

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

**APPLICATION NO. A/NE-TK/791**

**Applicant** : Mr. WONG Kwok Kuen represented by Land Chartering Limited

**Premises** : G/F of 216B Ting Kok, Lot 1429 (Part) in D.D. 29, Ting Kok, Tai Po, New Territories

**Floor Area** : About 27.32m<sup>2</sup>

**Lease** : New Grant No. 22691 for non-industrial purpose only

**Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19

**Zoning** : “Agriculture” (“AGR”)

**Application** : Proposed Temporary Eating Place for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary eating place for a period of three years at the application premises (the Premises) which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Premises is currently renovated for the proposed use but has yet to commence operation.
- 1.2 According to the applicant, the proposed eating place is situated on the G/F of an existing New Territories Exempted House (NTEH)<sup>1</sup> on Lot 1429 (Part) in D.D. 29 (i.e. 216B Ting Kok) with a floor area of about 27.32m<sup>2</sup> (**Plan A-2**). The proposed development comprises a seating area providing four barstools, a kitchen, toilets and a storage area (**Drawing A-1**). The proposed operation hours are from 10:00 a.m. to 8:00 p.m. from Mondays to Fridays, and from 9:00 a.m. to 9:00 p.m. on Saturdays, Sundays and public holidays. The Premises is accessible via a local tracks connecting to Ting Kok Road (**Plan A-1**). Layout plan submitted by the applicant is shown in **Drawing A-1**.

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<sup>1</sup> The subject site was occupied by a domestic structure when the Ting Kok Interim Development Permission Area (IDPA) Plan No. IDPA/NE-TK/1 was gazetted on 7.9.1990. According to the covering Notes of the OZP, replacement of an existing domestic building, i.e. a domestic building which was in existence on the date of the first publication in the Gazette of the notice of a draft plan including IDPA plan covering such building, by a NTEH, is always permitted within the “AGR” zone.

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

- (a) Application Form with attachments received on (Appendix I)  
29.12.2023
- (b) Supplementary Planning Statement (Appendix Ia)
- (c) Further Information (FI) received on 25.1.2024\* (Appendix Ib)

*\*accepted and exempted from publication and recounting requirements*

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

The justifications put forth by the applicant in support of the application are detailed in the Application Form, Supplementary Planning Statement and FI at **Appendices I to Ib**, as summarized below:

- (a) the Premises is situated in the vicinity of a few NTEHs<sup>2</sup> where no shop, food store or eating place is found. The applicant intends to provide an eating place at the Premises to offer light refreshment and drinks for the village residents; and
- (b) the Premises is accessible via local tracks connecting to Ting Kok Road. It is located within an existing NTEH that was recently rebuilt with drainage and sewerage systems provided up to the satisfaction of Lands Department and Drainage Services Department. No flooding complaint has been received in relation to the Premises. The subject site has been properly fenced off to ensure that visitors will not enter the surrounding areas and the neighbouring areas will be kept clean and tidy. The proposed use will not cause adverse traffic, drainage, environmental and ecological impacts on the surrounding areas.

## 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 Premises is not subject to any active planning enforcement action.

## 5. **Previous Application**

There is no previous application at the Premises.

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<sup>2</sup> The NTEHs to the immediate north of the Premises were occupied by domestic structures when the Ting Kok IDPA Plan No. IDPA/NE-TK/1 was gazetted on 7.9.1990. According to the covering Notes of the OZP, replacement of an existing domestic building by a NTEH is always permitted within the “AGR” zone.

**6. Similar Application**

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

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

7.1 The Premises is:

- (a) currently renovated for the proposed use but has yet to commence operation;
- (b) situated on the G/F of an existing NTEH to the south of Ting Kok Road (**Plan A-2**); and
- (c) accessible via local tracks connecting to Ting Kok Road (**Plan A-1**).

7.2 The surrounding areas are predominantly rural in character comprising NTEHs, active and fallow agricultural land and plant nurseries. About 20m and 70m to the west of the Premises are areas zoned “Coastal Protection Area” (“CPA”) with active agricultural land and plant nurseries and the Ting Kok Site of Special Scientific Interest (SSSI) with mangrove habitat of special landscape and ecological value (**Plans A-2 and A-3**). About 170m to its northeast across Ting Kok Road is the village proper of Ting Kok (**Plans A-1 and A-3**).

