

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/673

<u>Applicant</u>	Mr. CHAN Yuen Fai represented by Mr. HUI Kwan Yee
<u>Site</u>	Lots 422 (Part), 423 (Part), 426 (Part), 427 (Part), 428 (Part) and 429 (Part) in D.D. 17, Ting Kok, Tai Po, New Territories
<u>Site Area</u>	About 347.1m 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 Storage Area for Community Event Materials for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary storage area of community event materials for a period of three years. The Site falls within an area 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), notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.2 According to the applicant, the proposal comprises a single-storey structure (about 4.57m high) covering the whole site within which two converted containers (about 2.44m high) with floor areas of about 113.1m² and 14.88m² will be used for storage of equipment/miscellaneous items and office respectively. The remaining area covered by the single-storey structure (about 219.12m²) will also be used for storage purpose (**Drawing A-1**). The operation hours are from 8:00 a.m. to 8:00 p.m. daily. No car parking space within the Site and no vehicular access to the Site are proposed. The Site is occupied by a single-storey temporary structure with two converted containers therein which are currently vacant (**Plan A-4**).
- 1.3 The Site is the subject of a previous application (No. A/NE-TK/533) submitted by the same applicant for proposed temporary storage area of a barbecue site for a period of three years, which was approved with conditions by the Rural

and New Town Planning Committee (the Committee) on 6.2.2015 up to 25.4.2016 (about 14 months instead of three years applied for). The granting of a shorter approval period was to tie in with the validity of the related barbecue site approved under Application No. A/NE-TK/494. However, the planning permission was revoked on 6.8.2015 due to non-compliance with approval conditions. The proposed use under the current application is different from the previous application.

- 1.4 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the applicant has been organising ceremonial and recreational events for local villages, community organisations and schools, and storage area is required for relevant equipment and materials including tables, chairs, and notice boards, etc.;
- (b) the proposal would make good use of the vacant storage area on the Site and help improve the hygienic condition of the surrounding area; and
- (c) the applicant is obliged to comply with the approval conditions imposed by the Board.

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 site notice and sending notice to Tai Po Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site does not involve any active enforcement case. Nevertheless, it is the subject of a previous enforcement case against unauthorized storage use (including deposit of containers) with the Enforcement Notice issued on 21.8.2018. As the storage use was discontinued, Compliance Notice was issued on 24.6.2019.

5. Previous Application

5.1 The Site is the subject of a previous application (No. A/NE-TK/533) submitted by the same applicant for proposed temporary storage area related to a temporary barbecue site and car park located to the west of the Site, which was approved under Application No. A/NE-TK/494 for a period of two years up to 25.4.2016. The previous application No. A/NE-TK/533 was approved with conditions by the Committee on 6.2.2015 for a period of about 14 months until 25.4.2016 in order to tie in with the validity of the related barbecue site. Subsequently, the planning permission for the temporary barbecue site (Application No. A/NE-TK/494) was revoked on 25.4.2015 due to non-compliance with approval conditions related to submission and implementation of drainage and FSI proposals. The previous application for temporary storage use (No. A/NE-TK/533) was also revoked on 6.8.2015 due to non-compliance with the same approval conditions. While major development parameters under the current application in terms of site boundary/area and covered area are same as the previous application, the nature of the proposed development under the current application is different from the previous application, which is for the temporary storage area serving the barbecue site in the vicinity of the Site.

5.2 Details of the previous application are shown on **Appendix II** and its location is shown on **Plan A-2**.

6. Similar Application

There is no similar application for temporary storage area use within the same “AGR” zone in the vicinity of the Site.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2 and photos on Plan A-3 and A-4)

7.1 The Site is:

- (a) hard paved and wholly occupied by a single-storey temporary structure; and
- (b) accessible via a local track off Ting Kok Road.

7.2 The surrounding areas are predominantly rural in character with temporary barbecue sites intermixed with fallow and active agricultural land.

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 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) no objection to the application;
- (b) the Site consists of six private lots in D.D. 17 which are held under Block Government Lease demised for agricultural purpose. No structure shall be erected without prior approval from LandsD;
- (c) a recent site inspection revealed that a structure was erected on the Site without DLO/TP's approval;
- (d) if the application is approved by the Board, the lot owner is required to submit an application for Short Term Waiver (STW) to LandsD should they wish to erect any structure on the Site. However, there is no guarantee at this stage that the STW application would be approved. If the STW application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of waiver fee and administrative fee as considered appropriate;
- (e) there is no guarantee to the grant of right-of-way to the Site or approval of Emergency Vehicular Access thereto; and
- (f) subsequent to the Board's approval of the last application No. A/NE-TK/533, unauthorized structures were found on the lots concerned but no valid STW application had been submitted by the lot owner, thus lease enforcement action was taken by LandsD against the unauthorized structures. LandsD's warning letters dated 6.8.2014 were registered in the Land Registry on 21.10.2014 against all six lots.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- no in-principle objection to the application from traffic engineering point of view.

Environment

9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) no comment on the application;
- (b) the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites'; and
- (c) there is no environmental complaint related to the Site received in the past three years.

Drainage

9.1.4 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) if the application is approved, approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (c) there is no existing DSD maintained public drain available for connection in the area. The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The proposed development should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) public sewerage connection is not available near the Site; and
- (e) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot

owners should be sought.

