

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

APPLICATION NO. A/NE-TK/640

- Applicant** : Mr. YU Chi-kin
- Site** : Lots 674 S.A, 674 S.B, 674 S.C and 674 RP in D.D. 17, Tai Po, N.T.
- Site Area** : About 556m²
- Lease** : Block Government Leases (demised for agricultural use)
- Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Hobby Farm, Shop and Services (Retail Shop) cum Land Filling for a Concrete Platform (10 cm in Depth) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a renewal of planning approval for temporary hobby farm, shop and services (retail shop) cum land filling for a concrete platform for a period of three years at the application site (the Site) (**Plan A-1**). The Site is the subject of a previous application (No. A/NE-TK/553) covering the same site submitted by the same applicant and approved by the Rural and New Town Planning Committee (the Committee) on a temporary basis for a period of three years on 7.8.2015. The Site is currently occupied by the applied use with valid planning permission under application No. A/NE-TK/553 until 7.8.2018.
- 1.2 The temporary hobby farm and shop and services (retail shop) with a concrete platform under the renewal application mainly consists of a converted container, a shed and two mobile toilets with a total floor area of about 43.5m² providing retail services and sitting-out area, as well as 13 small fields which have been leased to public for agricultural activities. In accordance with the previous approval, the land filling works for a concrete platform, which covers an area of about 70m² of 10 cm in depth, is already completed (**Drawing A-1**). The Site could accommodate a maximum of about 30 people. There is no change to the site boundary and area, applied use and development parameters as compared

with that of the previous application No. A/NE-TK/553. The applicant has complied with all approval conditions under the last planning approval.

- 1.3 In support of the application, the applicant submitted the application form and attachment on 20.4.2018 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed Part 8 of the application form and attachment at **Appendix I**. They can be summarised as follows:

- (a) the applicant has complied with all approval conditions under the last planning approval;
- (b) organic farming has been practised in the hobby farm to achieve sustainable development and the hobby farm is under proper maintenance;
- (c) the applicant would like to organize agricultural activities for community groups and low-income families; and
- (d) the hobby farm would not cause adverse traffic, noise and environmental impacts to the surroundings.

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

The applicant is one of the “current land owners” 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 attaching documentary proof of ownership. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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

5. Background

- 5.1 According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), part of the Site is the subject of a previous enforcement case against filling of land. Enforcement Notice (EN) was issued to the concerned landowner on 15.7.2015 requiring the notice

recipients to discontinue the unauthorized development by 29.7.2015. Subsequently, planning approval was granted under Application No. A/NE-TK/553 on 7.8.2015 and Cancellation Notice (CN) was issued on 25.9.2015.

5.2 The Site is currently not involved in any active enforcement action.

6. Previous Application

6.1 The Site is the subject of a previous application (No. A/NE-TK/553) covering the same site for the same use submitted by the same applicant and was approved by the Committee on a temporary basis for a period of three years on 7.8.2015. The planning approval was granted mainly on considerations that the temporary hobby farm use would not frustrate the long-term planning intention of “AGR” zone; not incompatible with the surrounding area which was predominantly rural in character comprising abandoned agricultural land and village houses; and would not cause any significant adverse drainage, environmental and traffic impacts on the surrounding areas. The applicant has complied with all approval conditions, and the planning permission of the previous application will be valid until 7.8.2018. The current application is basically the same as the last approved planning application No. A/NE-TK/553.

6.2 Details of the above previous application are summarized at **Appendix III** and its location is shown on **Plans A-1** and **A-2**.

7. Similar Application

There is no similar application in the same “AGR” zone.

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

8.1 The Site is:

- (a) partly hard paved and occupied by a converted container and a shed for a retail shop and sitting out area. The remaining areas are mainly used as farmland; and
- (b) situated near the junction of Shan Liu Road and Ting Kok Road.

8.2 The surrounding areas are predominantly rural in character comprising abandoned agricultural land overgrown with grass, scattered tree groups and village houses. The village proper of Ting Kok Village are located about 75m to the west of the Site.

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 are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the Site consists of four private lots held under the Block Government Lease demised for agricultural use. No structure shall be erected on the lots without prior approval from LandsD; and
- (c) the Short Term Waiver (STW) No. 783 covered Lots 674B and 674C in D.D. 17 with the total waiver area of 44m² was offered and accepted by the registered owner on 16.8.2016. As the as-built shade (i.e. 6.9m x 5.9m) on the Site was found larger than the dimension of the permitted shade (i.e. 6.9m x 5.45m) as restricted under the STW and the total as-built floor area on site is slightly larger than the permitted waiver area of 44m² under STW No. 783, the applicant is required to immediately purge the above breaches on the Site as soon as possible.

Environment

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

- (a) in view of the small scale and nature of the proposed development, it will unlikely cause major pollution; ~~and~~
- (b) *the applicant should follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites"; and*
- (~~b~~)(c) there is no environmental complaint related to Site in the past three years.

