

RNTPC Paper No. A/YL-KTN/636
For Consideration by
the Rural and New Town
Planning Committee
on 21.12.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/636

- Applicant** : Mr. LAM Tung Man represented by R-riches Property Consultants Limited
- Site** : Lot 973 RP (Part) in D.D.107, Fung Kat Heung, Yuen Long
- Site Area** : About 513 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary place of recreation, sports or culture (hobby farm) for a period of 3 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 within the “AGR” zone, which requires permission from the Town Planning Board (the Board). The Site is not subject of any previous application and is currently vacant and covered by vegetation (**Plan A-2**).
- 1.2 According to the applicant, the proposed development involves 3 one-storey temporary structures (about 3m high) for farmer resting room, storage of farm tools and agricultural learning centre with a total floor area of about 54m². The farming area is 312m² (i.e. about 61% of the total site area) and the remaining area of the Site will be soil/ sand ground. The operation hour of the proposed hobby farm is from 10am to 5pm including public holidays. Appointment and entrance fee will be required to visit the proposed hobby farm. No public announcement system will be used at the Site. No car parking space or loading/unloading space will be provided on-site and the visitors will take public transportation and walk

to the Site. The maximum number of visitors is 2 on Monday to Fridays and 5 on Saturdays, Sundays and public holidays. Two staff will be worked on site. The Site is accessible via a local track and San Po Tsuen Road from San Tam Road. The site layout plan and vehicular access plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application form with supplementary statement and **(Appendix I)** plans received on 1.11.2018
- (b) Further Information (FI) received on 28.11.2018 **(Appendix Ia)** clarifying the traffic arrangement
- (c) FI received on 17.12.2018 clarifying the operation **(Appendix Ib)** details and traffic arrangement

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement and FI in **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed development is compatible with the surrounding areas and will not involve land filling and excavation works. No food/drinks selling will be provided within the Site and visitors have to bring the garbage when leaving the Site to minimize impact on the surrounding area. The farm area will be divided rented to visitors (i.e. only for nearby residents). The types of crops will be grown at the Site include cabbage, lettuce and Chinese lettuce. Crops will be free to carry away by visitors.
- (b) Septic tank will be provided to treat the sewage generated from the proposed development and relevant licence will be applied. Proper fire services installations proposal, landscape proposal and drainage proposal will be submitted and implemented upon the approval of the application.

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 notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

As the Site is currently vacant, it is not subject to any active enforcement case.

5. **Previous Application**

The Site is not the subject of any previous application.

6. **Similar Applications**

6.1 There are 15 similar applications (Nos. A/YL-KTN/394, 465, 474, 513, 516, 520, 535, 536, 538, 571, 579, 609, 610, 615 and 620) within the same “AGR” zone on the Kam Tin North OZP. Except application No. A/YL-KTN/394, all the similar applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2015 and 2018. Details of the applications are summarized in **Appendix II** and the locations of the application sites are shown on **Plan A-1**.

Approved applications

6.2 Applications Nos. A/YL-KTN/465, 516, 535, 538 and 571 for temporary hobby farm (A/YL-KTN/535 included caravan holiday camp) for a period of 3 years for five sites near Cheung Kong Tsuen and Tai Kong Po (**Plan A-1**) were approved by the Committee with conditions on 3.7.2015, 18.3.2016, 13.1.2017, 23.12.2016 and 8.9.2017 respectively mainly for the reasons that the proposed developments were generally in line with the planning intention of the “AGR” zone; the use was not incompatible with the surrounding land uses; and the proposed developments would unlikely cause significant adverse environmental, traffic, landscape or drainage impacts.

6.3 Applications Nos. A/YL-KTN/474, 513, 520, 536, 579, 609, 610, 615 and 620 for temporary hobby farm (A/YL-KTN/520 and 536 included caravan holiday camp) for a period of 3 years for 8 sites at Fung Kat Heung and near Pak Wai Tsuen (**Plan A-1**) were approved by the Committee with conditions on 7.8.2015, 18.3.2016, 27.5.2016, 13.1.2017, 22.12.2017, 3.8.2018 (for Applications No. A/YL-KTN/609 and 610), 16.11.2018 and 7.9.2018 respectively on similar reasons as stated in paragraph 6.2 above.

6.4 Planning permission of applications Nos. A/YL-KTN/465, 474, 513, 516 and 538 were revoked on 3.4.2016, 7.8.2016, 8.2.2018, 18.12.2016 and 23.9.2017 due to non-compliance with approval conditions in relation to submission and/or implementation on landscape, drainage and fire services installation proposals.

Rejected application

6.5 Application No. A/YL-KTN/394 for proposed temporary field study/education centre and hobby farm for a period of 5 years was rejected by the Board on review

on 14.6.2013 mainly on the grounds that the site was the subject of unauthorized land filling and the filling material were not suitable for cultivation; there was no detailed information regarding the design and operation of the proposed development particularly the hobby farm, field study/education centre and the office with porch; the applicant failed to demonstrate that the development would not generate adverse landscape and drainage impacts on the surrounding areas; and approving the application would set an undesirable precedent.

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

7.1 The Site is :

- (a) currently vacant and covered by vegetation; and
- (b) accessible via a local track and San Po Tsuen Road from San Tam Road (**Plan A-1**).

