

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

**APPLICATION NO. A/YL-KTS/866**

<b><u>Applicants</u></b>	: 蔡和軍 and 陳翠雲
<b><u>Site</u></b>	: Lots 44 RP, 56 RP and 57 RP and Adjoining Government Land in D.D. 113, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	: About 780 m <sup>2</sup> (including about 110 m <sup>2</sup> Government Land (14%))
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) and Ancillary Cooperative Society for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicants seek planning permission to use the application site (the Site) for proposed temporary place of recreation, sports or culture (hobby farm) and ancillary cooperative society for a period of 5 years. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ is a Column 2 use in the “AGR” zone which requires planning permission from the Town Planning Board (the Board). The Site is occupied by an existing goat farm covering a larger area, some structures for storage and residential uses and areas under cultivation (**Plans A-2 to A-4b**).
- 1.2 The western part of the Site is the subject of a previous application for proposed temporary barbecue area for a period of 3 years submitted by a different applicant which was rejected by the Rural and New Town Planning Committee (the Committee) in 2008.
- 1.3 According to the applicants, the proposed development involves an existing and two proposed structures/sheds of 4.5m in height (one storey) with a total floor area of

about 504.5m<sup>2</sup> for goat barn, storage of goat feed, production ground of goat feed, and ancillary cooperative society and provision store. Part of the open area will be used for farming/greening (about 150m<sup>2</sup>). No parking space will be provided within the Site. The proposed hobby farm will be open to the public to promote goat-rearing and recycling beer and bean curd residue into goat feed. The opening hour of the hobby farm to the public will be from 9:00 a.m. to 5:00 p.m on Tuesdays to Sundays. The estimated maximum number of visitors will be about 30 at one time. Advanced appointment and entrance fee will be required. The ancillary cooperative society is for sharing knowledge and providing training/support on goat-rearing and recycling beer and bean curd residue into goat feed. The hobby farm will be opened to the members of the cooperative society at any time. No public announcement system will be allowed at the Site. There is no vehicular access to the Site. The Site can be accessed via a footpath from Tsing Long Highway. The access and layout plans submitted by the applicants are at **Drawings A-1 and A-2**.

1.5 In support of the application, the applicants have submitted the following documents:

- (a) Application Form with plans received on 4.11.2020 (Appendix I)
- (b) Further Information (FI) received on 7.12.2020 providing response to departmental comments (Appendix Ia)  
*[exempted from publication requirement]*

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in the application form and FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed development is in line with the planning intention of the “AGR” zone. The Site is part of an existing goat farm and the applicants intend to use the Site for the proposed use in order to promote agricultural development. Approval of the application will help facilitate goat-rearing and recycling activities and hence achieve sustainable development. The operation of the existing goat farm will be maintained even after planning approval is granted.
- (b) The applicants have over ten-year experience in recycling beer and bean curd residue into goat feed. They have received recycling fund from the Environmental Protection Department (EPD) for promoting the recycling business. They aim to encourage more farmers to rear goats and recycle beer and bean curd residue for goat feed in order to reduce solid waste in the city. Visitors will learn the recycling and goat-rearing knowledge in the proposed hobby farm.

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

The applicants are the sole “current land owner” of the private land portion of the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the “owner’s consent/notification” requirement 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) is not applicable.

#### **4. Background**

The Site is not subject to any active planning enforcement case.

#### **5. Previous Application**

The western part of the Site is the subject of a previous application (No. A/YL-KTS/447) submitted by a different applicant and covered a larger area for proposed temporary barbecue area for a period of 3 years which was rejected by the Committee in 2008 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; there was insufficient information to demonstrate that the development would not generate adverse ecological (including fire hazard) and landscape impacts on the surrounding areas; and approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1a**.

#### **6. Similar Application**

There is no similar application for hobby farm in the same “AGR” zone on the OZP.

