroom, food storage, meter room, kitchen, washroom and shelter uses (**Drawing A-1**). The remaining uncovered area will mainly be used as barbecue area (about 2,967m² or 30% of the Site) with 180 barbecue pits and parking, loading/unloading and circulation areas (**Drawing A-1**). A total of 45 parking spaces for private car (2.5m (W) X 5m (L)) and eight parking spaces for coach/heavy goods vehicle (HGV) (3m (W) X 12m (L)) will be provided within the Site. The operation hours will be from 8:00 a.m. to 11:00 p.m. daily (including public holidays). The Site is directly accessible via Ting Kok Road to its north (**Plan A-2a**). Sewage generated from

the applied use will be treated by a septic tank with soakaway system. The applicant has submitted a drainage proposal to support the application. The site layout submitted by the applicant is shown in **Drawing A-1**.

- 1.3 The Site is part of the subject of nine previous applications¹ (No. A/NE-TK/208, 235, 281, 360, 456, 494, 565, 625 and 698) submitted by three different applicants for temporary barbecue site with ancillary car park (**Plan A-2a**). The four latest previous applications No. A/NE-TK/494, 565, 625 and 698 were submitted by the same applicant as the current one. Details of the previous applications are set out in paragraph 5 below.
- 1.4 In support of the application, the applicant submitted the following documents:
- (a) Application Form and Supplementary Information (SI) (**Appendix I**)
received on 14.8.2023 and 18.8.2023
 - (b) Further Information (FI) received on 15.11.2023* (**Appendix Ia**)
 - (c) FI received on 13.12.2023* (**Appendix Ib**)
- *accepted and exempted from publication and recounting requirements*
- 1.5 On 13.10.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for a period of two months 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 Application Form, SI and FIs at **Appendices I to Ib**, as summarized below:

- (a) the Board has previously granted planning permission for the same use at the Site. The applicant had made efforts to comply with the approval conditions imposed under the last planning permission (Application No. A/NE-TK/698). Nevertheless, due to COVID-19 pandemic, there were delays in processing time and works schedule, and the applicant was unable to comply with the approval condition relating to the implementation of drainage facilities in time. The planning permission was subsequently revoked. Should the application be approved, the applicant is committed to fulfil the outstanding approval condition as soon as possible;
- (b) to facilitate the operation of the applied use, sufficient manoeuvring space and parking and loading/unloading spaces have been reserved within the Site. The applicant will also dedicate staff to be in charge of traffic control during peak hours in order to avoid potential queuing problem on public road; and
- (c) subsequent to planning permission granted by the Board, the applicant has

¹ The Site is also part of the subject of a previously approved application (No. A/NE-TK/321) for temporary hobby farm use and two previously rejected applications (No. A/NE-TK/495 and 496) each for a proposed house (New Territories Exempted House – Small House). These previous applications are irrelevant to the current application.

applied for Short Term Waiver for the applied use. The current reduction in number of structures, floor area and maximum building height as compared to the previously approved application is mainly to reflect the latest alteration and modification intended by the applicant.

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

The applicant is not a “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 posting notice on the Site and sending notice to Tai Po Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to any active enforcement action, but under close monitoring by the Planning Authority.

5. **Previous Applications**

5.1 The Site is part of the subject of nine previous applications (No. A/NE-TK/208, 235, 281, 360, 456, 494, 565, 625 and 698) submitted by three different applicants for temporary barbecue site with ancillary car park (**Plan A-2a**). The last four previous cases (No. A/NE-TK/494, 565, 625 and 698) were submitted by the same applicant as the current one. All of them were approved with conditions by the Committee between 2006 and 2021 mainly on considerations of not frustrating the long-term planning intention of the “AGR” zone; not incompatible with the surrounding land uses; and not causing significant adverse impacts on the surrounding areas. The planning permission granted under the last previous application No. A/NE-TK/698 was revoked on 12.8.2023 due to non-compliance with the approval condition relating to the implementation of drainage facilities. As compared with this application, the current one mainly involves reduction in the number of structures (from 23 to 14), floor area (from about 1,266.67m² to about 235.8m²) and maximum building height (from 4.27m to 2.9m).

