

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/697

<u>Applicant</u>	Mr. CHAN Yuen Fai represented by Mr. HUI Kwan Yee
<u>Site</u>	Lots 384 RP (Part), 385 RP (Part), 388 (Part), 392 (Part), 393 (Part), 396 S.A (Part), 400 S.A (Part), 400 RP (Part), 401 (Part), 402 (Part), 406 (Part), 407 (Part), 408 (Part), 409, 410, 413 (Part), 415 (Part), 416 (Part), 417 (Part), 424 (Part), 433 (Part), 460 S.A (Part), 460 S.B (Part), 460 S.C (Part), 462 (Part), 463 (Part), 464 (Part), 465, 466, 467 (Part), 468 (Part), 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480 (Part), 481, 482 (Part), 484 (Part), 497 (Part), 502 (Part), 503 (Part), 504 (Part), 505 (Part), 506 (Part), 507 (Part), 508 (Part) and 509 (Part) in D.D. 17, Ting Kok, Tai Po, New Territories
<u>Area</u>	About 7,182 m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Temporary Barbecue Site for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary barbecue site at the application site (the Site) 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 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of 3 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. The Site is currently occupied by a temporary barbecue site.
- 1.2 The applied use comprises 22 one-storey structures with a total covered area of about 1,970.76m² and a height ranging from 2.6m to 4.5m, including five structures for barbecue areas (1,118.2m²) and remaining structures for game area, washroom, reception, storage, shelter and corridor uses. The Site is accessible via a track on Government land branching off Ting Kok Road to its north. A car park with 25 private car parking spaces, 5 large vehicle/coach parking spaces and a loading/unloading area is proposed. A layout plan

showing the structures and car park is at **Drawing A-1**. The operation hours of the applied use are between 8:00 am and 11:00 pm daily.

- 1.3 The Site is part of the subject of seven previous applications (No. A/NE-TK/147, 207, 228, 257, 316, 427 and 624) for temporary barbecue site and one application for temporary place of recreation, sports or culture (outdoor electric go-kart ground) (No. A/NE-TK/669) (**Plan A-2a**). Whilst Applications No. A/NE-TK/207 and 669 were rejected by the Committee on 21.7.2006 and 4.10.2019 respectively, the other six applications were approved with conditions by the Committee between 2002 and 2018. The latest one (No. A/NE-TK/624) was submitted by the same applicant and approved with conditions on 9.2.2018 for a period of three years up to 9.2.2021. All the approval conditions of Application No. A/NE-TK/624 have been complied with.
- 1.4 Compared with the latest Application No. A/NE-TK/624, there is a slight adjustment to the site boundary in the current application with the site area increased from about 7,132 m² to 7,182 m². Furthermore, six additional structures are proposed with an increase in total covered area from 1,912.76 m² to 1,970.6 m².
- 1.5 In support of the application, the applicant submitted the following documents :
 - (a) an application form with attachments (**Appendix I**)
 - (b) Further Information (FI) received on 21.1.2021 (**Appendix Ia**) clarifying that the application is a fresh application instead of a renewal of previous planning approval ^
 - (c) FI received on 26.1.2021 clarifying the provision of car parking spaces with a layout plan, and the area of a proposed structure ^ (**Appendix Ib**)
 - (d) FI received on 28.1.2021 clarifying the provision and size of car parking spaces, and pedestrian access with a revised layout plan ^ (**Appendix Ic**)

^accepted and exempted from the publication and recounting requirements

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** and FI at **Appendices Ia to Ic**. They can be summarized as follows:

- (a) the barbecue site has been operating at the Site for over 18 years. The last planning permission (Application No. A/NE-TK/624) was obtained on 9.2.2018 and all the approval conditions have been complied with. The applicant undertakes to continue complying with all the approval condition(s) to be imposed, and to fulfil all necessary requirements requested by the concerned Government departments if the application is approved;

- (b) the barbecue site is a very popular recreational spot/ gathering place for families and friends. It can help promote tourism and economy, and provide employment opportunity. The applicant and his staff is aware of the need to protect the ecology in the vicinity. The barbecue site has also been fully supported by several District Councillors;
- (c) the change in site boundary and increase in number of structures compared with the previously approved proposal is to facilitate better arrangement to enhance the environment within the Site and increase the choice of food and provision of equipment; and
- (d) there is sufficient space for manoeuvring of vehicles in the car park. Vehicle driveway and pedestrian access provided in the Site are proper and safe.

