

RNTPC Paper No. A/YL-KTN/720  
For Consideration by the Rural and  
New Town Planning Committee  
on 21.8.2020

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL  
FOR TEMPORARY USE  
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/720**

<b><u>Applicants</u></b>	: Ms. CHAN Yu Sim, Jane/ Mr. FONG Hin Ming
<b><u>Site</u></b>	: Lots 3 S.D and 8 S.K in D.D. 110, Tai Kong Po, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	: 76.08 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek renewal of 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 planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site was the subject of two previous applications (No. A/YL-KTN/331 and 571). The former for filling of pond for organic farming use was rejected by the Rural and New Town Planning Committee (the Committee) in 2009 and the latter for proposed temporary place of recreation, sports or culture (hobby farm) for 3 years was approved with conditions by the Committee on 8.9.2017. All the approval conditions have been complied with and the planning permission is valid until 8.9.2020.

- 1.3 According to the applicants, one two-storey structure with total floor area of 30m<sup>2</sup> and building height not exceeding 5.5m is erected at the western part of the Site for reception, toilet and farm accessories storage on the G/F and caretakers' office and restroom on the 1/F. More than two-third of the Site is used for farming. About 15m<sup>2</sup> of the Site (20%) has been paved for the base of the structure. The operation hours are between 7am and 10pm daily. The hobby farm operates under membership system and members need to make reservation before getting into the Site. No loud speaker will be used at the Site and no parking space and loading/ unloading space will be provided. The Site is accessible via a local track branching off Kong Tai Road. The layout plan submitted by the applicants is at **Drawing A-1**.
- 1.4 Compared with the last approved application (No. A/YL-KTN/571), the current application submitted by the same applicants is the same in terms of use, floor area and layout.
- 1.5 In support of the application, the applicants have submitted the following documents:
- (a) Application form with plan received on 30.6.2020 (Appendix I)
  - (b) Further Information (FI) received on 5.8.2020 in response to departmental comments (Appendix Ia)  
*[exempted from publication requirement]*
  - (c) FI received on 14.8.2020 in response to departmental comments (Appendix Ib)  
*[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 at **Appendices I to Ib**. They can be summarized as follows:

- (a) Due to insufficient places for people to relax during their holidays, more recreation activities and hobby farm is needed. The applied use can provide organic farming opportunities to the public.
- (b) The current application is the same as the previous application. The structure on the Site is very small and is the minimum requirement for storage of farm tools and resting place for visitors. The paved area within the Site is only for the base of the structure for safety purpose.
- (c) Visitors will be advised to use public transport to the Site. No bulky and heavy items will be loaded on-site. It will not cause any traffic congestion.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

**5. Background**

The Site is not subject to planning enforcement action.

**6. Previous Applications**

6.1 The Site is subject to two previous applications. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

6.2 Application No. A/YL-KTN/331 submitted by a different applicant and covering a larger area for filling of pond for organic farming use was rejected by the Committee on 18.9.2009 mainly for the reasons that the Site was partly filled with construction waste which was not conducive to the organic farming use; and the development would cause adverse drainage impact on the surrounding areas and no drainage proposal or mitigation measure(s) was provided in the submission to demonstrate that the development would not cause adverse drainage impact.

6.3 Application No. A/YL-KTN/571 submitted by the same applicants of the current application for the same use was approved with conditions by the Committee on 8.9.2017 mainly for the reasons that approval on a temporary basis would not jeopardise the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; and relevant departments had no adverse comment on the application. All approval conditions have been complied with and the planning permission is valid until 8.9.2020.

**7. Similar Applications**

7.1 There are a total of 27 processed similar applications for temporary hobby farm concerning 20 sites within the same “AGR” zone. 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 IV** and their locations are shown on **Plan A-1**.

*26 Approved Applications*

- 7.2 Four applications for temporary hobby farm (one with caravan holiday camp) on four 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, all of them were revoked due to non-compliance with approval conditions.
- 7.3 Twenty-two applications for temporary hobby farm (four with caravan holiday camp) on 16 sites at Fung Kat Heung and near Pak Wai Tsuen were approved between 2015 and 2020 for similar reasons as stated in paragraph 7.2 above. However, five of them were revoked due to non-compliance with approval conditions.

*1 Rejected Application*

- 7.4 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 general degradation of the rural environment of the area.

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

- 8.1 The Site is:
- (a) currently used for the applied use with valid planning permission; and
  - (b) accessible via a local track branching off Kong Tai Road.
- 8.2 The surrounding area is rural in character intermixed with residential structures/dwellings, cultivated agricultural land, animal boarding establishments, open storage yards, parking of vehicles, pigsty/chicken farm and vacant/unused land. Some of them are suspected unauthorized developments subject to enforcement action by the Planning Authority (**Plan A-2**):

- (a) to its immediate north is an animal boarding establishment with planning approval. Further north is unused land within an area zoned “Conservation Area”;
- (b) to its east, northeast and south are cultivated agricultural land, animal boarding establishments with planning approval, residential structures/dwellings, parking of vehicles, open storage yard, a pigsty/chicken farm and unused land; and
- (c) to its west is Kong Tai Road. To its further west and northwest are residential structures/dwellings, open storage yard, workshop and unused land.

## **9. 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.

## **10. Comments from Relevant Government Departments**

- 10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

- 10.1.1 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) Within the Site, Lot 3 S.D is covered by Short Term Waiver (STW) 4876 permitted for “Temporary Place of Recreation, Sports or Culture (Hobby Farm)”.
- (c) Should planning approval be given to the application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate, and the lot owner(s) of the lot(s) without STW 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 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 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**

#### 10.1.2 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. 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.