5.2 Details of the previous applications are at **Appendix II** and their locations are shown on **Plan A-2a**.

6. **Similar Applications**

6.1 There are five similar applications (No. A/NE-TK/661, 697, 704, 712, and 752) covering four sites for temporary barbecue site and/or caravan holiday camp with ancillary car park within/straddling the same “AGR” zone and area shown as ‘Road’ over the past five years (**Plan A-2b**). All of them were approved with conditions by the Committee between 2019 and 2022, mainly on similar considerations as stated in paragraph 5.1 above. Planning permissions granted

under Applications No. A/NE-TK/661, 697 and 704 were subsequently revoked due to non-compliance with approval conditions relating to the submission and implementation of drainage proposal and/or sewerage impact assessment.

- 6.2 Details of the similar applications are at **Appendix III** and their locations are shown on **Plan A-2b**.
- 6.3 There is another application for a temporary barbecue site with ancillary car park (No. A/NE-TK/782) in the vicinity of the Site, which will be considered by the Committee at this meeting.

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

- 7.1 The Site is :
 - (a) partly paved and partly covered with grass;
 - (b) currently occupied by the applied use without a valid planning permission; and
 - (c) directly accessible via Ting Kok Road (**Plan A-2a**).
- 7.2 The surrounding areas are predominantly rural in character with barbecue sites, agricultural land, plant nurseries, domestic structures and vacant land (**Plans A-2a** and **A-3**). To its immediate east is a temporary barbecue site covered by valid temporary planning approval (Application No. A/NE-TK/712) (**Plan A-2b**). To its north across Ting Kok Road is the village proper of Ting Kok (**Plans A-1** and **A-2a**). About 80m to its further south is an area largely covered by agricultural land and vacant land along the coastline of Plover Cove (Shuen Wan Hoi) which is zoned “Coastal Protection Area” (“CPA”) (**Plans A-1** and **A-2a**).

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 departments as set out in paragraphs 9.2 and 9.3 below, other departments consulted have no objection to or no comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices IV** and **V** respectively.
- 9.2 The following government department does not support the application:

Agriculture

9.2.1 Comment of the Director of Agriculture, Fisheries and Conservation (DAFC):

- the Site falls within an area partly zoned “AGR” and partly shown as ‘Road’, and is generally occupied by some structures. 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.

9.3 The following government department has relayed local views on the application:

Local Views

9.3.1 Comment of the District Officer (Tai Po), Home Affairs Department (DO(TP), HAD):

- in view of the strong local sentiments against suspected unlawful tree felling within the same “AGR” zone in the vicinity of the Site, the Planning, Housing and Works Committee (PHWC) of the Tai Po District Council (TPDC) passed a motion requesting the Board to reject Application No. A/NE-TK/779² (**Plan A-1**) and revoke the planning permission granted for Application No. A/NE-TK/678³ (**Plan A-1**), applications sites of which fall within the same “AGR” zone as the current application. The motion also requested Planning Department (PlanD) to report any new applications or renewal applications concerning barbecue sites within the “AGR” zone to the PHWC (details of the motion and responses by PlanD are at **Appendix VI**).

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

On 22.8.2023, 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 reasons of non-compliance with approval condition imposed under the previous planning permission (No. A/NE-TK/698).

² The application is for proposed temporary place of recreation, sports or culture, eating place, barbecue site and holiday camp with ancillary facilities for a period of 3 years and associated filling of land within “AGR” and “Open Space” (“O”) zones.

³ The application is for proposed temporary place of recreation, sports or culture (hobby farm) with ancillary facilities and eating place for a period of 5 years and filling of land within “AGR” zone and an area shown as ‘Road’.