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

7.1 The Site is:

- (a) occupied by an existing goat farm covering a larger area, some structures for storage and residential uses and areas under cultivation; and
- (b) accessible via a footpath connecting to Tsing Long Highway.

7.2 The surrounding area is rural in character intermixed with goat shed, cultivated agricultural land, hobby farm, dense vegetated areas and unused/vacant land:

- (a) to its north and west are goat shed, cultivated agricultural land and unused/vacant land. To its further north and west are vegetated slope in the “Conservation Area” zone and the Tai Lam Country Park;
- (b) to its south is a hobby farm and car park; and
- (c) to its east across Tsing Long Highway is the Tai Lam Tunnel Administration Building.

## **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, Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Government Land (GL) and Old Schedule Agricultural Lots 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) No permission is given for occupation of GL (about 110m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) Within the Site, parts of the private lots are covered by Letters of Approval (LoAs) (No. MT/LM15863 at Lot 56RP for cattle shed for dairy purpose and No. MT/LM16042 at Lot 44RP for agriculture purpose). The structures covered by the LoAs shall not be used for domestic, commercial, godown or industrial purposes.
- (d) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Furthermore, the applicants have to exclude the GL from the Site or obtain a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

## **Traffic**

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

Considering that there is neither parking provision nor vehicular access to the lot and the induced traffic impact is minimal, he has no comment on the application.

### 9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

It is noted that no vehicular access to/from the Site is proposed in the application.

## **Agriculture and Nature Conservation**

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

- (a) The Site falls within the “AGR” zone and possesses a potential for agricultural rehabilitation. According to his record, he has received an application for amendment of the Letter of Approval for erecting agricultural structures at Lot 44 RP in D.D.113. The applicant proposed to operate a goat farm and erect two goat barns. Since the proposed structures were directly related to the operation of the farm, he rendered support to the application from agricultural point of view and forwarded the application to LandsD in September 2020 for further processing and approval.
- (b) He has no strong view against the application for the proposed use from agricultural point of view on the understanding that agricultural activities are involved in the proposed use and the Site will be reinstated upon the expiry of the planning permission. According to his record, he has not yet received any application from the applicants regarding registration of co-operative society.
- (c) The subject address does not associate with any licence granted by his Department. The Public Health (Animals and Birds) (Exhibitions) Regulations, Cap. 139F, regulates all persons who exhibit animals or birds in return for a fee paid by the public admitted to enter the venue for the exhibition. In that regards, the applicants will need to apply for a license if they are exhibiting the goats for a fee.

## **Environment**

### 9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) He has no objection to the application.
- (c) The applicants are advised (i) to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimize any potential environmental nuisance; (ii) to provide adequate supporting infrastructure/ facilities for proper collection, treatment and disposal of waste/ wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of EPD’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environment Protection Department” including percolation test; and (iii) it is the obligation of the applicants to meet the statutory requirements under relevant pollution control ordinances.

## **Landscape**

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

- (a) She has no objection to the application from the landscape planning perspective.
- (b) Based on the aerial photo taken on 18.2.2020, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, active and abandoned farmlands. The proposed use is considered not incompatible with the surrounding environment.
- (c) Referring to the site inspection dated 20.11.2020, one temporary structure is found within the Site. Agricultural activity is found to the west of the Site. One existing tree of *Podocarpus marophyllus* (羅漢松) in fair condition is found to the south of the Site. Referring to the submitted layout plan, the proposed development is not in direct conflict with the existing tree. Significant adverse impact on landscape resources arising from the proposed development within the Site is not anticipated.
- (d) The applicants are reminded that approval of the application under the Town Planning Ordinance does not imply approval of tree

preservation/removal scheme under the Lease. The applicants should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.

### **Drainage**

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions on the submission, implementation and maintenance of a drainage proposal for the development should be included.

### **Fire Safety**

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

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

### **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 granted by the Building Authority (BA) for the existing structures at the Site. He is not in a position to offer comment on their suitability for the use proposed in the application.

- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) Detailed checking under the BO will be provided during the plan submission stage.
- (f) His detailed comments are in **Appendix IV**.

### **Project Interface**

9.1.10 Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

- (a) He has no comment on the application.
- (b) The applicants are advised that the road improvement works near the access to the Site under his Contract No. YL/2017/01 – Site Formation and Infrastructure Works for Development at Kam Tin South, Yuen Long – Advance Works will be carried out. The applicants are reminded to liaise with the relevant project team for coordination before commencement of construction works of the proposed hobby farm.

### **District Officer's Comments**

9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comment from the locals and he has no comment on the application.



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

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

## **10. Public Comments Received During the Statutory Publication Period**

On 13.11.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments were received from the Hong Kong Bird Watching Society and Kadoorie Farm and Botanic Garden Corporation (**Appendices III-1 to III-2**). One of them objects to the application mainly on the grounds that the proposed use is not in line with the planning intention of “AGR” zone; there was vegetation clearance and suspected illegal access next to the Site and there may be ‘destroy first, build later’ activities; and approval of the application will set an undesirable precedent to future similar applications within “AGR” zone. The other one comments that whether the Site is related to any unauthorized activities should be investigated.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) and ancillary cooperative society for a period of 5 years in the “AGR” zone. The planning intention of the “AGR” zone 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. The proposed use is generally not in conflict with the planning intention of the “AGR” zone. DAFC has no strong view on the application from the agricultural point of view. It is considered that approval of the application on a temporary basis of 5 years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The Site is part of an existing goat farm covering a larger area and partly under cultivation. The applicants proposed to use the Site as a hobby farm and ancillary cooperative society to promote goat-rearing and recycling beer and bean curd residue into goat feed. According to the applicants, they have received recycling fund from EPD for promoting the applied recycling activities. The proposed use is considered not incompatible with the surrounding area which is rural in character intermixed with goat shed, cultivated agricultural land and vacant/unused land.
- 11.3 According to the applicants, no public announcement system will be used at the Site. In view of the nature of the hobby farm, it would unlikely cause significant adverse environmental, traffic or drainage impacts on the surrounding area. Relevant departments consulted including C for T, DEP, CTP/UD&L of Plan D, CE/MN of

DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, approval condition restricting the use of public announcement system at the Site is recommended in paragraph 12.2 (a). The applicants will also be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (b) to (f) below.

- 11.4 The western part of the Site is the subject of a previous application for proposed temporary barbecue area for a period of 3 years which was rejected by the Committee in 2008 mainly on the grounds as mentioned in paragraph 5 above. The current application is submitted by different applicants for a different use. There is no similar application for hobby farm use within the same “AGR” zone.
- 11.5 Two public comments were received during the statutory publication period. One objects to the application and one provides view on the application as mentioned in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary place of recreation, sports or culture (hobby farm) and ancillary cooperative society for a period of 5 years.
- 12.2 Should the Committee decide to approval the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 18.12.2025. The following conditions of approval and advisory clauses are suggested for Members’ reference:

### Approval Conditions

- (a) no public announcement system, portable loudspeaker or any form of audio amplification system, as proposed by the applicants, is allowed to be used on the Site at any time 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 18.6.2021;
- (c) in relation to (b) above, the implementation of 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 18.9.2021;
- (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 fire service installations 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 18.6.2021;
- (f) in relation to (e) above, the implementation of fire service installations 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 18.9.2021;
- (g) if any of the above planning condition (a) or (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
- (h) if any of the above planning conditions (b), (c), (e) or (f) 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.

#### Advisory Clauses

The recommended advisory clauses are 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 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. This zone 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 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), 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 applicants.

### **14. Attachments**

**Appendix I**                      Application Form received on 4.11.2020

<b>Appendix Ia</b>	FI received on 7.12.2020
<b>Appendix II</b>	Previous s.16 application covering the Site
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Access Plan
<b>Drawing A-2</b>	Layout Plan
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Application
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2020**