Landscape

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

- (a) no objection to the application from landscape planning point of view;
- (b) the Site is adjacent to Shan Liu Road to the west. Village houses are concentrated within the “V” zone to the further west of the Site;
- (c) the Site is situated in an area of rural landscape character comprising of scattered tree groups, village houses and vacant land. Although the applied use is not in line with the planning intention of “AGR” zone, it is not incompatible with the surrounding environment;
- (d) there is no significant change observed in the adjacent area and within the application boundary since the last application. The existing landscaping implemented under the previous application is in good condition. Adverse impact on landscape character and landscape resources arising from the continual use of temporary hobby farm is not anticipated; and
- (e) should the Board approve the application, approval condition on maintenance of existing trees and vegetation within the Site satisfactorily at all times during the approval period is recommended.

Drainage and Sewerage

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

- (a) no objection to the application from public drainage viewpoint; and
- (b) the applicant should exercise extreme care when working in the vicinity of any existing drainage facilities in order not to disturb, interfere with or cause damage to them. Any blockage or damage to the said works due to the applicant’s activities in the area shall be made good to the satisfaction of concerned departments at the resources of proponent.

Building Matters

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

- (a) no comment on the application under the Buildings Ordinance (BO); and
- (b) the applicant is advised to note the following points:
 - (i) if any existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the BO and should not be designated for any approved use under the application;
 - (ii) before any new building works (including site formation/containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of 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 BO;
 - (iii) 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;
 - (iv) 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; and
 - (v) 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 B(P)R 19(3) at the building plan submission stage.

Agriculture

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

- the application is for continuation of the existing use. As a substantial portion of the Site is used for agricultural activities, he has no strong view on the application.

Fire Safety

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

- (a) no in-principle objection to the application subject to fire service installations and water supplies for fire-fighting being provided to the satisfaction of D of FS;
- (b) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 which is administered by the BD; and
- (c) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

10.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard.

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

- (a) Commissioner for Transport
- (b) Chief Engineer/Consultants Management, Drainage Services Department
- (c) Director of Food and Environmental Hygiene;
- (d) Director of Leisure and Cultural Services;
- (e) District Officer/Tai Po, Home Affairs Department

- (f) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (g) Chief Highway Engineer/New Territories East, Highways Department
- (h) Director of Electrical and Mechanical Services;
- (i) Commissioner of Police; and
- (j) Project Manager/North, Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period (Appendix IV)

On 27.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments received from individuals objecting to the application mainly on the grounds of causing adverse traffic and environmental impacts.

12. Planning Considerations and Assessments

- 12.1 The subject application is for renewal of the planning permission under previous Application No. A/NE-TK/553 for a temporary hobby farm, shop and services (retail shop) cum land filling for a concrete platform for a period of three years at the Site zoned "AGR". The planning intention of the "AGR" zone is intended 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. DAFC has no strong view on the renewal application as a substantial portion of the Site is used for agricultural activities.
- 12.2 The Site is next to the junction of Ting Kok Road and Shan Liu Road which is well served by public transport. The surrounding area is predominantly rural in character comprising abandoned agricultural land overgrown with grass, scattered tree groups and village houses. The village proper of Ting Kok Village is found to the west of the Site across Shan Liu Road. The proposed development is considered not incompatible with the surrounding areas. CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as the existing landscaping implemented under the previous Application No. A/NE-TK/553 is in good condition and adverse impact on landscape character and landscape resources arising from the continual use of temporary hobby farm is not anticipated. An approval condition on the maintenance of the existing trees and vegetation as well as drainage facilities within the Site is recommended should the application be approved by the Committee. Relevant departments consulted including CE/MN of DSD, CE/C of WSD, DEP, C for T and CE/NTE of HyD have no objection to/adverse comment on the application.
- 12.3 The current application is the same as the previously approved application (No. A/NE-TK/553) in terms of use and site area and there has been no material change in planning circumstances since the previous temporary approval was

granted. Besides, the applicant has complied with all approval conditions under the previous application. There is no adverse planning implication arising from the renewal of the planning approval. The approval period of three years sought is also not longer than the original validity period of the temporary approval and is reasonable. As such, the proposed renewal application generally complies with the TPB PG-No. 34B for renewal of planning approval.

- 12.4 Regarding the two public comments objecting to the application mainly on the grounds of causing adverse traffic and environmental impact, comments of the concerned government departments and the planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary hobby farm, shop and services (retail shop) for a period of three years and land filling (podium of 10cm in depth) could be tolerated for a further period of three years.
- 13.2 Should the Committee decide to approve the renewal application, it is suggested that the permission shall be valid on a temporary basis for a period of three years from 8.8.2018 to 7.8.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no night-time operation between 7:00 p.m. and 11:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Mondays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the existing trees and vegetation on the Site shall be maintained at all times 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 provision of fire service installations and water supplies for fire-fighting within 6 months from the date of commencement of renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.2.2019;
- (f) if any of the above planning conditions (a), (b), (c) 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

- (g) 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
- (h) upon the 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**.

13.3 There is no strong reason to recommend rejection of the application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 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

Appendix I	Application form and supporting documents received on 20.4.2018
Appendix II	Relevant extracts of TPB Guidelines No. 34B on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development
Appendix III	Previous s.16 application covering the application site
Appendix IV	Public comments
Appendix V	Recommended advisory clauses
Drawing A-1	Layout plan of the proposed development
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
JUNE 2018**