

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/796

<u>Applicant</u>	: Mr. WU Wai Ho represented by Allgain Land Administrators (Hong Kong) Limited
<u>Site</u>	: Various Lots in D.D. 17 in Ting Kok, Tai Po, New Territories
<u>Site Area</u>	: About 6,600m 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 Eating Place and Barbecue Site with Ancillary Facilities for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary eating place and barbecue site with ancillary facilities for a period of three years at the application site (the Site). The Site falls within an area zoned “AGR” 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 covered with grass, partly paved and occupied by temporary structures (**Plans A-4a** and **A-4b**).
- 1.2 According to the applicant, the proposed development comprises 11 single-storey structures with heights ranging from 3m to 5m, providing a total floor area of about 620m² for eating place, kitchen, storage rooms, staff storage rooms, staff changing room, accessible toilets, CCTV room, office, reception and storage uses (**Drawing A-1**). The remaining uncovered area are mainly used as a barbecue area (about 2,900m² or 44% of the Site with 70 barbecue pits), parking, loading/unloading (L/UL) and circulation areas (**Drawing A-1**). A total of 20 parking spaces for private cars (2.5m (W) X 5m (L) each) and a L/UL bay for light goods vehicle (LGV) (3.5m (W) X 7m (L)) will be provided on the Site. The operation hours are from 9:00 a.m. to 8:00 p.m. daily (including public holidays). The Site is accessible via a track branching off Ting Kok Road to its northwest (**Plan A-2a**). Sewage generated from the eating place will pass through grease trap and discharged to a septic tank and soakaway system for

treatment, while wastewater of the portable toilets will be tanked away regularly. A layout plan submitted by the applicant is shown in **Drawing A-1**.

1.3 The Site is part of the subject of eight previous applications¹ (No. A/NE-TK/147, 207, 228, 257, 316, 427, 628 and 704) for temporary barbecue site with ancillary car park use submitted by three different applicants (**Plan A-2a**). 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 received on 6.3.2024 (**Appendix I**)

(b) Further Information (FI) received on 13.5.2024* (**Appendix Ia**)

**accepted and exempted from publication and recounting requirements*

1.5 On 19.4.2024, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer a decision on the application for two months.

2. Justifications from the Applicant

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

- (a) the proposed development is intended to serve the needs of the local residents;
- (b) the proposed development is temporary in nature and small in scale. It will not frustrate the long-term planning intention of the "AGR" zone. No workshop or open storage activities will be allowed on the Site. The proposed development is not incompatible with the surrounding land uses;
- (c) the Site was previously granted with planning permission for a temporary barbecue area under Application No. A/NE-TK/704. Approval conditions under the previous planning permission were mostly complied with. As compared with this previous application, the current one is submitted by a different applicant and mainly involves an additional use for eating place;
- (d) the proposed development will not result in significant adverse landscape, environmental, traffic and drainage impacts or pose fire risks on the surrounding areas. Existing trees within the Site will be preserved and maintained in-situ by the applicant. The applicant will follow the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Environmental Protection Department (EPD) to minimize possible environmental nuisance to the surrounding areas. To facilitate operation of the proposed development, sufficient parking and L/UL spaces will be provided within the Site. Drainage facilities and fire services installations will also be provided in accordance with the relevant guidelines;

¹ The Site is also part of the subject of a previous application (No. A/NE-TK/181) for temporary horse riding school use. The planning considerations of this previous application is irrelevant to the current application.

- (e) to minimize any potential impact on the Ting Kok Site of Special Scientific Interest (SSSI), the applicant will install chain-link fences and put up signs at the Site to prevent the visitors and staff from entering the SSSI; and
- (f) should the application be approved, the applicant will apply for Short Term Waiver for the proposed development. The applicant will also reinstate the Site upon expiry of the planning permission.

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. 31B) 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.