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

The applicant is not the “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 notices 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 is not subject of planning enforcement action.

5. Previous Applications

- 5.1 The Site is part of the subject of seven previous applications for temporary barbecue site (No. A/NE-TK/147, 207, 228, 257, 316, 427 and 624) and one previous application for temporary place of recreation, sports or culture (outdoor electric go-kart ground) (No. A/NE-TK/669). Except Applications No. A/NE-TK/207 and 669, all the other six applications were approved with conditions by the Committee between 2002 and 2018 mainly on the considerations that the applications were not incompatible with the surrounding areas; the approval of the applications would unlikely frustrate the long-term planning intention of the “AGR” zone; and the proposed use would unlikely cause adverse environmental, traffic, landscape, drainage and sewerage impacts on the surrounding areas.
- 5.2 The latest approved Application No. A/NE-TK/624 was approved with conditions on 9.2.2018 for a period of three years up to 9.2.2021. All the approval conditions have been complied with. Compared with this latest Application, there is a slight adjustment to the site boundary in the current application with the site area increased from about 7,132 m² to 7,182 m².

Furthermore, six additional structures are proposed with an increase in total covered area from 1,912.76 m² to 1,970.6 m².

- 5.3 For the two rejected cases, Application No. A/NE-TK/207 was rejected on 21.7.2006 for reasons of adverse impact on the mangrove habitat in the Ting Kok Site of Special Scientific Interest (SSSI), and setting an undesirable precedent. Application No. A/NE-TK/669 for temporary place of recreation, sports or culture (outdoor electric go-kart ground) was rejected on 4.10.2019 for reasons of being not in line with the planning intention of the “AGR” zone, adverse noise impact on the surrounding areas and setting an undesirable precedent.
- 5.4 Details of the applications are shown in **Appendix II** and their locations are shown on **Plan A-2a**.

6. Similar Applications

- 6.1 There are 11 similar applications (No. A/NE-TK/208, 235, 265, 281, 360, 456, 494, 565, 625, 628 and 661) for temporary barbecue site in the vicinity of the Site within the same “AGR” zone. All these applications were approved with conditions by the Committee between 2006 and 2019 mainly on considerations that the proposed use was not incompatible with the surrounding areas and the approval of the applications would unlikely cause adverse traffic, environmental, drainage, landscape and sewerage impacts on the surrounding areas.
- 6.2 Details of the applications are shown in **Appendix III** and their locations are shown on **Plan A-2b**.

7. The Site and Its Surrounding Areas (Plans A-1, A-2a and photos on Plans A-3, A-4a to A-4b)

- 7.1 The Site is :
- (a) largely paved, occupied by scattered temporary structures of a temporary barbecue site; and
 - (b) located to the south of Ting Kok Road and is accessible via a track on Government land branching off Ting Kok Road.
- 7.2 The surrounding areas are predominantly rural in character with fallow and active agricultural land intermixing with temporary structures, barbecue sites and tree groups. To the south of the Site are the “Coastal Protection Area” (“CPA”) zone along the coastline of Plover Cove and the Ting Kok SSSI which covers a habitat of mangrove and coastal deposits of mud and silt. To the further north across Ting Kok Road is Ting Kok Village.