7.2 The surrounding areas are rural in character predominated by cultivated/fallow agricultural land, residential dwellings/structures, parking of vehicles, open storage yards and unused/vacant land:

- (a) to its north is active/fallow agricultural land. Further north is an open storage site and residential dwellings/structure and vacant land;
- (b) to its east are parking of vehicle, residential dwellings/structures, cultivated/ fallow agricultural land and unused/vacant land; and
- (c) to its immediate south and west are residential dwellings/structures. To the further south and west are cultivated agricultural land, residential dwellings/structures and unused 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, Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an Old Schedule Agricultural Lot 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) The Site is accessible from Sha Po Tsuen Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as 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 is minimal *Noting that there will be no parking space for the application*, he has no comment on the application.

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

- (a) HyD does not and will not maintain any access connecting the Site and Sha Po Tsuen Road. The applicant should be responsible for his own access arrangement.

- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) Provided that the applicant would minimize any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause any environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective.
- (b) The applicant is 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” to minimize any potential environmental nuisance. Adequate supporting infrastructure / facilities should be provided 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 Environmental Protection Department”.

Agriculture

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

As part of the Site will be used for the cultivation of vegetables (e.g. cabbage and lettuce) and no pavement will be proposed, he has no strong views against the application from agricultural point of view.

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 landscape planning perspective.
- (b) The Site is located to the east of Sha Po Tsuen and is not the subject of any previous application. According to the aerial photo of 2018, the surrounding area is of rural landscape character and

comprises of farmlands, temporary structures, car parks, village houses and scattered tree groups. The proposed use is considered not incompatible with the landscape setting in proximity.

- (c) According to site visit conducted in November 2018, 7 numbers of existing trees with root ball wrapped in fair condition were placed at the eastern part of the Site. Based on the proposed layout plan, the proposed structures are not in direct conflict with these existing trees. No significant landscape impact arising from the proposed use is anticipated.
- (d) Should the application be approved, approval condition on submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Board should be included in the planning permission.
- (e) Detailed comments are at **Appendix III**.

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 development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning permission.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's 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.

- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

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

- (a) He has no in-principle objection to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposals, FSIs are anticipated to be required. Therefore, the applicant is 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 applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

His office has not received comment from the locals on the application and has no comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Electrical and Mechanical Services (DEMS);

- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 9.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 30.11.2018, three objecting comments from the Hong Kong Bird Watching Society and two individuals (**Appendices IV-1 to IV-3**) were received. The commenters object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; adverse sewage impacts; approval of the application will set an undesirable precedent to the similar applications within the “AGR” zone; many approved applications for the same applied use in the vicinity have changed to other uses; hobby farm is to legitimize on-going brownfield use; damages are done to agricultural land by fake hobby farms and clandestine camping grounds; and fake farms deprives genuine farmers of access to agricultural land that could be used for genuine production of fresh produce for the local market.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary hobby farm in “AGR” zone. According to the applicant, about 61% of the Site will be farming area. The remaining area will be sand/ soil ground. The proposed use is considered generally in line with the planning intention of the “AGR” zone which is to retain and safeguard good quality agricultural land for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. AFCD has no strong view against the application from agricultural point of view. In view of the above, it is considered that approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The proposed temporary hobby farm is not incompatible with the surrounding land uses which are rural in character predominated by cultivated/fallow agricultural land, residential dwellings/structures, parking of vehicles, open storage yards and unused/vacant land.
- 11.3 In view of the nature and scale, the proposed development would unlikely cause significant adverse traffic, landscape, environmental or drainage impacts and relevant departments consulted including C for T, CTP/UD&L of PlanD, DEP and CE/MN of DSD have no adverse comment on the application. To avoid possible noise nuisance arising from the use of loudspeakers/ amplifier, etc. and to minimise other possible environmental nuisance, approval conditions restricting the operation hour and prohibiting the use of public announcement system are recommended in paragraph 12.2(a) and (b) below. Any non-compliance with the approval conditions will result in revocation of the

planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. The concerns / technical requirements of CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraph 12.2 (c) to (i) below.

- 11.4 Fourteen similar applications for hobby farm (three with caravan camp) were approved with conditions by the Committee on the same “AGR” zone (paragraph 6 and **Plan A-1** refer). Approval of the application is generally in line with the Committee’s previous decisions on similar applications.
- 11.5 Three objecting comments were received during the statutory publication period mainly on the grounds that the proposed development is not in line with planning intention of the “AGR” zone; set an undesirable precedent to similar applications within the “AGR” zone and fake hobby farm would cause adverse impact on agricultural land and activities. In this regard, the current application is for proposed temporary hobby farm and temporary approval would not frustrate the long-term planning intention. The planning considerations and assessments as stated above are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comments in paragraph 10, PlanD has no objection to the proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 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 3 years until 21.12.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 5:00pm and 10:00am, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (c) the submission of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 21.6.2019;

- (d) in relation to (c) above, the implementation of landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 21.9.2019;
- (e) 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 21.6.2019;
- (f) in relation to (e) 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 21.9.2019;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 21.6.2019;
- (i) in relation to (h) above, the provision of fire service installations 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 21.9.2019;
- (j) if any of the above planning conditions (a), (b) or (g) 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;
- (k) if any of the above planning conditions (c), (d), (e), (f), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (l) 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 to retain and safeguard good 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 applicant.

14. Attachments

Appendix I	Application form with supplementary statement and plans received on 1.11.2018
Appendix Ia	FI received on 28.11.2018
Appendix Ib	FI received on 17.12.2018
Appendix II	Similar applications within the same “AGR” zone in the vicinity on the Kam Tin North OZP
Appendix III	Detailed comments of CTP/UD&L, PlanD
Appendices IV-1 to IV-3	Public comments received during statutory publication period
Appendix V	Advisory clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan with Similar Applications

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2018**