11. Planning Considerations and Assessment

- 11.1 The application is for temporary barbecue site with ancillary car park for a period of three years at the Site largely zoned “AGR” (about 91% or 8,999m²) and partly shown as ‘Road’ (about 9% or 890m²) on the OZP. 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application as the Site possesses potential for agricultural rehabilitation. There is currently no plan to develop the area shown as ‘Road’ within the Site. Taking into account the planning assessment below, the applied use on a temporary basis of three years could be tolerated.
- 11.2 The Site is partly paved, partly covered with grass, and occupied by some temporary structures of the applied use. The applied use is considered not incompatible with the surrounding land uses which are predominantly rural in character with barbecue sites, agricultural land, plant nurseries, domestic structures and vacant land (**Plans A-2a and A-3**). Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from landscape planning perspective and advises that further impact on landscape character and resources arising from the applied use is not anticipated. In view of local concerns on tree felling in the area as conveyed by DO(TP), HAD as stated in paragraph 9.3.1 above, an approval condition requiring the reinstatement of the Site to an amenity area upon expiry of the planning permission is recommended to safeguard the environmental quality of the area.
- 11.3 According to the applicant, a total of 45 parking spaces for private car and eight parking spaces for coach/HGV will be provided within the Site. Sewage generated from the applied use will be treated by a septic tank with soakaway system. The applicant has also submitted a drainage proposal to support the application. Significant adverse traffic, sewerage, environmental and drainage impacts arising from the applied use on the surrounding areas are not anticipated. Relevant government departments consulted including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Fire Services have no objection to/no adverse comment on the application.
- 11.4 The Site is part of the subject of nine previous applications (No. A/NE-TK/208, 235, 281, 360, 456, 494, 565, 625 and 698) submitted by three different applicants for temporary barbecue site with ancillary car park (**Plan A-2a**). All of them were approved by the Committee between 2006 and 2021 mainly on considerations as set out in paragraph 5.1 above. The planning permission for the last approved application (No. A/NE-TK/698) was revoked on 12.8.2023 due to non-compliance with the approval condition relating to the implementation of drainage facilities. For the current application, a drainage proposal has been submitted. Should the application be approved, the applicant is also committed to fulfil all outstanding approval conditions as soon as possible. CE/MN of DSD have no objection to the application subject to incorporation of relevant approval conditions in the planning permission.

Having regard to the above and taking into account that there is no significant change in planning circumstances, sympathetic consideration may be given to the current application. Should the application be approved by the Committee, the applicant will be advised that if there is further non-compliance with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 11.5 There were five similar applications covering four sites for temporary barbecue site and/or caravan holiday camp with ancillary car park within/straddling the same “AGR” zone and area shown as ‘Road’ over the past five years. All of them were approved by the Committee between 2019 and 2022, mainly on considerations as stated in paragraph 6.1 above. The planning circumstances of the current application are similar to the approved ones.
- 11.6 Regarding the local views relayed by DO(TP), HAD, the responses by PlanD at **Appendix VI** are relevant. Application No. A/NE-TK/678 was approved with conditions by the Committee for a period of five years on 20.11.2020, and the progress made by the applicant for compliance with approval conditions are under close monitoring by PlanD. For Application No. A/NE-TK/779, the case is currently under processing. Relevant planning considerations including departmental and public comments will be submitted to the Committee for consideration. As regards the public comment on the application as detailed in paragraph 10, the planning assessment above is relevant.

12. **Planning Department’s Views**

- 12.1 Based on the assessment made in paragraph 11, and having taken into account the public comment mentioned in paragraph 10 above, Planning Department considers that the temporary barbecue site with ancillary car park 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 12.1.2027. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission of a revised 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 12.7.2024;
- (b) in relation to (a) above, the implementation of the revised 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 12.10.2024;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) 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 12.7.2024;

- (e) in relation to (d) above, the implementation of the 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 12.10.2024;
- (f) if any of the above planning condition (a), (b), (d) or (e) 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;
- (g) if the above planning condition (c) 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; and
- (h) 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 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 applicant.

14. Attachments

Appendix I	Application Form and SI received on 14.8.2023 and 18.8.2023
Appendix Ia	FI received on 15.11.2023
Appendix Ib	FI received on 13.12.2023
Appendix II	Previous applications
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Motion passed by TPDC PHWC and responses by PlanD
Appendix VII	Public comment
Drawing A-1	Layout plan submitted by the applicant
Plan A-1	Location plan
Plan A-2a and A-2b	Site plans
Plan A-3	Aerial photo
Plans A-4a to A-4c	Site photos

**PLANNING DEPARTMENT
JANUARY 2024**