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 55 private lots held under Block Government Lease demised for agricultural purpose. No structures shall be erected without prior approval from LandsD;
- (c) a recent site inspection revealed that some containers, canopies and temporary structures were found on the Site without the prior approval from LandsD;
- (d) lease enforcement actions had been taken against unauthorized structures erected on the lots concerned. Recently, the lot owners have submitted an application for Short Term Waivers (STW) to LandsD. Should this planning application be approved, LandsD will continue to process the STW application. 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 fees as considered appropriate;
- (e) the ingress/egress leading to the Site at its north is on unallocated Government Land. The maintenance and management responsibility of the said Government Land should be sorted out with the relevant Government departments, prior to making use of them for proposed vehicular access purpose. Further, neither occupation nor works of any kind thereon is allowed without the prior approval from the departments concerned;
- (f) there is no guarantee to the grant of a right of way to the Site or approval of the Emergency Vehicle Access (EVA) thereto; and

- (g) it is the responsibility of the applicant to obtain prior approval from relevant departments in operating the barbecue site.

Environment

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

- (a) according to his record, there is no environmental complaint related to the Site in the past three years; and
- (b) should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements of the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.

Traffic

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

- (a) no in-principle objection to the application noting that five coach/heavy goods vehicle parking spaces of 3.5 m x 12 m and 25 private car parking spaces of 2.5 m x 5 m will be provided by the applicant; and
- (b) the village access road is not under Transport Department (TD)’s management. It is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

Landscape

9.1.4 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) based on aerial photo of 2019, the Site is located in an area of rural coastal plains landscape character surrounded by village houses to its north. farmlands and clusters of trees. According to the layout plan, beside a few additional structures (i.e. cold storages, changing room etc.) proposed along the north-eastern boundary of the Site, the proposed layout is generally similar to that under the previous application (No. A/NE-TK/624). Significant adverse landscape impact arising from the same applied use within the Site is not anticipated;

- (c) several applications surrounding the Site within the same “AGR” zone for temporary barbecue site were approved. The applied use under this application is considered not entirely incompatible with the surrounding environment of the Site; and
- (d) Should the application be approved, an approval condition to maintain the existing trees within the Site at all times during the approval period is recommended.

Agriculture and Nature Conservation

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

- (a) the Site falls within “AGR” zone. 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 greenhouses, plant nurseries, etc. As the Site has potential for agricultural rehabilitation, the application is not supported from the agricultural development point of view; and
- (b) the Site is located approximately 30m to the north of Ting Kok SSSI. As the application is for continuation of a previously approved use, the applicant should continue to implement measures to minimize human disturbance to the SSSI by installing and maintaining chain-link fence to separate the Site and the SSSI; and putting up banners to remind the public about nature protection. An approval condition should be imposed to ensure implementation of precautionary/protective measures to avoid and minimize any potential impacts to the SSSI.

Drainage

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

- (a) there is no existing DSD maintained public drains available for connection in the vicinity of this area, the applicant should have his 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 applicant should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall

indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (b) there are existing public sewers in the vicinity of the Site;
- (c) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought; and
- (d) if the application is approved, an 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.

Building Matter

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

- advisory comments under the Building Ordinance are provided at paragraph (b) of **Appendix IV**.

Fire Safety

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

- (a) no in-principle objection to the application subject to fire service installations (FSIs) being provided to his satisfaction;
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The following points should be noted:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans;
- (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.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Chief Highway Engineer/New Territories East, Highways Department;
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;

- (e) Project Manager/New Territories East, Civil Engineering and Development Department; and
- (f) District Officer/Tai Po, Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 5.1.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comments were received.

