

RNTPC Paper No. A/YL-KTN/697
For Consideration by
the Rural and New Town
Planning Committee
on 24.4.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/697

- Applicant** : Mr. Tang Chi Man represented by R-riches Property Consultants Limited
- Site** : Lots 1467(Part) and 1485(Part) in D.D.107, Shui Mei Tsuen, Kam Tin, Yuen Long
- Site Area** : About 1,829 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 proposed 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 currently partly hard-paved, partly covered with vegetation and occupied by some temporary structures (**Plans A-2 to 4b**).
- 1.2 The Site is subject to two previous applications (No. A/YL-KTN/568 and 579) for proposed temporary religious institution (retreat house) and proposed temporary place of recreation, sports or culture (hobby farm). The former was rejected by the Rural and New Town Planning Committee (the Committee) on 25.8.2017 and the latter was approved with conditions by the Committee for a period of 3 years on 22.12.2017. The planning permission is valid until 22.12.2020.

- 1.3 According to the applicant, the proposed development involves 4 single-storey structures with building height of 2.6m to 3.7m, and a total floor area of about 161.8m² for agricultural learning centre, storage of farm tool, hobby farm lounge and electricity meter room. The farming area is about 1,042m² (i.e. about 57% of the total site area) and the remaining area of the Site is hard paved and covered by structures. The operation hours are from 9am to 6pm daily, including public holidays. The Site is accessible from Castle Peak Road – Tam Mi via local access. There are 5 private car parking spaces and 1 loading/unloading space for light goods vehicle at the Site. No vehicle exceeding 5.5 tonnes will be allowed to enter the Site. The estimated maximum number of visitors per day is 30 and there are 5 staff working at the Site. Visitors are required to make appointment before entering the Site. The farming area will be subdivided into small farm plots for rent to visitor. No public announcement system will be used at the Site. The plans showing the site layout, paved ratio and access submitted by the applicant are at **Drawings A-1 to A-3**.
- 1.4 Compared with the previous approved application (No. A/YL-KTN/579), the current application is submitted by the same applicant for the same applied use but covers a smaller site area (-1,173.8m²/39%), with the same number of structures and similar layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and **(Appendix I)** plans received on 26.2.2020
 - (b) Further Information (FI) received on 14.4.2020 **(Appendix Ia)** providing responses to departmental comments
[exempted from publication requirement]
 - (c) FI received on 20.4.2020 providing justifications and **(Appendix Ib)** clarification on operation details
[exempted from publication requirement]

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 Site is subject to a previous approved application for temporary hobby farm involving private land Lot 1477 in D.D. 107. Since the land was no longer available for the use of the applicant in September 2019, the applicant stopped the operation of the hobby farm. Due to the changes in site layout, a fresh s.16 application is required. The approval conditions of the previous application in

relation to drainage and landscape aspects are not yet complied with due to change in layout and the need to revise the accepted proposals.

- (b) The applicant wants to continue his hobby farm business to promote sustainable and organic farming in Kam Tin. He will re-continue the operation of the hobby farm after obtain the planning approval. The proposed development is only on temporary basis and will not frustrate the long-term planning intention. There are similar applications approved by the Board in the same “AGR” zone and the proposed development is not incompatible with the surrounding land use.
- (c) The proposed development is organized and operated by a religious group (Taoist). While statues of Taoist are provided at the Site for displaying purpose, religious activities including burning of joss paper, praying, worshipping and meditating are prohibited at the Site. The applicant will follow the proposed scheme after obtaining the planning approval.
- (d) The development will not cause adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Drainage, fire services installation and landscape proposals will be submitted and implemented to fulfil relevant approval conditions 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

The Site is not a subject of any active enforcement case.

5. Previous Applications

- 5.1 The Site is subject to two previous applications both submitted by the current application. Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/YL-KTN/568 for proposed temporary religious institution (retreat centre) was rejected by the Committee on 25.8.2017 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; the applicant failed to demonstrate that the development would not pose adverse traffic, landscape and environmental impacts on the surrounding

areas; and the approval of the application would set an undesirable precedent for other similar applications.

- 5.3 Application No. A/YL-KTN/579 for proposed temporary place of recreation, sports or culture (hobby farm) with a larger area was approved with conditions by the Committee for a period of 3 years on 22.12.2017 for the reasons that the proposed development was generally in line with the planning intention of the “AGR” zone; not incompatible with the surrounding land uses; and the proposed development would unlikely cause significant adverse environmental, traffic, landscape or drainage impacts. Approval conditions on submission of landscape, drainage and fire service installations (FSIs) proposal and implementation of FSIs proposal have been complied with, while the implementation of landscape and drainage proposal have not been complied with. The planning permission is valid until 22.12.2020.

6. **Similar Applications**

- 6.1 There are 24 similar applications for temporary hobby farm concerning 19 sites 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 Committee between 2015 and 2020 for a period of 3 or 5 years. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

21 Approved Applications

- 6.2 Five applications for temporary hobby farm (one with caravan holiday camp) on five sites near Cheung Kong Tsuen and Tai Kong Po were approved between 2015 and 2017 mainly for the reasons that temporary approval would not frustrate the long-term planning intention; the proposed developments were not incompatible with the surrounding land uses; they would unlikely cause significant adverse environmental, traffic, landscape or drainage impacts; and concerned departments had no objection to the application. However, four of them were revoked due to non-compliance with approval conditions.
- 6.3 Eighteen applications for temporary hobby farm (three with caravan holiday camp) on 15 sites at Fung Kat Heung and near Pak Wai Tsuen were approved between 2015 and 2020 for similar reasons as stated in paragraph 6.2 above. However, four of them were revoked due to non-compliance with approval conditions.