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

- (a) Part of Kong Tai Road is maintained by his office.
- (b) HyD is not/ shall not be responsible for the maintenance of any access connecting to the Site and part of Kong Tai Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Agriculture**

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

Considering that the previous application for the same use as the current application was approved by the Board, he has no strong view against the application for renewal of planning approval.

### **Environment**

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

- (a) Provided the applicants would minimise any noise from the applied 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 environmental nuisance to nearby sensitive receivers, he has no objection to the renewal application from environmental planning perspective subject to the following approval condition:

“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.”

- (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”. Effluent discharges from the Site are subject to control under the Water Pollution Control Ordinance. If connection to public sewers is not feasible, septic tank and soakaway system can be used. Its design, construction and operation should follow the Environmental Protection Department (EPD)’s requirements of Practice Note for Professional person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” including percolation test with certification by the Authorized Person.
- (c) There is no environmental complaint concerning the Site received by DEP in the past 3 years.

### **Landscape**

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) Based on the aerial photo taken on 18.10.2019, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures and abandoned farmland. The applied use is considered not incompatible with the surrounding environment. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the application was last approved. Further significant adverse impact on landscape resources due to the development is not anticipated.

### **Drainage**

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

- (a) He has no objection in principle to the development. Presumably, the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTN/571.
- (b) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTN/571 and the submission of records of the existing drainage facilities on-site should be included.

### **Fire Safety**

#### 10.1.8 Comments of the Director of Fire Services (D of FS):

He has no in-principle objection to the renewal application subject to the existing fire service installations (FSIs) implemented on the Site being maintained in efficient working order at all times.

### **Building Matters**

#### 10.1.9 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, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be



appointed as the co-ordinator for the proposed building works in accordance with the 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.

### **Food and Environmental Hygiene**

10.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) The operation shall not cause any environmental nuisance, pest infestation and obstruction to the surroundings. For any waste generated from such activities or operations, the applicants should arrange disposal properly at their own expenses.
- (b) Proper licence/ permit issued by FEHD is required if there is any catering service/ activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

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

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

He has not received any comment from locals upon close of consultation and he has no particular comment on the application.

10.2 The following Government departments have no comment on/ no objection to 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.

## **11. Public Comments Received During Statutory Publication Period**

On 7.7.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments were received from individuals (**Appendices V-1 and V-2**) objecting to the application mainly on the grounds that the building height of the structure is excessive and building plan should be submitted under the BO; drainage and FSI proposals and location of septic tank should be submitted in the application; the Public Health and Municipal Services Ordinance should be applicable to the development; licence for place of public entertainment should be applied; and whether the Site is operating as a hobby farm should be questioned.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for renewal of planning permission for temporary hobby farm in “AGR” zone. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish pond for agricultural purpose, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. According to the applicant, more than two-third 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 on the application. It is considered that temporary approval of the application will not frustrate the long-term planning intention of the “AGR” zone.
- 12.2 Same as the previous approval, the development involves a two-storey structure with a total floor area of about 30m<sup>2</sup> and the base of the structure (15m<sup>2</sup>/20% of the Site) is paved. The applicants explained that the floor area is the minimum for storage of farm tools and resting place for visitors, and the paving is for safety of the structure. Also, the hobby farm use is considered not incompatible with the surrounding area which is rural in character and intermixed with residential structures/dwellings, cultivated agricultural land, animal boarding establishments and vacant/unused land.
- 12.3 The application is in line with TPB PG-No. 34C in that previous approval (Application No. A/YL-KTN/571) for the same applied use was granted on 8.9.2017 and all the approval conditions have been complied with. Compared with the last approved application, the current application is the same in terms of use, floor area and layout. Besides, there is no major change in planning circumstances since the last approval.
- 12.4 Relevant departments consulted including C for T, CTP/UD&L of PlanD, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To

minimize any possible environmental nuisance, approval conditions restricting the operation hours and prohibiting the use of public announcement system at the Site are recommended in paragraph 12.2 (a) and (b) below. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (f) below.

- 12.5 There are 26 similar applications for temporary hobby farm within the same “AGR” zone approved with conditions by the Committee between 2015 and 2020 (paragraph 7 and **Plan A-1** refer). The circumstances of the only rejected similar application, as detailed in paragraph 7.4, are different. Approval of this application is in line with the Committee’s previous decisions on similar applications.
- 12.6 Two public comments were received during the statutory publication period objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and the planning considerations and assessments stated above are relevant.

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

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the temporary place of recreation, sports or culture (hobby farm) for a period of 3 years.
- 13.2 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 and be renewed from 9.9.2020 to 8.9.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval Conditions

- (a) no operation between 10:00pm and 7:00am, as proposed by the applicants, 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 drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (e) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.12.2020;
- (f) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b), (c), (d) or (f) 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;
- (h) if the above planning condition (e) 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
- (i) 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.

*[The above approval conditions are similar to those in the planning approval of the last Application No. A/YL-KTN/571, except those on drainage and FSIs are revised based on CE/MN of DSD and D of FS's comments.]*

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

- 13.3 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. 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.

## **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the renewal of the planning approval.

- 14.2 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.
- 14.3 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.

**15. Attachments**

<b>Appendix I</b>	Application form with plan received on 30.6.2020
<b>Appendix Ia</b>	FI received on 5.8.2020
<b>Appendix Ib</b>	FI received on 14.8.2020
<b>Appendix II</b>	Relevant extract of TPB PG-No. 34C
<b>Appendix III</b>	Previous applications covering the Site
<b>Appendix IV</b>	Similar Applications for the same use within the same “AGR” zone in the Kam Tin North OZP
<b>Appendices V-1 and V-2</b>	Public comments
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2020**