Water Supply

9.1.5 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C), WSD)

- (a) no objection to the application; and
- (b) for provision of water supply to the proposed development, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to the fire service installations (FSIs) being provided to his satisfaction;
- (b) in consideration of the design/nature of the application, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs for his approval. The applicant should also be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

9.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising scattered tree groups, farmlands and barbecue sites. Although the proposed use is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;

- (c) the Site is hard paved and occupied by a temporary structure. No existing tree is found within the Site. Two existing trees *Celtis sinensis* (朴樹) and *Eucalyptus sp.* (桉樹) in good to fair conditions found adjoining the Site are not in conflict with the proposed use. Significant adverse impact on landscape resources arising from the proposed development is not anticipated; and
- (d) since the footprint of the proposed structure covers the whole site, there is no space for meaningful landscape to benefit public realm. Should the application be approved by the Board, it is considered unnecessary to impose any condition for submission and implementation of landscape proposal.

Agriculture

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

- the Site is occupied by an existing structure. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as road access is available. The Site possesses potential for agricultural rehabilitation. As such, the application is not supported from agricultural development point of view.

Building Matters

9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) there is no record of approval by the Building Authority for the buildings/structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application;
- (b) there is also no record of submission of the proposed building/structure to the Building Authority for approval; and
- (c) advisory comments under the Buildings Ordinance are at **Appendix III**.

9.2 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Commissioner of Police;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Project Manager/North, Civil Engineering and Development Department;

- (e) Director of Electrical and Mechanical Services; and
- (f) District Officer/Tai Po, Home Affairs Department.

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

On 16.7.2019, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received objecting to the application mainly on the ground of being not in line with the planning intention of “AGR” zone.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary storage area for community event materials for a period of three years at the Site falling entirely within the “AGR” zone on the OZP. 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. DAFC does not support the application from agricultural development point of view as there are active agricultural activities in the vicinity, agricultural infrastructure such as road access is available, and the Site possesses potential for agricultural rehabilitation. No strong planning justification has been given in the submission to justify for a departure from the planning intention, even on a temporary basis.
- 11.2 The Site is hard paved and wholly occupied by a single-storey temporary structure within which two converted containers are found. The surrounding areas are predominantly rural in character clustering with temporary barbecue sites as well as fallow and active agricultural land. The proposed development is considered not incompatible with its surrounding uses (**Plans A-2 and A-3**). CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective as significant adverse impact on landscape resources arising from the proposed development is not anticipated. Other relevant Government departments consulted including DEP, C for T and CE/MN of DSD have no objection to or no adverse comment on the application.
- 11.3 According to the applicant, the proposed development is for temporary storage of community event materials. However, there is no strong justification provided in the submission to demonstrate that the Site is the only available land for the proposed development nor the application warrants a departure from the planning intention of “AGR” zone. Approving the application would set an undesirable precedent for other similar applications in the “AGR” zone.
- 11.4 The Site is the subject of a previous application (No. A/NE-TK/533) submitted by the same applicant for proposed temporary storage area related to the nearby barbecue site, which was approved under Application No. A/NE-

TK/494¹. The previous application No. A/NE-TK/533 was approved by the Committee on 6.2.2015 for a period of about 14 months until 25.4.2016 in order to tie in with the validity of the temporary barbecue site under Application No. A/NE-TK/494. Subsequently, the planning permission was revoked on 6.8.2015 due to non-compliance with approval conditions related to submission and implementation of drainage and FSI proposals. While major development parameters under the current application in terms of site boundary/area and covered area are same as the previous application, the nature of the proposed development under the current application is different from the previous application, which is for the proposed temporary storage area serving the barbecue site in the vicinity of the Site.

- 11.5 Regarding the public comment objecting to the application on the ground as detailed in paragraph 10 above, comments of relevant Government departments 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, the Planning Department does not support the application for the following reason:

- the 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. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

- 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 6.9.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no night-time operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the application site during the planning approval period;
- (b) the submission of 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 6.3.2020;
- (c) in relation to condition (b) above, the implementation of drainage

¹ Application No. A/NE-TK/494 for temporary barbecue site and car park located to the west of the Site was approved for a period of two years up to 25.4.2016. Subsequently, the planning permission was revoked on 25.4.2015 due to non-compliance with approval conditions related to submission and implementation of drainage and FSI proposals.

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 6.6.2020;

- (d) the submission of fire service installations and water supplies for fire-fighting proposal 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 6.3.2020;
- (e) in relation to condition (d) above, the implementation of fire service installations and water supplies for fire-fighting proposal 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 6.6.2020;
- (f) if the above planning condition (a) 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;
- (g) if any of the above planning conditions (b), (c), (d) or (e) is not complied with within the specified time limit, the approval hereby given shall cease to have effect and shall be revoked on the same date without further notice; and
- (h) upon the expiry of the planning permission, the reinstatement of the application 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**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

14. Attachments

Appendix I	Application form and attachments received on 8.7.2019
Appendix II	Previous Application
Appendix III	Government department's detailed comments

Appendix IV	Public comment
Appendix V	Recommended Advisory Clauses
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
SEPTEMBER 2019**