1 Rejected Application

- 6.4 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 in 2013 mainly on the grounds that the site was the subject of unauthorized land filling and the fill material was not suitable for cultivation;

there was no detailed information regarding the design and operation of the proposed development; 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 and the cumulative effect of which would result in a general degradation of the rural environment of the area.

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

7.1 The Site is:

- (a) currently fenced-off, partly hard-paved and partly covered with vegetation and occupied by some temporary structures; and
- (b) accessible via a local track branching off Castle Peak Road – Tam Mi.

7.2 The surrounding areas are rural in character predominated by storage yards, vacant/unused land/structures, pond, cultivated/fallow agricultural land, a dog training centre, and animal boarding establishment. Some of them are suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its immediate south is a dog training centre. To its further south is a temporary animal boarding establishment with planning approval (No. A/YL-KTN/639) and unused land;
- (b) to its north and west are vacant/unused land/structures and storage yard, a pond, a residential structure/dwelling and fallow agricultural land; and
- (c) to its east and northeast are vacant land, residential dwellings/structures, and cultivated/fallow 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, Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises 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) Should planning approval be given to the application, the lots owners 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. 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 rent or fee, as may be imposed by the LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):
- (a) He has no comment on the application from traffic engineering perspective.
 - (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
 - (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- 9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):
- (a) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – Tam Mi.

- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road 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 and Nature Conservation

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

- (a) The Site possesses potential for agricultural rehabilitation. Taking into account the proposed agricultural activities, he has no strong view on the application from the agricultural point of view, provided that the Site, if pavement is involved, would be reinstated upon the expiry of the planning permission.
- (b) Noting that the Site is hard-paved with some containers and temporary structures and its previous application of similar use was approved by the Committee, he has no adverse comment on the application from nature conservation perspective.

Landscape

- 9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) He has no objection to the application from landscape planning perspective.
 - (b) The Site is the subject of two previous planning applications (No. A/YL-KTN/568 and 579). The last application for the same use for a period of 3 years was approved by the Committee in 2017, to which he had some reservation from the landscape planning perspective.
 - (c) Based on the aerial photo taken on 3.1.2018, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, active and abandoned farmlands. Given the nature of the proposed use, the proposed development is not incompatible with the landscape character of the area.
 - (d) Referring to the site photos taken on 16.3.2020, part of the Site is hard paved and part is covered with grasses. Some existing trees are planted within the Site. Referring to the planning statement, existing trees would be retained as far as practical by the applicant. Significant adverse impact on landscape resources due to the development is not anticipated.
 - (e) Should the Board approve the application, a landscape condition to maintain the existing trees within the Site in healthy condition at all times during the planning approval period is recommended to be included in the planning permission.

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.
 - (b) Should the application be approved, the 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 approval.

Building Matters

- 9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
 - (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) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (d) 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.
 - (e) 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 proposal, 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 any comment from the locals on the application and has no comment on the application.

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

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

10. Public Comments Received During Statutory Publication Period

On 6.3.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two comments from Designing Hong Kong and an individual (**Appendices IV-1 and 2**) were received. One comment objects to the application mainly on the grounds that the Site had been destroyed before the application; there are no farming activities after the approval of the previous application at the Site; and approval of the application would set an undesirable precedent and result in further degradation of the rural environment of the area. The other comment raises concerns on whether it is a genuine operation as hobby farm activities cannot be identified at the Site.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 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. According to the applicant, about 57% of the Site will be used for farming. The applied use is generally not in conflict with the planning intention of the “AGR” zone. DAFC has no strong view to the application from agricultural point of view. 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 temporary hobby farm is considered not incompatible with the surrounding land uses which are rural in character predominated by cultivated/fallow agricultural land and unused/vacant land.
- 11.3 According to the applicant, public announcement system will not be used at the Site. In view of the nature and scale of the proposed temporary hobby farm, it would unlikely cause significant adverse traffic, landscape, environmental or drainage impacts to the surroundings. Relevant departments consulted including C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no adverse comment on the application. To minimise any 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 and requirements as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in paragraph 12.2 (c) to (h) below.
- 11.4 The Site is the subject of 2 previous applications with the last application for the same applied use approved by the Committee in 2017 as detailed in paragraph 5 above. When compared with the last approved application, the current application covers a smaller site area with similar layout. Besides, there are 23 similar applications for temporary hobby farm approved with conditions by the Committee between 2015 and 2020 in the same “AGR” zone (paragraph 6 and **Plan A-1** refer). Approval of the application is in line with the Committee’s previous decisions on the previous and similar applications.
- 11.5 Two public comments were received during the statutory publication period, one objects and one raises concern on the application mainly on the grounds as mentioned in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated above are 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 mentioned paragraph 10, the Planning Department 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 24.4.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00pm and 9:00am, 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing trees on the Site shall be maintained in healthy condition at all times during the planning approval period;
- (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 24.10.2020;
- (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 24.1.2021;
- (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 24.10.2020;
- (i) in relation to (h) above, the implementation 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 24.1.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d) 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 (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 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 applicant.

14. Attachments

- Appendix I** Application form with supplementary statement received on 26.2.2020
- Appendix Ia** FI received on 14.4.2020

Appendix Ib	FI received on 20.4.2020
Appendix II	Previous s.16 applications covering the Site
Appendix III	Similar applications within the same “AGR” zone on the OZP
Appendices IV-1 and 2	Public comments received during statutory publication period
Appendix V	Advisory clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Paved Ratio Plan
Drawing A-3	Access Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2020**