5. Previous Applications

- 5.1 The Site is part of the subject of eight previous applications (No. A/NE-TK/147, 207, 228, 257, 316, 427, 628 and 704) for temporary barbecue site with ancillary car parking use submitted by three different applicants (**Plan A-2a**). Except for Application No. A/NE-TK/207, all of the previous applications were approved.
- 5.2 Applications No. A/NE-TK/147, 228, 257, 316, 427, 628 and 704 were approved with conditions by the Committee between 2002 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. Applications No. A/NE-TK/228, 316 and 704 were subsequently revoked due to non-compliance with approval conditions.
- 5.3 The planning permission granted under the last previous application No. A/NE-TK/704 was revoked on 28.8.2023 due to non-compliance with the approval conditions relating to the implementation of drainage facilities, submission of sewerage impact assessment (SIA) and implementation of sewerage facilities. As compared with this application, the current one was submitted by a different applicant and involves an additional use for eating place and a reduction in site area (from 8,360m² to 6,600m²), number of structures (from 28 to 11) and floor area (from about 2,321.2m² to about 620m²).
- 5.4 The remaining previous application (No. A/NE-TK/207) was rejected by the Committee on 21.7.2006 mainly for reasons of failing to provide sufficient information to demonstrate no adverse impact on the surrounding areas including the mangrove habitat in the Ting Kok SSSI; and setting an undesirable

precedent for other similar applications within the “AGR” zone.

- 5.5 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 a similar application (No. A/NE-TK/791) for temporary eating place use and seven similar applications (No. A/NE-TK/661, 697, 698, 712, 752, 782 and 783) covering four sites for temporary barbecue site and/or caravan holiday camp with ancillary car parking use within the same “AGR” zone in the past five years (**Plan A-2b**). All of them were approved with conditions by the Committee between 2019 and 2024, mainly on similar considerations as stated in paragraph 5.2 above. Planning permissions granted under Applications No. A/NE-TK/661, 697 and 698 were subsequently revoked due to non-compliance with approval conditions relating to the submission and implementation of drainage proposal and/or SIA.
- 6.2 Details of the similar applications are at **Appendix III** and their locations are shown on **Plan A-2b**.

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

- 7.1 The Site is :
- (a) partly covered with grass, partly paved and occupied by temporary structures (**Plans A-4a and A-4b**); and
 - (b) located to the south of Ting Kok Road and accessible via a track branching off Ting Kok Road (**Plan A-2a**).
- 7.2 The surrounding areas are predominantly rural in character with barbecue sites, farmlands, plant nurseries, domestic structures and vacant land (**Plans A-2a and A-3**). To its immediate west are three temporary barbecue sites covered by valid temporary planning approvals (Application No. A/NE-TK/712, 782 and 783) (**Plan A-2b**). To the immediate south of the Site are an area zoned “Coastal Protection Area” (“CPA”) and the Ting Kok SSSI respectively (**Plans A-1 and A-2a**). To its further northwest across Ting Kok Road is the village proper of Ting Kok (**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 adverse 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 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the Site falls within the “AGR” zone and is occupied by some structures. The agricultural activities are active 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; and
- (b) the Site is about 20m to the north of Ting Kok SSSI of mangrove interest. It is noted that the applicant has proposed to prevent the visitors and staff from entering the SSSI by installing chain-link fences and putting up signs at the Site. An approval condition should be imposed to ensure the implementation of the above proposed precautionary or protective measures in order to avoid and minimize any potential impacts on the SSSI.

9.3 The following government department has reservation on the application:

Land Administration

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

- (a) the Site comprises 43 Old Schedule Agricultural Lots all in D.D. 17 under different ownerships. The lots are held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (b) there are unauthorized structures on the said private lots. The lot owners 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. Hence, his office has reservation on the application; and
- (c) there is no guarantee to the grant of a right of way to the Site or approval of emergency vehicular access (EVA) thereto.