**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 paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are at **Appendices II and III** respectively.

9.2 The following government departments do not support or have adverse comments on the application:

**Land Administration**

9.2.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) the Premises occupies G/F of the NTEH erected on Lot 1429 in D.D. 29 held under New Grant No. 22691 for non-industrial

purpose only. No structures shall be erected on the lot except a three-storey NTEH with maximum gross floor area of 81.96m<sup>2</sup>; and

- (b) there are flower beds in area outside the Premises but within Lot 1429 in D.D. 29 (**Plan A-4**), which may block the public passage as provided under New Grant No. 22691. The lot owner should immediately rectify/regularize the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice.

### **Agriculture and Nature Conservation**

#### 9.2.2 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the subject site falls within the “AGR” zone and is generally occupied by structures. Agricultural activities in the vicinity are active, and agricultural infrastructure such as road access and water source is also available. The subject site can be used for agricultural activities such as open-field cultivation, greenhouses, and plant nurseries etc. As the subject site possesses potential for agricultural rehabilitation, the application is not supported from agricultural perspective; and
- (b) the subject site is situated in the close proximity to areas zoned “CPA” and the Ting Kok SSSI with mangrove habitat. According to the applicant, the NTEH was recently rebuilt with drainage and sewerage systems provided up to the satisfaction of LandsD and Drainage Services Department. The subject site has also been properly fenced off to ensure that visitors will not enter the surrounding areas and the neighbouring areas will be kept clean and tidy (**Site Photo 3 on Plan A-4**). He has no strong view on the application from nature conservation point of view.

### **10. Public Comment Received During Statutory Publication Period**

On 5.1.2024, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

### **11. Planning Considerations and Assessment**

- 11.1 This application is for a proposed temporary eating place for a period of three years at the Premises zoned “AGR” on the OZP. 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, 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 subject site possesses potential for agricultural rehabilitation. Nevertheless, the proposed use is on the G/F of an existing NTEH, and the

current application only involves change of use from domestic use to eating place to serve the village residents nearby. In view of the above, the proposed use could be favourably considered, taking into account of the planning assessment below.

- 11.2 The Premises is situated on the G/F of an existing NTEH located to the south of Ting Kok Road. The proposed use within the Premises is considered not incompatible with the surrounding land uses which are predominantly rural in character with NTEHs, active and fallow agricultural land and plant nurseries (**Plans A-2 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 significant adverse impact on the existing landscape resources and character arising from the proposed use is not anticipated.
- 11.3 The proposed use with a total floor area of about 27.32m<sup>2</sup>, providing four barstools is considered small in scale. It is not anticipated to cause significant adverse environmental, traffic and drainage impacts or pose fire risks on the surrounding areas. According to the Director of Environmental Protection, there has been no environmental complaint related to the Site in the past three years. While the subject site is in the close proximity to the “CPA” zone and Ting Kok SSSI, having considered that the applicant has properly fenced off the subject site (**Site Photo 3** on **Plan A-4**) to ensure that visitors will not enter the surrounding areas, DAFC has no strong view on the application from nature conservation point of view. The Commissioner for Transport has no in-principle objection to the application from traffic engineering viewpoint and advises that the traffic impact due to the application is tolerable. Other government departments consulted including Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application. While DLO/TP of LandsD has adverse comment on the application due to lease breaches, the issue on land should be dealt with separately under the land regime. The applicant will be advised to follow up with DLO/TP of LandsD on their concerns.

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

- 12.1 Based on the assessment made in paragraph 11 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 16.2.2027. 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 16.8.2024;
- (b) in relation to (a) above, the implementation of the 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 16.11.2024;

- (c) in relation to (b) above, the implemented drainage facilities on the premises shall be maintained at all times during the planning approval period;
- (d) the submission of a proposal for fire services 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 16.8.2024;
- (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 16.11.2024;
- (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; and
- (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.

#### 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 "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 provided in the submission to justify 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 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.

- 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**

<b>Appendix I</b>	Application Form with attachments received on 29.12.2023
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	FI received on 25.1.2024
<b>Appendix II</b>	Government Departments' General Comments
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout plan submitted by the 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  
FEBRUARY 2024**