11. Planning Considerations and Assessments

- 11.1 The application is for a temporary barbecue site for a period of three years within the “AGR” zone (**Plan A-1**). 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 retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application as the Site has potential for rehabilitation for agricultural use. Nevertheless, the applied use which is temporary in nature would unlikely frustrate the planning intention of the Site in the long run.
- 11.2 The Site is largely paved and occupied by temporary structures. The surrounding areas are predominantly rural in character with fallow and active agricultural land intermixing with temporary structures, barbecue sites and tree groups. The applied use is considered not incompatible with the surrounding areas. According to DEP, there was no environmental complaint related to the Site in the past three years. Other government departments consulted, including C for T, CE/MN of DSD, CE/C of WSD, D of FS, CHE/NTE of HyD, H(GEO) of CEDD, PM/N of CEDD and DO/TP of HAD have no objection to nor adverse comment on the application.
- 11.3 The Site is part of the subject of seven previous applications for temporary barbecue site (No. A/NE-TK/147, 207, 228, 257, 316, 427 and 624) and one previous application for temporary place of recreation, sports or culture (outdoor electric go-kart ground) (No. A/NE-TK/669). Except Applications No. A/NE-TK/207 and 669, all the other six applications were approved with conditions by the Committee between 2002 and 2018 mainly on the considerations that the applications were not incompatible with the surrounding areas; the approval of the applications would unlikely frustrate the long-term planning intention of the “AGR” zone; and the proposed use would unlikely cause adverse environmental, traffic, landscape, drainage and sewerage impacts on the surrounding areas. The latest approved Application No. A/NE-TK/624 was approved with conditions on 9.2.2018 for a period of three years up to 9.2.2021. All the approval conditions have been complied with. Compared with this latest Application, there is a slight adjustment to the site boundary in the current application with the site area increased from about 7,132 m² to 7,182 m². Furthermore, six additional structures are proposed with an increase in total covered area from 1,912.76 m² to 1,970.6 m². There is no

major change in planning circumstances since the approval of Application No. A/NE-TK/624.

- 11.4 For the only rejected application for temporary barbecue site (No. A/NE-TK/207), it was rejected mainly for a reason of adverse impact on the mangrove habitat in the Ting Kok SSSI. In this regard, the applicant, in compliance with the planning conditions for the previously approved application No. A/NE-TK/624, has implemented measures for protection of the SSSI, including the installation of chain-link fence to separate the Site and the SSSI and putting up banners to remind the public about nature protection. DAFC advises that the applicant should continue the concerned measures to minimise any potential impacts on the SSSI.
- 11.5 11 similar applications (No. A/NE-TK/208, 235, 265, 281, 360, 456, 494, 565, 625, 628 and 661) (**Plan A-2b**) in the vicinity of the Site within the same “AGR” zone were approved with conditions by the Committee between 2006 and on considerations as set out in paragraph 6. The circumstances for approval of these similar applications are largely applicable to the current one.
- 11.6 No public comments on the application were received.

12. **Planning Department’s Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the applied 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 5.2.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no night-time operation between 11:00 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 maintenance of the existing trees and vegetation on the application site at all times during the planning approval period;
- (c) the maintenance of precautionary/protective measures on the application site at all times during the planning approval period to ensure no adverse impacts on the nearby “Coastal Protection Area” zone and Ting Kok Site of Special Scientific Interest;
- (d) 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 5.8.2021;

- (e) in relation to (d) above, the implementation of drainage facilities 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 5.11.2021;
- (f) the submission of fire service installations and water supplies for firefighting proposal within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 5.8.2021;
- (g) in relation to condition (f) above, the implementation of fire service installations and water supplies for firefighting proposal within 9 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 5.11.2021;
- (h) if any of the above planning conditions (a), (b) and (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;
- (i) if any of the above planning conditions (d), (e), (f) and (g) is not complied with within the specified time limit, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) 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 IV**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

- 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 to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no justification given in the submission for a departure from such 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 for the planning permission.
- 13.2 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.
- 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 attachments
Appendix Ia	Further information submitted by the applicant received on 21.1.2021
Appendix Ib	Further information submitted by the applicant received on 26.1.2021
Appendix Ic	Further information submitted by the applicant received on 28.1.2021
Appendix II	Previous applications
Appendix III	Similar applications
Appendix IV	Recommended advisory clauses
Drawing A-1	Layout plan submitted by the applicant
Plan A-1	Location plan
Plans A-2a to A-2b	Site plans
Plan A-3	Aerial photo
Plans A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
FEBRUARY 2021**