10. Public Comment Received During Statutory Publication Period

On 15.3.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual (**Appendix VI**) objecting to the application mainly for reasons of non-compliance with approval conditions imposed under the previous planning permission (No. A/NE-TK/704); and causing significant adverse impact on the adjacent “CPA” zone.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary eating place and barbecue site with ancillary facilities for a period of three years at the Site zoned “AGR” on the OZP (**Plan A-1**). The proposed development 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 from agricultural perspective as the Site possesses potential for agricultural rehabilitation. Nevertheless, taking into account the planning assessments below, the proposed development on a temporary basis of three years could be tolerated.
- 11.2 The Site is partly covered with grass, partly paved and occupied by some temporary structures (**Plans A-4a** and **A-4b**). The proposed development is considered not incompatible with the surrounding land uses which are predominantly rural in character with barbecue sites, farmlands, plant nurseries, domestic structures and vacant land (**Plans A-2a** and **A-3**). Chief Town Planner/Urban Design and Landscape of the Planning Department has no objection to the application from landscape planning perspective and advises that significant adverse landscape impact on the existing landscape resources arising from the proposed development is not anticipated.
- 11.3 To the immediate south of the Site are an area zoned “CPA” and the Ting Kok SSSI (**Plans A-1** and **A-2a**). To minimize any potential impact to the Ting Kok SSSI, the applicant proposes to install chain-link fences and signs in areas near the SSSI to prevent the visitors and staff from entering the SSSI. DAFC requests that an approval condition on the above proposed precautionary or protective measures should be imposed to avoid and minimize any potential impact on the SSSI. In this regard, relevant approval condition is suggested in paragraph 12.2(a) below.
- 11.4 According to the applicant, a total of 20 parking spaces for private cars and a L/UL bay for LGV will be provided within the Site. Sewage generated from the eating place will pass through grease trap and discharged to a septic tank and soakaway system for treatment, while wastewater of the portable toilets will be tanked away regularly. Significant adverse traffic, sewerage, environmental and drainage impacts arising from the proposed development on the surrounding areas are not anticipated. Relevant government departments consulted including Commissioner for Transport, Director of Environmental Protection (DEP), 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. To address the technical requirements of the concerned

government departments, relevant approval conditions are recommended in paragraph 12.2 below. While DLO/TP of LandsD has reservation on the application as unauthorized structures are found on the lots concerned, the applicant advises that he will apply for Short Term Waiver to settle the land issues should the application be approved. The applicant will be advised to liaise with LandsD to deal with the land matters separately under the land administration regime.

- 11.5 The Site is part of the subject of eight previous applications (No. A/NE-TK/147, 207, 228, 257, 316, 427, 628 and 704) for temporary barbecue site with ancillary car park use submitted by three different applicants (**Plan A-2a**). Except for Application No. A/NE-TK/207, all of them were approved by the Committee between 2002 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 for the last approved application (No. A/NE-TK/704) was revoked on 28.8.2023 due to non-compliance with the approval conditions relating to the implementation of drainage facilities, submission of SIA and implementation of sewerage facilities. Should the application be approved, the applicant has committed to implement the drainage and sewerage facilities in accordance with relevant standards and guidelines. CE/MN of DSD and DEP have no objection to the application subject to incorporation of relevant approval conditions in the planning permission.
- 11.6 There are a similar application for temporary eating place use and seven similar applications covering four sites for temporary barbecue site and/or caravan holiday camp with ancillary car park use within the same “AGR” zone in the past five years. All of them were approved by the Committee between 2019 and 2024 mainly on considerations as stated in paragraph 11.5 above. The planning circumstances of the current application are similar to the approved ones.
- 11.7 Regarding the concern raised in the objecting public comment mentioned in paragraph 10 above, it should be noted that the current application is submitted by a different applicant. The applicant has also proposed precautionary measures to minimize any potential impact on the Ting Kok SSSI. DAFC has no strong view on the application from nature conservation perspective in this regard.

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 above, Planning Department considers that the proposed temporary eating place and barbecue site with ancillary facilities 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 5.7.2027. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the implementation of the precautionary measures on the site as identified by the applicant within **9** months from the date of approval to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board by 5.4.2025;
- (b) 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 5.1.2025;
- (c) in relation to (b) 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 5.4.2025;
- (d) in relation to (c) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) 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 5.1.2025;
- (f) in relation to (e) 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 5.4.2025;
- (g) the submission of a sewerage impact assessment (SIA) within **6** months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 5.1.2025;
- (h) in relation to (g) above, the implementation of the sewerage facilities as identified in the SIA within **9** months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 5.4.2025;
- (i) if any of the above planning condition (a), (b), (c), (e), (f), (g) or (h) 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;
- (j) if the above planning condition (d) 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
- (k) 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 proposed development 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 received on 6.3.2024
Appendix Ia	FI received on 13.5.2024
Appendix II	Previous applications
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	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 and A-4b	Site photos

**PLANNING DEPARTMENT
JULY 2024**